

STEGE SANITARY DISTRICT

DISTRICT ORDINANCE CODE



JULY 2019

(First Issued February 2004)

This Page Left Blank Intentionally

DISTRICT ORDINANCE CODE

TABLE OF CONTENTS

| | <u>PAGE</u> |
|--|-------------|
| CHAPTER 1 DEFINITIONS | |
| <u>SECTION NO.</u> | |
| 1.1 PURPOSE----- | 1-1 |
| 1.2 WORDS, TERMS AND PHRASES DEFINED----- | 1-1 |
| CHAPTER 2 GENERAL PROVISIONS GOVERNING DISTRICT ORGANIZATION | |
| <u>SECTION NO.</u> | |
| 2.1 AUTHORITY FOR PURPOSE OF CODE ----- | 2-1 |
| 2.2 OFFICE AND MAILING ADDRESSES----- | 2-1 |
| 2.3 OBSERVANCE OF CODE ----- | 2-1 |
| 2.4 DISTRICT ORGANIZATIONAL STRUCTURE----- | 2-1 |
| 2.5 BOARD OF DIRECTORS ----- | 2-2 |
| 2.6 STANDING COMMITTEES ----- | 2-7 |
| 2.7 OTHER COMMITTEES----- | 2-7 |
| 2.8 RULES GOVERNING COMMITTEES----- | 2-7 |
| 2.9 BOARD MEMBER COMPENSATION AND EXPENSES----- | 2-7 |
| 2.10 MEMBERSHIPS IN ASSOCIATIONS AND CONFERENCE ATTENDANCE----- | 2-8 |
| CHAPTER 3 REGULATIONS GOVERNING THE USE OF WASTEWATER FACILITIES | |
| <u>SECTION NO.</u> | |
| 3.1 PURPOSE----- | 3-1 |
| 3.2 DISTRICT WATER QUALITY PROGRAM ----- | 3-1 |
| 3.3 PROTECTION FROM DAMAGE ----- | 3-2 |
| 3.4 RESPONSIBILITY OF THE MANAGER----- | 3-2 |
| 3.5 USE OF PUBLIC WASTEWATER FACILITIES REQUIRED----- | 3-2 |
| 3.6 PRIVATE WASTEWATER DISPOSAL ----- | 3-3 |
| 3.7 LIMITATIONS ON POINT OF DISCHARGE ----- | 3-3 |
| 3.8 GENERAL PROHIBITIONS ----- | 3-4 |

| | | |
|------|---|-----|
| 3.9 | UNPOLLUTED WATER----- | 3-4 |
| 3.10 | GREASE DISPOSAL PROHIBITED----- | 3-4 |
| 3.11 | GREASE DEVICE REQUIRED----- | 3-5 |
| 3.12 | DRAINS----- | 3-6 |
| 3.13 | PROHIBITED DISCHARGES TO STORM DRAINS ----- | 3-6 |
| 3.14 | DISCHARGER MONITORING----- | 3-7 |

CHAPTER 4 REGULATIONS GOVERNING THE CONSTRUCTION OF
WASTEWATER FACILITIES

SECTION NO.

| | | |
|-----|---|------|
| 4.1 | PURPOSE----- | 4-1 |
| 4.2 | STANDARD SPECIFICATIONS AND OTHER REGULATIONS ----- | 4-1 |
| 4.3 | DISTRICT WASTEWATER FACILITIES ----- | 4-2 |
| 4.4 | LATERAL SEWERS----- | 4-4 |
| 4.5 | TESTING NEW LATERALS----- | 4-6 |
| 4.6 | TESTING OF EXISTING LATERALS ----- | 4-6 |
| 4.7 | COMPLIANCE WITH PROVISIONS OF THIS CHAPTER 4----- | 4-12 |

CHAPTER 5 PERMITS

SECTION NO.

| | | |
|------|--|-----|
| 5.1 | PURPOSE----- | 5-1 |
| 5.2 | WHEN REQUIRED; UNLAWFUL ACT ----- | 5-1 |
| 5.3 | TYPE OF PERMITS ----- | 5-1 |
| 5.4 | AUTHORIZATION FOR ISSUANCES OF PERMITS----- | 5-1 |
| 5.5 | APPLICATIONS FOR PERMIT ----- | 5-2 |
| 5.6 | COMPLIANCE WITH PERMIT REQUIREMENTS AND CONDITIONS ---- | 5-2 |
| 5.7 | PERIOD OF TIME WHEN PERMIT EFFECTIVE ----- | 5-2 |
| 5.8 | EXPIRATION OF PERMITS----- | 5-2 |
| 5.9 | EXTENSION OF PERMITS ----- | 5-3 |
| 5.10 | REVOCATION OF PERMIT ----- | 5-3 |
| 5.11 | SPECIFIC WASTEWATER DISCHARGE ACTIVITIES SUBJECT TO PERMITTING----- | 5-3 |
| 5.12 | GROUNDS FOR DENIAL OF PERMIT REQUESTS----- | 5-4 |
| 5.13 | TRANSFERABILITY OF PERMITS----- | 5-5 |

| | | |
|------|--|-----|
| 5.14 | SEWER PERMITS ----- | 5-5 |
| 5.15 | PERMIT INFORMATION REQUIRED ----- | 5-5 |
| 5.16 | SEWER PERMIT FOR PRIVATE WASTEWATER DISPOSAL ----- | 5-6 |
| 5.17 | EASEMENT ENCROACHMENT PERMIT APPLICATION ----- | 5-6 |
| 5.18 | EASEMENT ENCROACHMENT PERMIT CONDITIONS ----- | 5-7 |
| 5.19 | INDUSTRIAL WASTE DISCHARGE PERMITS----- | 5-8 |
| 5.20 | OTHER PERMIT USE REGULATIONS ----- | 5-8 |

CHAPTER 6 EASEMENTS

SECTION NO.

| | | |
|------|---|-----|
| 6.1 | PURPOSE----- | 6-1 |
| 6.2 | DISTRICT POLICIES CONCERNING EASEMENTS----- | 6-1 |
| 6.3 | CREATION OF DISTRICT EASEMENTS----- | 6-2 |
| 6.4 | MINIMUM STANDARDS FOR EASEMENTS ----- | 6-2 |
| 6.5 | UNLAWFUL ACTS----- | 6-3 |
| 6.6 | EASEMENT ENCROACHMENTS ----- | 6-3 |
| 6.7 | ENCROACHMENT PERMITS ----- | 6-4 |
| 6.8 | GRANDFATHERING ----- | 6-4 |
| 6.9 | REMOVAL AND RESTORATION OF IMPROVEMENTS WHICH ARE DISTURBED BY DISTRICT ACTIVITIES ----- | 6-4 |
| 6.10 | DISTRICT REMEDIES----- | 6-5 |
| 6.11 | REQUEST FOR RELIEF BY AFFECTED PERSONS ----- | 6-5 |

CHAPTER 7 FEES, RATES AND CHARGES AND OTHER FINANCIAL MATTERS

SECTION NO.

| | | |
|-----|--|------|
| 7.1 | PURPOSE----- | 7-1 |
| 7.2 | SEWER SERVICES CHARGES ----- | 7-1 |
| 7.3 | SEWER CONNECTION CHARGES----- | 7-8 |
| 7.4 | PERMIT AND INSPECTION FEES----- | 7-15 |
| 7.5 | ENVIRONMENTAL IMPACT REPORT AND NEGATIVE DECLARATION – PREPARATION OR REVIEW FEE----- | 7-16 |
| 7.6 | EASEMENT ENCROACHMENT PERMIT FEE ----- | 7-16 |
| 7.7 | PENALTIES FOR DELINQUENCIES ----- | 7-17 |
| 7.8 | CLAIMS----- | 7-17 |

CHAPTER 8 WAIVERS

SECTION NO.

8.1 PURPOSE-----8-1
8.2 GRANTS OF WAIVERS-----8-1
8.3 LIMITATIONS ON WAIVERS-----8-1
8.4 PROCEDURES-----8-2

CHAPTER 9 ENFORCEMENT

SECTION NO.

9.1 PURPOSE-----9-1
9.2 RESPONSIBILITY-----9-1
9.3 POWERS AND AUTHORITY OF DISTRICT REPRESENTATIVES-----9-1
9.4 CORRECTIONS OF VIOLATIONS-----9-1
9.5 TERMINATION OF SERVICE-----9-3
9.6 REVOCATION OF PERMIT-----9-4
9.7 PUBLIC NUISANCE-----9-5
9.8 CRIMINAL PENALTIES-----9-5
9.9 CIVIL PENALTIES-----9-5
9.10 ENFORCEMENT COSTS-----9-5
9.11 REMEDIES CUMULATIVE-----9-6

CHAPTER 10 APPEALS

SECTION NO.

10.1 PURPOSE-----10-1
10.2 APPEAL TO DISTRICT BOARD-----10-1
10.3 TIME FOR FILING APPEAL-----10-1
10.4 NOTICE OF HEARING-----10-1
10.5 HEARING-----10-1
10.6 JUDICIAL REVIEW OF ADMINISTRATIVE DECISION-----10.2
10.7 APPEAL FROM DECISION OF DISTRICT BOARD-----10-2

CHAPTER 1

DEFINITIONS

SECTION 1.1

PURPOSE

The purpose of this Chapter is to define certain words, terms and phrases used in this Code. The meaning of the words, terms and phrases listed in Section 1.2 shall be as defined there. All terms defined in this Chapter are capitalized whenever used in this Code.

SECTION 1.2

WORDS, TERMS AND PHRASES DEFINED

1.2.1 “Act” — The Sanitary District Act of 1923, California Health & Safety Code Sections 6400 et seq., the enabling legislation under which the District was organized and is governed.

1.2.2 “Board” — See “District Board.”

1.2.3 “Brown Act” — The Ralph M. Brown Act (Government Code Sections 54950 et seq. is the state open-meeting law for local public agencies which prescribes rules for calling, agendaing and conducting meetings of the District Board and certain Board committees.

1.2.4 “Building Sewers” — The system of sewers, drains and appurtenances included within the footprint of a building, to a point approximately three (3) feet outside the building foundation. To the extent regulated by city or county plumbing codes, the District does not exercise jurisdiction over Building Sewers. (Refer to Section 4.2.3.)

1.2.5 “Cleanout” — A pipe fitting and associated piping connected to a Lateral that provides access to the Lateral for purposes of flushing, rodding, cleaning and other maintenance and diagnostic purposes

1.2.6 “Code” — The District Ordinance Code as approved and adopted by the District Board and as it may be amended from time to time.

1.2.7 “Collection System” — The District’s publicly owned and operated Sewer System into which wastewater is discharged and transported for treatment and disposal. (Refer also to “Sewer System” and “Wastewater System.”)

1.2.8 “Common Interest Development” — A development characterized by individual ownership of a condominium housing unit or a residential parcel coupled with the shared ownership of (or right to use) common areas and facilities including, but not limited to, condominium projects, community apartment projects, stock cooperatives and planned unit developments which contains two (2) or more dwelling units and which has a Lateral shared by two (2) or more dwelling units.

1.2.9 “Compliance Certificate” — A certificate issued by EBMUD indicating that a Lateral complies with the requirements of Section 4.6 of the Code and the Regional Ordinance.

1.2.10 “Connection” — For the purposes of connection charges, connection means a physical connection between any type of piping not owned by the District to another type of piping or facility which is directly or indirectly connected to the District’s wastewater system.

1.2.11 “Contaminated Water” — Water which does not meet state or federal standards for drinking water supplies or for discharge to navigable waters.

1.2.12 “Critical Industry” — A Discharger whose Wastewater requires special regulation or contains Industrial Wastes requiring source control and whose average Wastewater strength cannot be established by standard references.

1.2.13 “Director” — Member of the District’s elected governing Board.

1.2.14 “Discharger”—Any person who discharges or causes the discharge of Wastewater to the Sewer System.

1.2.15 “District” — The Stege Sanitary District.

1.2.16 “District Board” or “Board” — The District's five-member governing body.

1.2.17 “District Manager” — See “Manager.”

1.2.18 “Domestic Sewage” — The liquid and water-borne wastes derived from the ordinary living process, free from Industrial Wastes and of such character as to permit satisfactory disposal, without special treatment, into the District's Sewer System.

1.2.19 “Dwelling Unit” — Dwelling unit means any residence, apartment house unit, condominium or other habitation occupied by a single person or family and requiring wastewater disposal service.

1.2.20 “Easement” — A property right, however created, by which the owner of the right is entitled to make specified uses of the real property of another person; “Easement includes “reserve,” “sewer reserve” or “utility reserve.”

1.2.21 “EBMUD” — The East Bay Municipal Utility District, Special District No. 1

1.2.22 “EBMUD Director” — The Director of the Wastewater Department of EBMUD, or his designated representative.

1.2.23 “EBMUD General Manager” — The General Manager of EBMUD.

1.2.24 “Encroachment” — An activity or condition which results in significant interference with the Easement rights of the owner of an Easement. As respects District easements, there are three classes of Encroachments:

Class One:

Encroachments which interfere only slightly with District easements. Examples may include loose paving stones and similar landscaping features, flowerbeds, small shrubs, lawn and ground covers which do not impede normal use and operation of District wastewater facilities and may readily be removed and restored at a modest cost if access to the facilities is required.

Class Two:

Encroachments which will cause significant interference with District easements but which, due to being readily removable or by virtue of District mandated safeguards and/or mitigation measures, the interference can be ameliorated to an acceptable level. Examples may include fences, gates, driveways, paving, portable or readily removable structures, larger vegetation whose roots do not have a propensity to invade wastewater facilities, and cuts and fills.

Class Three:

Encroachments which will cause significant interference with District easements. Examples may include permanent structures such as buildings, swimming pools, permanent decks, retaining walls and reinforced concrete or masonry; temporary structures which are not readily removable from the easement; also trees, heavy brush, and vegetation that prevents District access to its facilities in the easement; also any activities and conditions that are unlawful or prohibited by this Code or by other applicable laws.

1.2.25 “EPA”—The United States Environmental Protection Agency.

1.2.26 “Escrow Account”—A real estate transaction account into which an applicant deposits funds to obtain a 180-day time extension pursuant to Section 4.6.4 to complete the required work on the Lateral.

1.2.27 “Exemption Certificate” — A certificate issued by EBMUD to property owners who demonstrate that work on their Lateral was completed in accordance with the

Regional Ordinance requirements within 10 years prior to the effective date of the Regional Ordinance.

1.2.28 “Food Handling Facility” — Includes but is not limited to any facility preparing and/or serving food for commercial use or sale. This includes restaurants, cafes, lunch counters, cafeteria, hotels, hospitals, convalescent homes, factory or school kitchens, catering kitchens, grocery stores with food preparation and packaging, and meat cutting and preparation (including grocery stores with only food warming operations), meat packing facilities and other food handling facilities not listed above where fats, oil and grease may be introduced into the Sewer System and cause line blockages and sewer overflows.

1.2.29 “Grease” — Any fats, oils, waxes or other similar or related constituents. Grease may be of vegetable or animal origin, including butter, lard, margarine, vegetable fats and oils, and fats in meats, cereals, seeds, nuts and certain fruits. Grease may also be of mineral origin including kerosene, lubricating oil and road oil. Grease in the District’s Sewer System is generally present as, but need not be, a floatable solid, a liquid, a colloid, an emulsion or in a solution.

1.2.30 “Grease Interceptor” — A large, partitioned vault made of various materials, installed to remove grease and food waste by trapping floatable and settleable solids so that they can be separated and removed before discharge to the Sewer System. It is usually installed underground, outside of the Food Handling Facility.

1.2.31 “Grease Removal Device” — An Interceptor, trap or other mechanical device intended to remove, hold or otherwise prevent the passage of Grease to the Sewer System.

1.2.32 “Hazardous Material” — Any material so designated by an ordinance or regulation of the District or by other applicable regulations including the East Bay Municipal Utility District (EBMUD) Ordinance No. 21 and Part II of Title 22 of the California Code of Regulations.

1.2.33 “Industrial Waste” — Includes any non-domestic liquid or semisolid wastes from any producing, manufacturing or processing operation of whatever nature.

1.2.34 “*Lateral*” — *A sewer that conveys the Wastewater of a Discharger from a Building Sewer to a Main Sewer, including the connection to the Main Sewer, also known as a “Side Sewer.”* or a sewer coming from a private development with connections to the Main Sewer at one or more locations. The Lateral is comprised of the Upper Lateral and Lower Lateral.

1.2.35 “*Lower Lateral*” — *The portion of the Lateral in the public right of way up to the publicly owned Main Sewer.*

1.2.36 “Manager” — The District's Manager (or General Manager), his or her delegate or such other Person or Persons as may be designated by the District Board to fulfill the responsibilities of the Manager as specified in this Code. The Manager is the District's chief executive and is an officer of the District.

1.2.37 “Main Sewer(s)” — That portion of the Sewer System which receives Wastewater from the Lateral of a Discharger.

1.2.38 “Non-Sanitary Sewer Connection” — Anything that directly or indirectly conveys Storm Water, surface water, roof runoff, intercepted groundwater or subsurface drainage into the Sanitary Sewer System, including, but not limited to, down spouts, yard drains, sump pumps, or other sources of Storm Water, run-off, or groundwater.

1.2.39 “NPDES Permit” — A federal permit issued by the California Regional Water Quality Control Board under the National Pollution Discharge Elimination System. This permit is a regulatory agency document designed to control discharge of pollutants from point sources into U.S. or state water bodies.

1.2.40 “Nuisance” — A discharge of Wastewater in violation of District regulations or orders which is or could be harmful to, or unreasonably affect, the Sewer System, or which impairs or unreasonably affects the operation and maintenance of any Wastewater Facilities, or which violates quantity, quality or other standards adopted by the District.

1.2.41 “Owner” — Owner means the person holding title to any premises as shown by the official records of Contra Costa County or the holder of any possessory interest in publicly owned property.

1.2.42 “Permit” — A formal authorization or approval to engage in or undertake specified conduct or activities. This authorization/approval may be subject to limitations or conditions. District Permits are covered in Chapter 5 of this Code.

1.2.43 “Person” — Any individual, partnership, firm, association, corporation or Public Agency including the State of California and the United States of America.

1.2.44 “Plant” — The East Bay Municipal Utility District Sewage Treatment Plant located at Wake Avenue in Oakland, California.

1.2.45 “Point of Discharge” — The point or points designated as such in an NPDES Permit. “Point of Discharge” also refers to discharge to the District Sewer System as the point where the Lateral connects to a Public Sewer.

1.2.46 “Pollution” — The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

1.2.47 “Premises” — Premises means any lot, piece, or parcel of real property improved or unimproved within the boundary of the District.

1.2.48 “Pretreatment Regulations” — The "General Pretreatment Regulations of Existing and New Sources of Pollution" published by EPA as Part 403 of Title 40 of the Code of Federal Regulations, Part 403 as now in effect or as those regulations may be later amended from time to time.

1.2.49 “Pretreatment Ordinance” — The East Bay Municipal Utility District (EBMUD) Ordinance No. 311, establishing the regulations for “Interception, Treatment, and Disposal of Wastewater and Industrial Wastes and the Control of Wastewater Requiring Charges to be Made Therefore, and Fixing Penalties for the Violations of Said Regulations”, as such regulations now exist or as they may be subsequently amended.

1.2.50 “Pretreatment System” — A treatment system designed to treat Wastewater prior to entering the District's Sewer System.

1.2.51 “Private Wastewater System” — Any wastewater facilities that are not connected to the District’s Wastewater System or to another publicly owned and operated Wastewater System; also any Wastewater Facilities that are connected, whether directly or indirectly, to the District’s Wastewater System but are neither owned or operated by the District.

1.2.52 “Regional Ordinance” — Title VIII – Regulation of Upper Sewer Laterals of EBMUD Ordinance No. 311 and any future amendments or modifications thereto.

1.2.53 “Repair” and “Replacement” — Construction activities performed by a contractor to bring a Lateral into compliance with the requirements of Section 4.6 of the Code and the Regional Ordinance. Repair means a partial repair of the Lateral while replacement applies to the complete length of the Lateral and includes lining of the Lateral.

1.2.54 “Sanitary Sewage” — See “Sewage” and “Wastewater.”

1.2.55 “Sanitary Sewer System” — See “Sewer System.”

1.2.56 “Sewage” — The water-borne waste derived from human habitation and/or use of buildings for residential, business, commercial, institutional and industrial purposes.

1.2.57 “Sewage Treatment Plant” — Any arrangement of devices and structures used for treating Wastewater.

1.2.58 “Sewer” — A pipe or conduit for carrying Sewage.

1.2.59 “Sewer System” — The system of pipes, pumps, structures and appurtenances used for collecting, transporting and conveying Wastewater and in some contexts also for treating and disposing of Wastewater. In this Code, “Sewer System” refers to the District’s Sewer System unless the context indicates otherwise.

1.2.60 “Side Sewer” — See also “Lateral.”

1.2.61 “Significant Interference” — With respect to Encroachments on District Easements, any activity or condition that has the potential to damage or to inhibit access to the District Sewer System or which will result in cost to the District to use the Easement for its intended purpose.

1.2.62 “Standard Specifications” — Construction Specifications and detail drawings that govern the manner of construction, repair, maintenance and operation of Wastewater Facilities and Laterals in the District.

1.2.63 “Storm Drains” or “Storm Drain System” — The system of pipes and channels used to collect and convey Storm Water.

1.2.64 “Storm Water” — Flows resulting from rainwater.

1.2.65 “Structure” — Any building that is required to be provided with public sewer services.

1.2.66 “Time Extension Certificate”— A document issued by EBMUD to the eligible property owner for Title Transfer transactions that extends the time to repair and/or replace the Lateral to comply with Section 4.6 of the Code to 180 days after the date of issuance of the certificate.

1.2.67 “Title Transfer” — The sale or transfer of an entire real property estate or the fee interest in that real property estate and does not include the sale or transfer of a partial interest, including a leasehold. In addition, title transfer does not include any of the following: (i) transfers by a fiduciary in the course of the administration of a decedent’s estate, guardianship, conservatorship, or trust, (2) transfers from one co-owner to one or more co-owners, or from one or more co-owners into or from a revocable trust, if the trust is for the benefit of the grantor or grantors, (3) transfers made by a trust or to fund an inter vivos trust, (4) transfers made to a spouse, to a registered domestic partner as defined in Section 297 of the Family Code, or to a Person or Persons in the lineal line of consanguinity of one or more of the transfers, (5) transfers between spouses or registered domestic partners resulting from a decree of dissolution of marriage or domestic partnership, or a decree of legal separation or from a property settlement agreement incidental to a decree; (6) transfers from property owners to any financial institution as a result of a foreclosure or similar process.

1.2.68 “Unpolluted Water” — Water to which no constituent has been added, either intentionally or accidentally, that would render such water unacceptable for disposal to Storm Drains or natural drainage or directly to surface waters. Unpolluted Water includes Storm Water from roofs, yards, foundation or under-drainage, that meets all state and federal requirements for discharge to surface waters of the United States.

1.2.69 “Upper Lateral” — The portion of the Lateral extending from the Building Sewer up to the public right of way or publicly owned Main Sewer, whichever comes first.

1.2.70 “Verification Test”—A test to be witnessed by EBMUD’s authorized representative(s) to verify that the Lateral complies with the requirements in Section 4.6 of the Code and the Regional Ordinance.

1.2.71 “Wastewater” — All water-borne Sewage, industrial or other wastes, whether treated or untreated, discharged into or permitted to enter the Sewer System.

1.2.72 “Wastewater Facilities”—Pipelines, pump stations and other structures, equipment and machinery which are used to collect and convey Wastewater and, in some contexts, to treat and dispose of Wastewater.

1.2.73 “Wastewater System” — See “Sewer System.”

1.2.74 “Wastewater Treatment Plant” — See “Plant.”

1.2.75 “Waiver” — A document issued by the District to a property owner that relieves the property owner from the requirement to perform work on the Lower Lateral.

CHAPTER 2

GENERAL PROVISIONS GOVERNING DISTRICT ORGANIZATION

SECTION 2.1

AUTHORITY FOR AND PURPOSE OF CODE

2.1.1 **Authority.** This Code is adopted pursuant to the provisions of the Sanitary District Act of 1923 (California Health & Safety Sections 6400 et seq.) and other provisions of law that empower the District to enact regulations.

2.1.2 **Purpose.** The purpose of this Code is to promulgate rules and regulations, consistent with applicable statutory provisions, with regard to the organization, operation and functioning of the District, the exercise of governmental powers granted to the District and the manner in which District services are to be provided to the District's constituents.

SECTION 2.2

OFFICE AND MAILING ADDRESSES

The office and mailing address of the District is:

STEGE SANITARY DISTRICT
7500 SCHMIDT LANE
EL CERRITO, CA 94530

SECTION 2.3

OBSERVANCE OF CODE

Subject to the power of the Board to grant waivers, as provided in Chapter 8, the provisions of this Code shall be observed by all persons to whom its provisions apply, and it shall be unlawful for any person to violate any provision of this Code. The Code and its provisions shall be enforceable as provided in Chapter 9, or otherwise as the law requires or allows.

SECTION 2.4

DISTRICT ORGANIZATIONAL STRUCTURE

2.4.1 **District Governance.** The District is governed by the Board which shall make provisions for the conduct of the District's business and the exercise of its governmental powers.

2.4.2 **Appointments.** The following positions have been established and are to be filled by Board appointment. Appointees shall hold their appointments at the pleasure of the Board and shall receive compensation as approved by the Board:

- 2.4.2.1 Manager
- 2.4.2.2 Legal Counsel
- 2.4.2.3 Board Secretary
- 2.4.2.4 Other consultants and advisors (as needed)

**SECTION 2.5
BOARD OF DIRECTORS**

The Board is comprised of five (5) Directors elected at large and serving staggered four (4) year terms with elections being held on even-numbered years. The structural organization and various duties, obligations and responsibilities of members of the Board are as follows:

2.5.1 **Officers of the Board.** Officers of the Board include the President, Vice-President and Secretary of the Board. The term of office of the President and Vice-President of the Board of Directors shall commence on January 1 of the year immediately following their election by the Board.

2.5.1.1 Office and Duties of the President of the Board.
The President of the Board shall be elected annually by the Board at the last regular meeting of each calendar year. The President of the Board shall serve as Chairperson at all Board meetings. She/he shall have the same rights as the other Directors to vote, introduce motions, resolutions and ordinances and to engage in any debate related thereto. The President shall be responsible for signing all contracts, deeds, warrants, releases, receipts and documents in the name of the District unless the Board, by resolution, authorizes the Manager or other District officers or employees to sign the documents. The President of the Board is also responsible for interacting with and communicating Board directions to the Manager so that the Manager can effectively and efficiently carry out the Board directives.

2.5.1.2 Office and Duties of the Vice-President of the Board of Directors.
The Vice-President shall be elected annually by the Board at the last regular meeting of each calendar year, to act in the President’s absence or inability to act.

2.5.1.3 Office and Duties of the Secretary of the Board of Directors.

The Secretary of the Board may be a Director or an individual appointed by the Board to serve in the position of Secretary of the Board for a period of time deemed appropriate by the Board.

If a Secretary is a Director, the Secretary shall be elected annually to the office by the Board at the last regular meeting of each calendar year. If not a Director, the Secretary shall serve at the pleasure of the Board for an unspecified term of office. The Secretary shall be responsible for preparation of minutes and a record of actions taken at Board and Board Committee meetings and other duties established by the Act or otherwise by law.

2.5.1.4 President Pro-Tem.

In the instance of the inability of the President and Vice-President of the Board to act, the Board shall elect a President Pro-Tem to temporarily perform the duties of the President of the Board. The President Pro-Tem shall serve only until either the President or Vice-President of the Board is able to act, at which point the President and/or the Vice-President shall resume his or her duties.

2.5.2 Meetings. The Board shall hold meetings when deemed appropriate by the Board. All meetings shall be held in accordance with the Brown Act.

2.5.2.1 Regular Meetings and Rescheduled Meetings.

Regular meetings of the Board shall be held twice monthly at the hour of 7:00 P.M., on a schedule published by the District in December of the preceding year. A regular meeting may be cancelled or rescheduled by the Board due to the unavailability of one or more Board members or for other good cause. The President of the Board may cancel or reschedule a regular meeting when in his/her judgment compelling circumstances require such action to be taken. Notice of cancellation shall be given in the same manner as for special meetings. A rescheduled meeting shall be treated as a special meeting and the provisions of law and this Code applicable to special meetings shall apply to a rescheduled meeting. At least seventy-two hours before a regular or regular adjourned meeting, the Secretary shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting. The agenda shall specify the time and location of the meeting and shall be posted in a location that is freely accessible to members of the public and on the District's website. No action shall be taken on any item not appearing on the posted agenda.

2.5.2.2 Special Meetings.

Special meetings of the Board may be called at any time by the President or by a majority of the members of the Board by delivering personally, by e-mail, by mail, or by telephonic communication, notice of the meeting to each Director and written notice to each local newspaper of general circulation, radio or television station on record as having requested notice in writing. Such notices must be received at least twenty-four (24) hours before the time of the meeting as specified in the notice. The notice shall specify the time and place of the special meetings and the business to be transacted. At least twenty-four hours before a special meeting, the Secretary shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting. The agenda shall specify the time and location of the meeting and shall be posted in a location that is freely accessible to members of the public and on the District's website. No action shall be taken on any item not appearing on the posted agenda. Written notice may be dispensed with as to any Director who, at or prior to the time the meeting convenes, files with the Secretary a written waiver of notice. The waiver may be given by fax, telegram or electronic mail. The written notice may also be dispensed with as to any Director who is actually present at the meeting at the time it convenes.

2.5.2.3 Notices of Meetings.

Notice of the regular meetings of the Board shall not be required if held as provided in Section 2.5.2.1. Notice of special meetings of the Board shall be given as provided in Section 2.5.2.2. Notice of all adjourned meetings, regular or special, shall be given as provided in Section 2.5.2.9.

2.5.2.4 Place of Meetings.

All meetings of the Board will be held in the room known and designated as the Boardroom located in the District office unless otherwise designated by the President of the Board of Directors, in which event notice of the place of meeting shall be given in the manner required for giving notice of special meetings as provided in Section 2.5.2.2.

2.5.2.5 Minutes of Meetings.

Minutes of completed Board meetings shall be prepared and mailed or otherwise delivered to each Director prior to the next regular Board meeting. Copies of ordinances and resolutions adopted by the Board shall be appended to the minutes of the meeting at which the ordinance or resolution was approved.

2.5.2.6 Meeting Agendas.

2.5.2.6.1 No item may appear on the Board agenda or, except as provided in Section 2.5.2.6.2, be considered by the Board, unless it has

been submitted to the Secretary with adequate time available for review so that the agenda can be posted within time constraints established by the Brown Act. Exceptions include the monthly financial report or other formal reports conveying information but not requiring Board action.

2.5.2.6.2 Adding Agenda Items.

No action or discussion shall be taken by the Board on any item of business not appearing on the posted agenda except as permitted by Government Code Section 54954.2. As provided in Section 54954.2, an item may be added to the agenda (a) upon a determination by the affirmative vote of at least three directors that an emergency situation exists, or (b) upon a determination by the affirmative vote of at least four directors, if all are present, or of all Directors present if any are absent, that there is a need to take immediate action and the need for action came to the attention of the District subsequent to the agenda being posted.

2.5.2.6.3 Distribution of Communications to the Board.

The Secretary shall send copies of items for the Board and other important communications received by the Manager and the District Counsel unless they already have such copies. Agenda materials shall be delivered to Directors as soon as practically possible after completion of agendas.

2.5.2.6.4 Monthly Staff Reports.

Staff reports shall be mailed or otherwise delivered in advance of the Board meeting to each Director by the District Manager.

2.5.2.7 Meetings Open to the Public.

All meetings of the Board shall be open and public, with a prepared agenda, and all persons shall be permitted to attend any meeting, except closed sessions of the Board held in accordance with law.

2.5.2.8 Public Participation.

Oral public comment and participation on items not on the agenda will be limited to the Public Comment part of the meeting. Persons wishing to place subjects for discussion on a meeting agenda may do so during the Public Comment part of the meeting and/or provide a written request to the Secretary. The Secretary will forward requests to the Board President and the President will decide if requested subjects will be included on a future agenda.

2.5.2.9 Adjourned Meetings.

The Board may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment.

Meetings having less than a quorum of the Board may be adjourned by the Directors in attendance. If all Directors are absent from any regular or adjourned regular meeting, the Secretary may declare the meeting adjourned to a stated time and place and shall cause written notice of the adjournment to be given in the same manner as provided in Section 2.5.2.2, unless such notice is waived as provided for in special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within twenty-four (24) hours after the time of adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.

2.5.2.10 Rules of Order.

Ordinarily meetings of the Board will be conducted informally in the manner determined by the President. However, at the request of any Director, the meeting shall be conducted in accordance with the rules of order and parliamentary procedure as specified in The Standard Code of Parliamentary Procedure by Alice F. Sturgis, copyright 1950, sixth printing or other standard parliamentary procedure adopted by the Board by resolution. A copy of the reference work adopted by the Board shall be available at every Board meeting.

2.5.2.11 Rules of Voting

2.5.2.11.1 Majority Vote.

Unless otherwise stated in relevant federal or state laws, rules or regulations, the basic requirement for approval of an action by the Board is a “majority vote”. For the purposes of this Code majority vote means “more than half” of those board members present, who represent a quorum of the Board.

2.5.2.11.2 Two-thirds Vote.

Unless otherwise stated in relevant federal or state laws, rules or regulations, the requirement for a “two thirds” or “super Majority” vote of approval of an action by the Board means at least two-thirds of those board members present, who represent a quorum of the Board.

2.5.2.11.3 Abstention.

Unless otherwise stated in relevant federal or state laws, rules or regulations, an abstention on a vote shall not count as a vote in favor of the motion.

SECTION 2.6 STANDING COMMITTEES

2.6.1 **General.** Standing committees of the Board of Directors are advisory bodies that are formed by the President of the Board to advise the full Board on certain topics of recurring interest. Standing Committees of the Board of Directors shall be composed of a number of members of the Board of Directors which is less than a quorum of the Board. There are presently no such Standing Committees.

SECTION 2.7 AD HOC COMMITTEES

2.7.1 **Ad Hoc Committees.** Ad hoc committees may be created by the Board to undertake special assignments on behalf of the Board. Unless otherwise specified, members of an ad hoc committee shall be appointed by the Board and shall serve at the Board's pleasure.

SECTION 2.8 RULES GOVERNING COMMITTEES

2.8.1 **Definitions.** Unless otherwise qualified in this Section 2.8, the term "committee" excludes ad hoc committees.

2.8.2 **Meetings.** Meetings of a committee shall be called by the committee's chairperson.

2.8.3 **Minutes.** Committee meetings shall be held in open public session except for closed sessions held in accordance with law, and a record shall be kept of the actions taken. The minutes of committee meetings shall be recorded in writing. Reports of standing and ad hoc committees shall be addressed to the Board of Directors; reports of a subcommittee shall be addressed to its parent standing committee.

2.8.4 **Quorum.** A quorum of a committee shall be one member of the committee.

SECTION 2.9 BOARD MEMBER COMPENSATION AND EXPENSES

Each Director is entitled to be compensated for services as a Director at the rate of two hundred twenty two dollars and thirty one cents (\$222.31) per day for each day's attendance at meetings of the Board and/or for each day's service rendered on behalf of the District at the request of the Board but not to exceed a maximum of six (6) days'

compensation in any calendar month. However, if a Director is also serving as Secretary of the Board at a meeting and is being compensated for services as Secretary, the Director shall be entitled to receive only the compensation approved by the Board for services as Secretary and shall not receive compensation for services as a Director. Expenses incidental to services as a Director are to be reimbursed in accordance with applicable District policies.

Directors will be compensated for attendance at all Board and committee meetings. Directors will not be compensated for attendance at California Association of Sanitation Agencies (CASA), City Council, Council Committee, Neighborhood Council, or Special District Association meetings. The Board may decide that it needs to be represented at certain functions, meetings or events and that attending Directors should be compensated for services rendered in these cases. Authorization of compensation for these special events shall be done at the request of the attending member or Board President at a Board meeting prior to the event, unless it is unavoidable to do so.

SECTION 2.10

MEMBERSHIPS IN ASSOCIATIONS AND CONFERENCE ATTENDANCE

The Board may authorize Directors to attend conferences or meetings of the California Association of Sanitation Agencies, the California Special Districts Association and any other local, state or national organizations. Expenses of attendance at authorized meetings or conferences are a District expense. Costs of organizational memberships may also be approved by the Board as a District expense.

CHAPTER 3

REGULATIONS GOVERNING THE USE OF WASTEWATER FACILITIES

SECTION 3.1 PURPOSE

This Chapter establishes the District's water quality program and regulations for the use of Wastewater Facilities. The general purpose of the District's water quality program is to prevent and control pollution and to protect and foster human health and the environment. The specific purposes are to prevent the discharge of any pollutant into the sanitary Sewers which would (a) obstruct or damage the District's Collection System, (b) interfere with, inhibit or disrupt the East Bay Municipal Utility District (EBMUD) Special District 1 (SD1) Wastewater Treatment Plant (Plant) or its treatment processes, operations or the Plant's biosolids processes, uses or disposal, (c) pass through the treatment system and cause or contribute to violations of regulatory requirements placed upon the Plant, or (d) result in deterioration of or threaten harm to human health or the environment.

SECTION 3.2 DISTRICT WATER QUALITY PROGRAM

This Chapter, together with the other provisions of this Code, implements the District's Water Quality Program.

3.2.1 Interpretation in Conformance With Pretreatment Regulations. The District is a member of SD1. SD1 provides the interception, treatment and disposal of Wastewater generated and conveyed to SD1 by the District. SD1 also manages and administers the Industrial Waste Pretreatment Program within the District. It is the intent of the District that its regulations as promulgated in this Code, or otherwise, conform with the requirements of federal and state regulatory agencies with regard to pretreatment of Industrial Waste. This Code adopts the provisions of EBMUD Ordinance 311 establishing the regulations for "Interception, Treatment and Disposal of Wastewater and Industrial Wastes and the Control of Wastewater Charges to be made therefor, and Fixing Penalties for the Violation of said Regulations", as such regulations now exist or as they may be subsequently amended. EBMUD's Ordinance 311 regulations shall be interpreted so as to be no less stringent than the U.S. Environmental Protection Agency "General Pretreatment Regulations For Existing and New Sources of Pollution,"

published in Title 40, Code of Federal Regulations, Part 403, as applicable, and as those regulations may be amended from time to time.

3.2.2 **Amendment.** The Code shall be amended from time to time to respond to changes in conditions affecting the District's Water Quality Program and to implement new or changed regulatory processes and procedures which are required for the purposes stated above.

**SECTION 3.3
PROTECTION FROM DAMAGE**

It is unlawful for any Person to break, damage, destroy, uncover, deface or tamper with any sewer line, structure, appurtenance, device or equipment that is part of the District's Wastewater Facilities.

**SECTION 3.4
RESPONSIBILITY OF THE MANAGER**

The Manager shall be responsible for the administration and enforcement of the District's Water Quality Program and for recommending to the Board such orders, rules and regulations as may be necessary to accomplish the purposes of this Code in accordance with the requirements that are or may be promulgated by applicable federal, state and local governmental agencies, including but not limited to, EPA, State of California Water Resources Control Board, State Department of Health Services, California Regional Water Quality Control Board - San Francisco Bay Region and EBMUD.

**SECTION 3.5
USE OF PUBLIC WASTEWATER FACILITIES REQUIRED**

The owner of every structure within the District which is used, or intended to be used, for human occupancy for which sanitation facilities are required, shall connect, at the owner's expense, the sanitation facilities to the District's Wastewater System if the District's system is available for that purpose. (Refer to Section 3.6 if the District's system is not available.) The District's Wastewater System shall be deemed to be available if a connection can be made to a Main Sewer which is located within two hundred feet of any property line of the site on which the structure containing sanitation facilities is located. The connection shall be made within ninety days after notice from the District to do so. In making the connection to the District's Wastewater System, the owner shall comply with the provisions of this Code and any other applicable rules, regulations and procedures promulgated by the District.

**SECTION 3.6
PRIVATE WASTEWATER DISPOSAL**

Unless the District's Wastewater Facilities are not available, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility or device intended or used for the private disposal of Wastewater. In any case where the District's Wastewater Facilities are unavailable, the owner of a structure containing sanitation facilities shall provide suitable private Wastewater disposal facilities which shall be constructed, operated and maintained by the owner at the owner's expense. Before constructing or operating any private Wastewater Facilities, the owner shall obtain a Permit from the District and any other governmental agency having jurisdiction over the owner's site for the construction of a private Wastewater disposal system. The facilities shall be constructed, operated and maintained in strict conformance with the Permit and the regulations of any other governmental agency having jurisdiction with regard to such matters. At any time that District Wastewater Facilities become available, use of the private Wastewater disposal system shall be terminated, a connection shall be made to the District's system at the owner's expense, and the private facilities shall be abandoned in such manner as the District directs.

**SECTION 3.7
LIMITATIONS ON POINT OF DISCHARGE**

No Person shall discharge any substances directly into a manhole or other opening in the District's Sewer System other than through an approved Building Sewer or other means approved by the District.

3.7.1 Trucker's Discharge Prohibited.

3.7.1.1 Except as provided in Section 3.7.1.2, no Person operating a vacuum or cesspool pump truck shall discharge septic tank, seepage pit, cesspool contents or other liquid wastes into the Sewer System.

3.7.1.2 In the event of exigent circumstances, as determined by the Manager, the District may authorize a Person described in Section 3.7.1.1 to discharge Wastewater into the Sewer System. Any such discharge shall be conditioned so as to preclude damage to the District's System, the Plant or other property and so as to not result in violations of law.

SECTION 3.8 GENERAL PROHIBITIONS

In addition to the other limitations and prohibitions contained in this Code, wastes discharged into the Sewer System shall not have characteristics which, by themselves or by interaction with other wastes, may:

3.8.1 Environment Health and Safety. Endanger the environment or the health and safety of the public or of District personnel.

3.8.2 Damage to the Sewer System. Cause damage to the Sewer System.

3.8.3 Extra Cost of Collection. Result in extra cost of collection, transmission, treatment or disposal.

3.8.4 Interfere, Inhibit or Disrupt. Interfere with, inhibit or disrupt any Wastewater operations of the Plant, its treatment processes, biosolids processes or other operations, in a manner that cause or contribute to violations of the District or SD1 NPDES Permit, or any other regulatory requirement; or result in biosolids that are non-compliant with any applicable requirements. This prohibition shall include discharge violations due to improper flow rates or pollutant concentrations and also to increases in magnitude or duration of violations by the Plant.

SECTION 3.9 UNPOLLUTED WATER

Unless the District issues a Permit for that purpose pursuant to Chapter 6 of this Code, Unpolluted Water shall not be discharged through direct or indirect connections to the District's Wastewater Facilities. The District may approve the discharge of such water only when the District determines that no reasonable alternative method of disposal is available. If a Permit is granted for the discharge of such water into a District Sewer, the Discharger shall pay the applicable charges and fees and shall meet such other conditions as required by the District.

SECTION 3.10 GREASE DISPOSAL PROHIBITED

Grease in excess of 100 milligrams per liter shall not be discharged into the District's Collection System.

SECTION 3.11

GREASE DEVICE REQUIRED

3.11.1 Grease Interceptors. The owner of any newly constructed, remodeled commercial, institutional or industrial facility which remodeling is permitted with one or more Grease-generating activities, including Food Handling Facilities, shall install, or cause to be installed, a Grease Removal Device for each Grease generating activity. The Device shall be of a size equal to or greater than the minimum size meeting the sizing criteria for “Grease Interceptors,” as set forth in the applicable edition of the Uniform Plumbing Code adopted by the International Association of Plumbing and Mechanical Officials and the current California Plumbing Code to which the owner is subject (Refer to Section 4.2.3) and shall have a sampling access point located downstream of the Grease Interceptor. Grease Interceptors shall have a minimum pumping frequency of three months, or more frequently if necessary to ensure there are no downstream blockages of lines.

3.11.2 Grease Blockage. Any owner of a commercial, institutional or industrial generator of Grease, including food service facilities, served by a District Main Sewer found to have a Grease blockage, a history of Grease blockage or accelerated line maintenance resulting from Grease disposal shall install, or cause to be installed, upon notification by the District, a Grease Removal Device which meets the specifications contained in Section 3.11.1.

3.11.3 Remodeled Facilities. The owner of any commercial, institutional or industrial generator of Grease, including Food Handling Facilities, that performs a remodel, alteration and/or repairs valued at or greater than \$75,000, shall install or cause to be installed a Grease Interceptor. All new Grease Interceptors shall be designed, constructed and installed in accordance with the applicable edition of the current Uniform Plumbing and California Plumbing Codes to which the owner is subject, and shall have a sampling access point located downstream of the Grease Interceptor.

3.11.4 Grease Removal Devices. All Grease Removal Devices shall be installed on the premises where Grease is used or generated. The contents of all Grease Removal Devices shall be removed periodically as necessary to prevent violations of this Ordinance. At a minimum, the contents shall be removed every twelve (12) months. All Grease Removal Devices shall be kept in good repair, and shall be maintained in continuous operation. A log of all Grease removal activities shall be maintained at the facility showing the date of removal, the volume removed, name of the waste hauler and the disposition of the removed contents. The log shall be retained for a period of three (3) years, and shall be available for inspection by the District.

3.11.5 Compliance With EBMUD Permits and Requirements. All Dischargers that are issued a Wastewater discharge Permit by EBMUD shall comply with the terms and conditions specified in that Permit, including all items in EBMUD's standard terms and conditions attached to the Permit.

SECTION 3.12

DRAINS

A Permit authorizing the connection of any drain to the Sewer System shall be obtained as provided in Chapter 5 of this Code, prior to making the connection.

3.12.1 Interior (Indoor) Floor Drains. Interior (indoor) floor drains connected to the Sewer System may not be placed in areas where Hazardous Materials, hazardous wastes, Industrial Wastes, industrial process water, lubrication fluids, vehicle fluids or Wastewater from cleaning vehicles or equipment are used or stored, unless secondary containment is provided for all such materials and equipment.

3.12.2 Exterior (Outdoor) Drains. Exterior (outdoor) drains may be connected to the Sewer System only if the areas in which the drains is located are covered or protected from rainwater run-off by berms and/or grading and appropriate Wastewater pre-treatment approved by the District is provided. Any loading dock area with a Sanitary Sewer drain must be equipped with a valve which is closed and is kept closed during periods of non-operation when the dock is not being used.

SECTION 3.13

PROHIBITED DISCHARGES TO STORM DRAINS

3.13.1 Wastewater, Domestic or Industrial Waste. It is unlawful to discharge any Wastewater, other domestic waste or Industrial Waste into Storm Drains, or other water courses whether natural or artificial and whether surface or subsurface or to the San Francisco Bay or other natural or artificial water courses. Unlawful discharges shall include, but are not limited to, discharges from toilets, sinks, industrial process, cooling systems, boilers, fabric cleaning, equipment cleaning, vehicle cleaning, construction activities, including, but not limited to, painting, paving, concrete placement, saw cutting and grading, swimming pools, spas and foundations unless specifically permitted by a discharge Permit by an appropriate agency or unless exempted by the District pursuant to guidelines published by the Plant and approved by the District.

3.13.2 Hazardous Materials. It shall be unlawful to cause Hazardous Materials, domestic waste or Industrial Waste to be deposited in such a manner or location as to constitute a threatened discharge into Storm Drains or other water courses whether

natural or artificial and whether surface or subsurface or to the San Francisco Bay. A “Threatened Discharge” is a condition creating a substantial probability of harm when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce or mitigate damages to Persons, property or natural resources. Domestic or Industrial Wastes that are no longer contained in a pipe, tank or other containers are considered to be threatened discharges unless they are actively undergoing cleanup.

3.13.3 **Conflict.** In the case of a conflict between the provisions of this Section and other provisions of this Code, this section will apply.

SECTION 3.14 DISCHARGER MONITORING

3.13.1 **Inspection, Surveillance and Monitoring.** The District, or its authorized representatives, may conduct inspection, surveillance and monitoring procedures necessary to assure compliance with this Code and all applicable federal, state and local regulations.

3.13.2 **Actions to Correct Violations.** The District may issue compliance directives requiring the Discharger to implement actions to correct violations of this Code or of any Permit issued to the Discharger.

CHAPTER 4

REGULATIONS GOVERNING THE CONSTRUCTION AND TESTING OF WASTEWATER FACILITIES

SECTION 4.1 PURPOSE

Subject to the other provisions of this Code, including those related to the use of Wastewater Facilities, procurement of Permits, and the imposition of fees, rates and charges, this Chapter establishes regulations for the construction and testing of Wastewater Facilities connected to the District's Wastewater System. The purpose of these regulations is to provide for operation and maintenance of the District Sewer System in a reliable and serviceable manner and to abate Sewage overflows through the elimination of stoppages and reduction of sources of infiltration and inflow into the System.

SECTION 4.2 STANDARD SPECIFICATIONS AND OTHER REGULATIONS

4.2.1 Adoption of Standard Specifications. The Stege Sanitary District Construction Specifications and Details ("Standard Specifications") as previously promulgated by the District (1995), revised in February 2004, and as subsequently amended from time to time, are adopted as the District's Standard Specifications governing the manner of construction, repair, maintenance and operation of Wastewater Facilities in the District. Copies of the Standard Specifications shall be available for examination at all times in the offices of the District.

4.2.2 Application of Standard Specifications. The Standard Specifications shall control in any case where they apply except as follows:

4.2.2.1 The Standard Specifications are in conflict with provisions of this Code, in which case the provisions of the Code shall control; or

4.2.2.2 For good cause, the District has authorized deviation from the Standard Specifications.

If the action required by the Standard Specifications in a particular case is unclear, the District shall make the determination.

4.2.3 **Other Regulations.** Plumbing Codes and other applicable building regulations adopted by the Cities of El Cerrito and Richmond and by Contra Costa County for the unincorporated area of Kensington, respectively, shall govern the construction of Wastewater Facilities located within structures (i.e. Building Sewers) and outside of structures to the point where the Lateral connects to the Building Sewer.

4.2.4 **Compliance With All Applicable Regulations.** Every Person constructing or causing the construction of any Wastewater Facilities which are subject to this Code shall comply with all applicable laws, rules and regulations of any governmental agency having jurisdiction over the construction including, without limitations, laws, rules and regulations pertaining to: Encroachments on public property, streets and highways; public health, safety and welfare; environmental quality and protection; and, occupational safety and health. Compliance with any such provisions, including the cost of procuring required Permits, authorizations and approvals, shall be at the expense of the Persons performing the construction or causing it to be performed, and not the District.

SECTION 4.3

DISTRICT WASTEWATER FACILITIES

Construction of Wastewater Facilities of the Wastewater System, which are to be dedicated to the District for the public's use, shall be accomplished in accordance with this Chapter.

4.3.1 **Persons Authorized To Perform Work.** Only properly licensed contractors shall be authorized to construct public Wastewater Facilities.

4.3.2 **Compliance With Permit or Contract.** Work which is required to be performed after issuance of a Permit from the District shall be done in strict conformance with all Permit requirements and conditions. Work which is performed under a contract between the District and the contractor shall be done in conformance with the approved contract documents.

4.3.3 **Payment of Construction Costs.** Except for projects undertaken by the District at District expense, the Person causing the work to be performed shall pay all costs of construction including the cost to acquire any Easements or rights-of-way which may be necessary for purposes of constructing, installing, operating or maintaining the Wastewater Facilities.

4.3.4 **Guaranty of Work and Security.** All public Wastewater Facilities shall be guaranteed against defects in workmanship and materials for one (1) year from the date of acceptance by the District Board. As security for this guaranty, the contractor or other Person causing the Wastewater Facilities to be constructed shall deliver to the District a

faithful performance bond or other improvement security acceptable to the District in an amount that is equal to the cost of the Wastewater Facilities constructed.

4.3.5 Inspection and Testing. All construction shall be subject to inspection and approval by the District's authorized representatives during the course of construction. Completed facilities shall be subject to video inspection, air testing or such other standard testing procedures as the District may require as a condition of acceptance of the facilities at the expense of the contractor or other Person causing the Wastewater Facilities to be constructed.

4.3.6 Responsibility for Defects. All Persons performing work in the construction of Wastewater Facilities shall be responsible for their own errors and omissions and those of their agents, subcontractors and employees. Upon being notified by the District of any defects in the work or a violation of any applicable requirements of the work, all such Persons shall be responsible to take immediate and appropriate corrective measures. If the Persons performing the work do not remedy the problems within the time frame specified by the District, the District may do so and recoup the expenses incurred from the responsible Persons.

4.3.7 Unsatisfactory Work. Any work or material which is subsequently found by the District to be unsatisfactory, shall be promptly repaired or replaced with work and material which is acceptable to the District, at the expense of the responsible Persons.

4.3.8 Liability. The District, its Directors, officers, agents and employees shall not be liable for injuries or damages of any kind or nature arising out of or related to any work of construction except, and to the extent, the District is itself legally at fault for such injuries or damages. To the same extent, the contractor or other Person causing the work to be performed shall defend, indemnify and hold harmless the District, its Directors, officers, agents and employees of and from any such injuries or damages which may be imposed or sought to be imposed on any of them, including all costs, expenses, attorney fees and interest incurred in any legal actions or proceedings.

4.3.9 Facilities Dedicated to the District. Public Wastewater Facilities to be dedicated to the District shall be designed and located in conformance with District requirements. No such Wastewater Facilities shall become the property or responsibility of the District unless and until they have been formally accepted by the District.

4.3.10 Reimbursement Agreements. The District is authorized to enter into reimbursement agreements with any Person who, at the Person's expense, causes Wastewater Facilities to be constructed and dedicated to the District for public use, but only if the newly constructed facilities represent an extension of the District's Wastewater System or they result in an increase in the capacity of the facilities such that

they will be able to serve new Dischargers or increased discharges. The agreement shall require new Dischargers or increased Dischargers to pay their equitable share of the cost of construction which, when collected by the District, will be reimbursed to the Persons who paid for the construction of the facilities. The form and substance of any such agreements shall be as prescribed by the District and the agreement shall be effective only after it is formally approved and executed by the District Board.

4.3.11 **Dedication.** Wastewater Facilities shall not become the property or obligation of the District until they have been dedicated to public use and have been formally accepted by the District Board upon such conditions as the Board, in its discretion, may impose. In addition to the other provisions of this Chapter, the District may condition acceptance of a dedication upon payment of initial operating and maintenance costs, the acquisition and conveyance to the District, or for its benefit, of Easements and rights-of-way necessary to accommodate the Wastewater Facilities, and the provision of security for the performance of any executory obligations.

SECTION 4.4

LATERAL SEWERS

4.4.1 **Permit Required.** No Person shall connect a Lateral to any Main Sewer without first obtaining a written Permit from the District and paying all fees and connection charges as required in this Code.

4.4.2 **Installation Costs; Indemnification.** All costs and expenses incident to the installation, connection, repair, renovation, replacement, disconnection, reconnection or relocation of the Lateral, including cleanouts, backflow protection devices, pumps or other appurtenances, shall be borne by the Person causing the connection to be made. That Person shall defend, indemnify and hold the District harmless from any cost, loss or damage which may be incurred or occasioned by the installation or connection of the Lateral.

4.4.3 **Cleanouts.** Every Lateral shall have an approved cleanout which shall be provided and installed within five (5) feet of the building foundation. All cleanouts shall conform to applicable local plumbing Codes and the District's Standard Specifications.

4.4.4 **Plumbing Too Low.** In all buildings in which there are plumbing fixtures at an elevation too low to permit drainage by gravity from the fixtures to the Main Sewers, the Sewage from the building shall be lifted and discharged to the Sewer System by pumps or other appropriate Wastewater Facilities which shall be the responsibility of the property owner.

4.4.5 **Backflow Protective Device.** All new building Laterals including Lateral replacements shall be equipped with a cleanout riser. All new building Laterals shall be

also fitted with a backflow prevention device of type and materials as approved by the District. In addition, existing Buildings in which the elevation of the lowest floor is less than twelve (12) inches above the rim elevation of the nearest upstream manhole or junction structure in the reach of a District Main Sewer into which a Building Sewer, through a Lateral, connects shall be protected from backflow of Sewage by installing a backflow protective device of a type and in the manner prescribed by the District. Any such backflow protective device shall be installed by the owner of the property on which the building is constructed, and shall be located on the Building Sewer between the building and the property line, preferably at the location of the cleanout. The backflow protective device, if below grade, shall be enclosed in a suitable concrete utility box with removable cover and shall be readily accessible for inspection and maintenance. The installation of any such backflow protective device shall be at the sole cost and expense of the property owner. The maintenance of the backflow protective device shall be the sole obligation of the owner or the owner's successor in interest. The District shall be under no obligation to ascertain that the backflow protective device continues in operating condition.

4.4.6 Separate Laterals. Except as otherwise provided in this Section, each separate building shall be connected to the District's Wastewater System with a separate Lateral. The exceptions are:

4.4.6.1 Multiple Buildings Under Common Ownership.

One or more buildings located on property owned by the same Person may be serviced by the same Lateral if the District determines that it is unlikely that ownership of the property can or will be divided in the future. However, if for any reason the ownership of the property is subsequently divided, each building under separate ownership shall be provided with a separate Lateral, and thereafter it shall be unlawful for any Person to continue to use or maintain a common Lateral Sewer. The cost to install the separate Lateral Sewer shall be the responsibility of the property owner whose property it serves.

4.4.6.2 Residential Occupancies With Common Walls.

Single family residential units with common walls, condominiums, stock cooperatives, community apartments or other similar improvements which entitle owners of interests therein to occupy independent ownership interests and make joint use of utility and other services which may be provided by facilities owned in common may, upon issuance of a Permit by the District authorizing such common use, be permitted to maintain a common Lateral.

4.4.7 Responsibility for the Maintenance and Operation of the Laterals. It shall be the responsibility of the property owner to perform all maintenance, repairs and

replacements necessary to maintain the Lateral in the condition specified in Section 4.4.7.1.

4.4.7.1. The property owner shall maintain the Lateral in accordance with the following minimum requirements:

- (i) The Lateral shall be kept free from roots, grease deposits, and other solids, which may impede the flow or obstruct the flow.
- (ii) All joints shall be watertight and all pipes shall be sound.
- (iii) The Lateral shall be free of any structural defects, such as fractures, cracks, breaks, openings or missing portions.
- (iv) All Cleanouts shall be securely sealed with a proper cap or approved overflow device at all times.
- (v) There shall be no Non-Sanitary Sewer Connections to the Lateral or to any wastewater plumbing that connects to the Lateral.

4.4.8 Responsibility for Costs of Repair. Any property owner served by the District's Sewer Collection System shall be responsible and liable for all costs involved in the repair of all damages to the District system caused by the property owner or the property owner's tenants or agents.

SECTION 4.5

TESTING NEW LATERALS

All new Laterals shall be tested by either an air or water method. The method used shall be at the discretion of the District. The test section shall be throughout the full length of the Lateral from the connection to the Main Sewer to the cleanout location adjacent to the building footprint. The air or water test of new Laterals shall conform to the testing requirements contained in the applicable provisions of the Standard Specifications.

SECTION 4.6

TESTING OF EXISTING LATERALS

4.6.1 When a Compliance Certificate is Required

4.6.1.1 **Title Transfer.** Prior to a Title Transfer of any real property that contains any structure with a Lateral, the transferor property owner shall disclose the requirements of this section. The transferor property owner or transferee shall obtain a Compliance Certificate pursuant to Section 4.6.2 and provide a copy of a valid Compliance Certificate to the Interested Parties as defined in this paragraph. "Interested Parties" means (1) the transferor property owner's real estate broker, if

any, (2) the transferee, (3) the transferee's real estate broker, if any, and (4) the escrow holder, if any.

4.6.1.2 **Construction or Remodeling.** Whenever a property owner applies for any permit or other approval needed for construction, remodeling, modification or alteration of any structure with a Lateral, the property owner shall obtain a Compliance Certificate prior to obtaining a final permit or approval from the permitting authority. This paragraph shall apply to construction, remodeling, modification or alteration work where the cost of the work is estimated to exceed \$100,000.

4.6.1.3 **Change in Water Services.** Whenever a property owner requests from EBMUD an increase or decrease in the size of the owner's water meter, as defined by Section 17 of EBMUD's Regulations Governing Water Service to Customers, the property owner shall obtain a Compliance Certificate from EBMUD before EBMUD will perform work on the water meter.

4.6.1.4 **An Individually-Owned Unit in a Multi-Unit Structure Served by a Single Lateral or Shared Laterals.** The requirements in Sections 4.6.1.1 – 4.6.1.3 do not apply to an individually-owned unit in a multi-unit building served by a single Lateral or shared Lateral, such as a condominium or other common interest development. Within ten (10) years of the adoption of the Regional Ordinance, the homeowners association or other responsible party for the multi-unit structure shall determine if the Lateral(s) is in compliance with the requirements in Sections 4.4.7 and 4.6.2 of the Code and perform any necessary repair or replacement work to achieve compliance. Thereafter, recertification of the Lateral shall occur at twenty (20) year intervals.

4.6.1.5 **Property Developments Other Than Those Specified in 4.6.1.4 Above With Laterals Totaling Greater Than 1000 Feet in Length.** Within five (5) years of the adoption of the Regional Ordinance, property owners or responsible parties for property developments with Laterals totaling greater than 1000 feet in length, shall submit to EBMUD for approval, a Condition Assessment Plan with a schedule for testing the condition of all Laterals on the property to determine compliance with the requirements of this Section 4.6. Within 10 years of the adoption of the Regional Ordinance, property owners or responsible parties shall complete all condition assessment testing and submit a Corrective Action Work Plan to EBMUD for approval. Corrective Action Work Plans shall include information about the number of Laterals in need of repair or replacement and a schedule of work to be performed to bring the Laterals into compliance with the requirements of this Section 4.6 and the Regional Ordinance.

After the work is completed, re-certification of the Laterals shall occur at twenty (20) year intervals.

4.6.1.6 **Exception.** A property owner with a valid Compliance Certificate or similar documentation from another agency, or with a dated approved building/sewer permit from a permitting authority indicating that the Lateral was replaced in total within 10 years prior to the effective date of the Regional Ordinance may submit the information to EBMUD along with a request for an Exemption Certificate. Upon review and approval, an Exemption Certificate will be issued.

4.6.2 **How to Obtain a Compliance Certificate.** Whenever a Compliance Certificate is required under Section 4.6.1, a property owner who does not hold a valid Compliance Certificate shall do the following at the property owner's expense.

4.6.2.1 **Repair or Replacement.** The property owner shall determine whether the Lateral is in compliance with the requirements of this Section 4.6. If the Lateral is not in compliance, the property owner shall perform any and all repair and replacement work needed to bring the Lateral into compliance. If the District has issued a Waiver for the Lower Lateral, then work is only required on the Upper Lateral.

4.6.2.2 **Verification Testing.** After the property owner determines (through any combination of inspection, repair and/or replacement) that the Lateral is in compliance with this Section and the Regional Ordinance and upon payment of the required fee established by EBMUD pursuant to the Regional Ordinance and any fee established by the District pursuant to this Section 4.6, the property owner shall perform verification testing in accordance with EBMUD's procedures in the presence of EBMUD's authorized representative, and at the discretion of the District, in the presence of an authorized representative of the District. If EBMUD's authorized representative determines that the verification testing confirms that the Lateral is in compliance with the District's and EBMUD's requirements, EBMUD will issue a Compliance Certificate for the Lateral. A Compliance Certificate will not be issued unless both the Upper Lateral and Lower Lateral passes a Verification Test unless the District issues a waiver pursuant to Section 4.6.5.

4.6.2.3 **Procedures for Verification Testing.** EBMUD will maintain written procedures for verification testing. The procedures shall be made available by the District upon request.

4.6.3 Compliance Certificate Term Limits. When a Compliance Certificate is obtained as a result of complete replacement of the Lateral, the Compliance Certificate shall be valid for 20 years from the date of issuance. Complete replacement, for these purposes, includes replacing or lining of the complete length of the Lateral. When the Compliance Certificate is obtained without complete replacement – e.g., as a result of repair work or testing without repair - the Compliance Certificate shall be valid for 7 years from the date of issuance.

4.6.4 Time Extension Certificate. . The requirement to obtain a Compliance Certificate prior to a Title Transfer in no way affects the legality of the transfer of title in the underlying property transaction. If a Compliance Certificate cannot be obtained from EBMUD prior to Title Transfer as required by Section 4.6.1, the property owner may request a time extension of 180 days in which to perform the repairs or replacement required in conjunction with the Title Transfer by applying to EBMUD for a Time Extension Certificate.

A request for a Time Extension Certificate shall be submitted to EBMUD with the required fee established by EBMUD pursuant to the Regional Ordinance and any fee established by the District pursuant to Section 4.6.6. Upon issuance of the Time Extension Certificate, funds in the amount of \$4,500 must be deposited into escrow. Property owners are responsible for the full cost of Lateral compliance with the requirements of this Section 4.6, which may exceed the \$4,500 deposit. Once the Lateral passes a Verification Test, funds will be released in accordance with escrow instructions. If the work is not completed within 180 days of issuance of the Time Extension Certificate or does not meet the conditions required by this Section 4.6, the escrow funds may be forfeited following a hearing, as appropriate, and the current property owner will be subject to an enforcement action in accordance with Section 4.6.9. EBMUD will take possession of the forfeited escrow funds and the current property owner will be required to demonstrate that its Lateral complies with this Section 4.6 prior to requesting that EBMUD consider release of the forfeited funds, less EBMUD's costs. After close of escrow, the current property owner shall be responsible for all costs associated with Lateral compliance.

4.6.5 Waivers. If at the time of repair or replacement of a Lateral, there is a paving moratorium or other action by the District or other local agency in place that would prevent repair or replacement of the Lower Lateral in accordance with the requirements of this Section 4.6, the District may temporarily waive the requirements of this Section 4.6 for the Lower Lateral. In such case, a Compliance Certificate will be issued for the Upper Lateral only. Upon the conclusion of the paving moratorium or other action preventing repair or replacement, the District shall send a notice to the property owner directing the property owner to complete the repair or replacement work necessary to

bring the Lower Lateral into compliance with the requirements of this Section 4.6. The property owner shall perform any and all repair and replacement work needed to bring the Lower Lateral into compliance with this Section, perform Verification Testing in accordance with Section 4.6.2.2, and obtain a valid Compliance Certificate for the entire Lateral by the deadline set forth in the notice. Failure to timely obtain a valid Compliance Certificate or to otherwise comply with a notice issued by District pursuant to this section shall constitute a violation of this Section 4.6 subject to prosecution by the District or EBMUD.

4.6.6 Fees. The District may establish fees for administration of this Section. The property owner shall be responsible for paying any fees established by the District as well as any fees established by EBMUD pursuant to the Regional Ordinance prior to the start of any work or scheduling of a Verification Test.

4.6.7 Appeals

4.6.7.1 To EBMUD.

Within 30 days after the mailing of written notice of any EBMUD decision, action or determination pursuant to this Section 4.6 related to Upper Laterals, any Person affected by the decision may file with the EBMUD Director, a written request for reconsideration setting forth in detail the facts supporting the request. The request for reconsideration shall be acted upon by the EBMUD Director within ten (10) days from the receipt of the request for reconsideration. The decision, action, or determination shall remain in effect during such period of review by the EBMUD Director. The EBMUD Director's decision shall be final.

4.6.7.2 To District.

Any decisions, actions or determinations by the District pursuant to this Section 4.6 related to Lower Laterals, including but not limited to, decisions, actions or determinations regarding eligibility for a waiver pursuant to Section 4.6.5 may be appealed to the District Board in accordance with Chapter 10 of the District's Ordinance Code.

4.6.7.3 In the event of a failure to comply with the Sewer Lateral Ordinance within the allotted time, the District may bring an enforcement action and exercise any other remedy provided by the District Ordinance Code and applicable law against the property owner and any other responsible party.

4.6.8 Requests for Relief

4.6.8.1 To EBMUD

Any Person or entity who is unable to comply with the Upper Lateral requirements of this Section 4.6 may file with the EBMUD Director, a written request for relief within fifteen (15) days of becoming aware of the inability to comply, setting forth in detail the facts supporting the request. The request shall be acted upon by the EBMUD Director within ten (10) days from the receipt of the request. The EBMUD Director's decision shall be final.

4.6.8.2 To District

Any Person or entity who is unable to comply with the Lower Lateral requirements of this Section 4.6 may file with the District Board, a written application for a waiver in accordance with Section 8.4.2 of the Code within fifteen (15) days of becoming aware of the inability to comply, setting forth in detail the facts supporting the application. The application shall be acted upon by the District Board in accordance with Section 8.3 of the Code. The District Board's decision shall be final.

4.6.9 Enforcement

4.6.9.1 The EBMUD Director shall enforce the provisions of this Section 4.6 relating to Upper Laterals as provided herein. The District shall enforce the provisions of this Section 4.6 relating to Lower Laterals in accordance with procedures set forth in Chapter 9 of the Code.

4.6.9.2 Violations of this Section 4.6 include, but are not limited to:

- (1) Failure to obtain a Compliance Certificate when one is required,
- (2) Failure to deposit \$4500 into an escrow account and perform the required work after receiving a Time Extension Certificate,
- (3) Failure to comply with requirements in this Section 4.6 in the repair and replacement or verification testing,
- (4) Falsifying facts to obtain an Exemption Certificate or Compliance Certificate;
- (5) Presenting a false Compliance Certificate; and/or
- (6) Failure to comply with a directive of the District regarding Lower Laterals, including, but not limited to, failure to repair or replace the Lower Lateral following receipt of a notice from the District pursuant to Section 4.6.5.

4.6.9.3 When the EBMUD Director finds that a Person violates or threatens to violate the provisions of this Section 4.6 relating to Upper Laterals, the EBMUD Director may notify the Person in writing. The Person will be

required within 30 days of the notification mailing date to submit for approval of the EBMUD Director a detailed time schedule of specific action the Person shall take in order to correct or prevent a violation of the requirements of this Section 4.6. The actions must be taken within 60 days of submittal of the time schedule.

4.6.9.4 The EBMUD Director has authority to take enforcement actions against any Person who violates any provision of this Section 4.6 relating to Upper Laterals or fails to perform any act required in this Section 4.6 relating to Upper Laterals including, but not limited to, imposing administrative fees, filing an injunction requiring the work to be done, and/or terminating water service.

4.6.10 Emergencies

4.6.10.1 In the event of an emergency, EBMUD staff shall have the authority to temporarily suspend the requirements of this Section 4.6 relating to Upper Laterals until the next regular or special meeting of the East Bay Municipal Utility District Board of Directors at which time a report shall be made. The temporary suspension shall apply, but not be limited to Upper Lateral requirements for compliance, repair or replacement, verification testing, enforcement, appeals, fees, time extensions, and maintenance standards.

4.6.10.2 In the event of an emergency, District staff shall have the authority to temporarily suspend the requirements of this Section 4.6 relating to Lower Laterals until the next regular or special meeting of the District Board at which time a report shall be made. The temporary suspension shall apply, but not be limited to Lower Lateral requirements for compliance, repair or replacement, verification testing, enforcement, appeals, fees, time extensions, and maintenance standards.

SECTION 4.7

COMPLIANCE WITH PROVISIONS OF THIS CHAPTER 4

In the event of a failure to comply with Chapter 4 of the Stege Sanitary District Ordinance Code within the allotted time, the District may bring an enforcement action and exercise any remedy provided by the District Ordinance Code and applicable law against the property owner and any other responsible party. In addition thereto, any property owner who fails to fully comply with provision of Chapter 4, including but not limited to, failure to comply with testing, cleaning, repair, maintenance, renovation and timely replacement of Lateral Sewers within District Boundaries, and failure to comply with the requirement to install backflow prevention devices on private sewer lines, shall be responsible for all damages that arise from or relate to such failure. For purposes of this section, "damages" include all compensatory damages, fines, penalties, assessments

and other monetary exactions that may be awarded to, levied or assessed by any person, firm, corporation, company or public entity.

CHAPTER 5

PERMITS

SECTION 5.1

PURPOSE

This Chapter establishes regulations governing the conditions and requirements to apply for and obtain Permits that authorize the construction of Wastewater Facilities, govern the discharge of Industrial Wastewater and regulate the use of Easements in which portions of the District's Wastewater System are located in the Stege Sanitary District.

SECTION 5.2

WHEN REQUIRED; UNLAWFUL ACT

No person shall perform, cause or allow to be performed any act for which a Permit is required by this Code unless a proper Permit has been duly and regularly issued by the District. Failure to obtain a Permit from the District when one is required is an unlawful act a violation of the Code.

SECTION 5.3

TYPE OF PERMITS

The types of Permits subject to this Chapter are the following:

5.3.1 **Sewer Permits.**

5.3.2 **Easement Encroachment Permits.**

5.3.3 **Any other Permit that the District is authorized to issue.**

SECTION 5.4

AUTHORIZATION FOR ISSUANCES OF PERMITS

Unless otherwise provided in this Code, the District Manager or his delegate is authorized to issue Permits. A Permit may be authorized for issuance subject to specified conditions that are to be satisfied either before or after the permit is issued. If a condition must be satisfied before Permit issuance, the Permit does not become effective until the condition has been fully satisfied. If a condition is to be performed after issuance, the Permit is effective upon issuance but shall be subject to revocation if the condition is not satisfied within or during the times or other parameters specified in the Permit.

**SECTION 5.5
APPLICATIONS FOR PERMIT**

Any Person seeking a Permit from the District shall apply to the District at the District Office, 7500 Schmidt Lane, El Cerrito, CA 94530. The application shall be made upon such forms as may be provided by the District and in accordance with such procedures as may from time to time be in effect. In any case, the applicant shall supply such information as may be required to enable the District to adequately evaluate the application. Every Permit application shall be signed by the Person for whom the Permitted activity or condition is being sought or by the Person's authorized representative. The applicant's signature on the application constitutes the agreement by the applicant to comply with all of the provisions of this Code and the requirements and conditions of the Permit. No application shall be considered until it is complete and all applicable fees and charges have been paid.

**SECTION 5.6
COMPLIANCE WITH PERMIT REQUIREMENTS AND CONDITIONS**

Upon issuance of a Permit, the applicant and all Persons subject to the Permit shall comply fully with all Permit requirements and conditions. Deviations from Permit requirements and conditions are not allowed except upon the express written authorization of the District.

**SECTION 5.7
PERIOD OF TIME WHEN PERMIT EFFECTIVE**

A permit shall become effective from the time it was duly and regularly issued and it shall remain in effect until it has expired, been revoked or is no longer necessary for its intended purpose.

**SECTION 5.8
EXPIRATION OF PERMITS**

Unless a Permit issued pursuant to this Code is issued for an indefinite term, as is an Easement Encroachment Permit, it shall be subject to expiration.

5.8.1 Usual Expiration Date. Unless otherwise specified in this Code, a Permit shall expire at the end of six (6) months from the date of its issuance.

5.8.2 Effect of Expiration. Upon expiration of a Permit, the activity or condition for which the Permit was issued shall no longer be authorized and shall be discontinued unless the Permit is extended as provided in Section 5.9 below.

**SECTION 5.9
EXTENSION OF PERMITS**

The District Manager may extend Permits for additional periods of time upon written request of the applicant and a showing of good cause for the need for an extension. No Person is entitled to an extension as a matter of right. A Permit extension shall not be granted unless the applicant has provided all information necessary to process and evaluate the extension request, has paid all applicable fees and charges and satisfied any requirements imposed by the District as a condition of granting the extension.

**SECTION 5.10
REVOCACTION OF PERMIT**

For good cause, the District may revoke a Permit in accordance with the provisions of Chapter 9, Section 9.6 of this Code.

**SECTION 5.11
SPECIFIC WASTEWATER DISCHARGE ACTIVITIES SUBJECT TO
PERMITTING**

5.11.1 Discharge Activities Subject to Permitting. No unauthorized Person shall do any of the following acts without having first obtained a written Permit from the District:

- 5.11.1.1 Construct or use any private Wastewater System;
- 5.11.1.2 Uncover, make any connection with or opening into, use, alter or disturb any public Sewers or appurtenance thereof;
- 5.11.1.3 Reestablish use of any private Wastewater System where such use has been discontinued for a period of one (1) year or more;
- 5.11.1.4 Reestablish service to any premises served by the public Sewer, where use of the public Wastewater System has been discontinued for a period of one (1) year or more;
- 5.11.1.5 Increase the volume of discharge of Wastewater from any premises into the public Wastewater System or into a private Wastewater System beyond the volume authorized under an existing Permit;
- 5.11.1.6 Change the nature of the discharge of Wastewater from any premises into the public Wastewater System or into a private Wastewater System beyond the nature of the discharge authorized for such premises under an existing Permit;

- 5.11.1.7 Discharge Wastewater to the District's Wastewater System for which an Industrial Waste Discharge Permit is required without such a Permit;
- 5.11.1.8 Provide service to real property that is not located within the District;
- 5.11.1.9 Connect to the District's Wastewater Facilities if the Wastewater Facilities do not have the capacity to accommodate the quantity and quality of Wastewater to be produced by the proposed project;
- 5.11.1.10 Connect to the District's Wastewater Facilities when an extension of the District's Collection System is required to serve a proposed project and the applicant has not satisfied all requirements of the District for extending the Wastewater Facilities to the vicinity of the project site; or
- 5.11.1.11 Connect to the District's Wastewater System when Easements or rights of way necessary for the District to operate and maintain public facilities installed in private property have not been granted to and accepted by the District; or
- 5.11.1.12 Perform any other act for which a Permit is required pursuant to this Code.

**SECTION 5.12
GROUNDS FOR DENIAL OF PERMIT REQUESTS**

An application for a Permit will be denied or revoked if any of the following circumstances exist:

5.12.1 Deficient Application. The information supplied in the application is not in conformance with the requirements of this Code or the application fails to provide adequate justification for the exercise by the District of any discretion which may be required.

5.12.2 Lack of Approval for Activity or Condition by Others. The activity or condition for which a District Permit is sought is also subject to the approval of Persons or public agencies other than the District, and the applicant has failed to provide verification that the approval has or will be given.

5.12.3 Other Circumstances. One or more of the following conditions are determined to exist:

- 5.12.3.1 Failure to provide evidence of a Contractor's license in accordance with the State of California, when required.

- 5.12.3.2 Failure to supply bonds or other forms of security, when required.
- 5.12.3.3 Failure to file necessary insurance papers with the District, when required.
- 5.12.3.4 The nature and quality of proposed work that does not comply with the District standards.
- 5.12.3.5 Failure to perform the work in accordance with approved plans and specifications.
- 5.12.3.6 Failure to comply with other provisions of this Code related to the Permit.

**SECTION 5.13
TRANSFERABILITY OF PERMITS**

A Permit is not transferable from one Person to another without the approval of the District. As a condition of approval of a Permit transfer, the District may attach additional requirements or conditions that are reasonably related to the circumstances of the transfer to include current Code requirements. Any Permit that is transferred shall be subject to all requirements and conditions of the Permit as it was originally authorized or subsequently amended.

**SECTION 5.14
SEWER PERMITS**

A Sewer Permit is required for connection to or any other work performed on the system of pipes, pumps and structures that comprise the District’s Wastewater System and for any work performed on similar private facilities if the work may impact the District’s Wastewater System. A Sewer Permit is also required for the installation, operation, maintenance and use of facilities for private wastewater disposal within the District.

**SECTION 5.15
PERMIT INFORMATION REQUIRED**

5.15.1 Requirements for Sewer Permits. The following is required for all applicants for Sewer Permits:

- 5.15.1.1 Street address and the Contra Costa County Tax Assessor’s parcel number.
- 5.15.1.2 Type of work to be done, whether it is a repair, a new connection, what type of building is being connected if it is for a connection, or other type of work.

5.15.1.3 Maps, plans, profiles and other information acceptable to the District to adequately describe the activity to be permitted.

5.15.1.4 The owner's name, address and phone number (electronic mail address optional).

5.15.1.5 The contractor's name, address and phone number (electronic mail address optional).

5.15.1.6 Any additional information that the District may need due to the nature of the project, including bond and insurance data.

SECTION 5.16

SEWER PERMIT FOR PRIVATE WASTEWATER DISPOSAL

The design, construction, and maintenance of private Sewage disposal, septic tank system, or any method of Sewage disposal within the Stege Sanitary District, other than through the Sewage Collection System of the District, shall be in accordance with the ordinances, rules, regulations and construction standards of the County of Contra Costa and the State of California. Applicants for private Wastewater Disposal System Permits are referred to the County of Contra Costa as the regulating authority for these systems. Proof of approvals by the County are required prior to issuance of a Permit by the District.

SECTION 5.17

EASEMENT ENCROACHMENT PERMIT APPLICATION

5.17.1 **District Encroachment Permit.** The owner of each property in which the District has an Easement who wishes to maintain a Class Two Encroachment or a Class Three Encroachment shall apply for and obtain a District Encroachment Permit.

5.17.2 **Procedures as Required.** The District shall establish and the applicant shall comply with such procedures as are required to process and act on the application including payment of applicable fees, completion of approved application forms and submission of specified information needed to evaluate the application.

5.17.3 **Issue of Encroachment Permit.** An Encroachment Permit shall be issued if the following conditions are met:

5.17.3.1 The applicant has fully complied with all District requirements and procedures pertaining to issuance of the Permit;

5.17.3.2 The applicant has accepted and agreed to all conditions upon which the Permit is proposed to be issued;

5.17.3.3 With respect to Class Two Encroachments, the District has found that, as conditioned, the Permit ensures that the Class Two Encroachment authorized by the Permit will not result in significant interference with the District's Easement; and

5.17.3.4 With respect to Class Three Encroachments, the District has found that as conditioned, the Permit preserves to the greatest extent reasonably possible the District's Easement rights while at the same time, in the interests of fairness and substantial justice, makes appropriate allowances for justifiable concerns of the property owner.

SECTION 5.18

EASEMENT ENCROACHMENT PERMIT CONDITIONS

The District shall not issue an Easement Encroachment Permit unless conditioned as follows:

5.18.1 **Conditions.** The applicant shall be obliged to fully perform and satisfy all conditions of the Permit;

5.18.2 **Requirements.** When required by the District, the applicant shall cooperate with the District and shall execute a written instrument in recordable form which, when recorded by the District, will place on public record provisions of the Permit that are intended to be known and binding upon any Person who succeeds to ownership of an interest in the real property that is subject to the District's Easement;

5.18.3 **Provisions of the Code.** The Permit shall be subject to all of the provisions of this Code;

5.18.4 **Class Two Encroachments.** With respect to Class Two Encroachments, the Permit shall be conditioned so as to mitigate the effects of the Encroachment and safeguard the District's Easement rights such that the effect of the mitigation measures and safeguards shall prevent the Encroachment from causing significant interference with the District's Easement; and

5.18.5 **Class Three Encroachments.** With respect to Class Three Encroachments, the Permit shall include conditions which, to the extent reasonably possible under the circumstances, will:

5.18.5.1 Eliminate the Encroachment in due course; and

5.18.5.2 Until eliminated, alleviate the impacts of the Encroachment on the District's Easement by requiring mitigation measures and/or safeguards and/or by shifting to the property owner and/or other responsible parties any financial

detriment which may be suffered by the District due to the existence of the Encroachment.

SECTION 5.19

INDUSTRIAL WASTE DISCHARGE PERMITS

5.19.1 Adopting Industrial Waste Discharge Ordinance. The provisions of East Bay Municipal Utility District, Special District No.1. Ordinance No. 311 as now in effect or as subsequently amended and adopted, provide regulations for the interception, treatment, and disposal of Wastewater and Industrial Wastes and are applicable to all Dischargers to the Stege Wastewater System.

5.19.2 Permit Requirements And Conditions. A Permit for any Industrial Waste discharge may include, but is not limited to: requiring pretreatment of wastes before discharge; restriction of peak flow discharges; prohibition of discharge of certain Wastewater components; restriction of discharge to certain hours of the day; requiring payment of additional charges to defray increased costs to the District created by the Wastewater discharge; requiring sampling and monitoring before and during discharge; and other conditions as may be required to meet the purposes of this Code. The Permit may also require specific investigations or studies to determine methods of reducing toxic constituents in the discharge.

SECTION 5.20

OTHER PERMIT USE REGULATIONS

By resolution of the District's Board of Directors, adopted from time to time, as the Board deems necessary and appropriate, the District may promulgate and amend rules, regulations and procedures to implement the provisions of this Chapter, including the following:

5.20.1 Rules, Regulations and Procedures. Establish rules, regulations and procedures concerning applications for and issuance of Permits;

5.20.2 Fees and Charges. Set fees and charges for District services related to Permits;

5.20.3 Activities and Conditions. List and categorize activities and conditions which constitute Encroachments; and

5.20.4 Standard Conditions. Establish standard Encroachment Permit conditions applicable to specific activities and conditions including mitigation measures, safeguards and similar provisions.

CHAPTER 6

EASEMENTS

SECTION 6.1

PURPOSE

The purpose of this Chapter is to establish policies, standards and requirements for District Easements.

SECTION 6.2

DISTRICT POLICIES CONCERNING EASEMENTS

The following are District policies concerning Easements:

6.2.1 District Facilities Located in Easements. Wherever feasible, District-owned Wastewater Facilities shall be located in and on lands owned by the District, in public lands to which the District has largely unrestricted access or in public streets, roads, highways or other public rights of way in which, by law, the District is entitled to construct, install, operate and maintain its facilities.

6.2.2 District Facilities on Private Property. District-owned Wastewater Facilities may be located and permanently installed on or in private property, but only if the District has acquired an Easement or Easements for the facilities conforming to this chapter. Temporary installations may be made pursuant to a license or other similar authorization approved by the District.

6.2.3 Public Easements Preference. The location of District Wastewater Facilities, as described in Section 6.2.1, is strongly preferred over the type of location described in Section 6.2.2.

In furtherance of this preference, District Wastewater Facilities shall not be installed in Easements over private property unless:

6.2.3.1 Installation in a Section 6.2.1 location is not possible, would be impracticable or would be unduly burdensome; and

6.2.3.2 The District's Easement rights will be sufficient to enable the District to operate and maintain its facilities without excessive cost or other undue difficulty.

6.2.4 Abandon or Relinquish Ownership. Subject to its right to abandon or relinquish ownership of any Wastewater Facilities which are no longer in use and which are not required for future District needs, the District contends that it has heretofore acquired and owns Easement rights for all District Wastewater Facilities which are located in or on private property, whether or not the District's Easement rights are evidenced by a recorded written instrument or other writing providing notice of the District's claimed Easement rights. Where the Wastewater Facilities are, in fact, not located in the public right of way or within the District's Easement, the District shall conduct an appropriate investigation to determine the location of the Wastewater Facilities and take the necessary action to secure the necessary property rights for the Wastewater Facilities, or to relocate them within the public right of way or the District's Easement, whichever is more practicable.

SECTION 6.3 CREATION OF DISTRICT EASEMENTS

6.3.1 District Easements. District Easements may be created in any manner allowed by law so long as the Easement has been approved and accepted by the District.

6.3.2 Conditions of District Easements. Notwithstanding Section 6.3.1 above, Easements to be conveyed to the District should ordinarily be created by express grant or reservation in a written instrument eligible for recordation in official records of the County of Contra Costa. The form and content of the instrument shall be acceptable to the District but shall not be effective until the instrument has been duly delivered to, approved and accepted by the District.

SECTION 6.4 MINIMUM STANDARDS FOR EASEMENTS

6.4.1 District Requirements. Unless expressly waived by the District for good cause, an Easement conveyed to the District shall be subject to the following minimum standards:

6.4.1.1 For the purpose of exercising its principal Easement rights, the District shall also be afforded the right of ingress and egress to, from, along, on, in, above and below the surface of the land encompassed by the Easement.

6.4.1.2 The Easement shall be subject to the provisions of this Code, and other rules and regulations promulgated by the District.

6.4.2 Exclusive or Non-Exclusive. Easements may be for the exclusive benefit of the District or they may be non-exclusive. If the Easement is nonexclusive, other users of the

territory encompassed by the Easement are prohibited from interfering with the District's Easement rights.

6.4.3 **Pipelines.** In the case of Easements for pipelines, the Easement shall have a horizontal width of not less than ten (10) feet.

SECTION 6.5 UNLAWFUL ACTS

It is unlawful for any person to:

6.5.1 **Unauthorized.** Cause or allow an unauthorized Encroachment on a District Easement;

6.5.2 **Notice.** After notice, fail to apply for a Permit, abate or otherwise remove or discontinue any action or condition which results in an unauthorized Encroachment;

6.5.3 **Abandon Items.** Abandon any items of property, including motor vehicles, on or within a District Easement;

6.5.4 **Refuse.** Deposit any debris, garbage, trash, toxic substance, liquid or solid waste or other form of refuse on or within a District Easement;

6.5.5 **Interference.** Cause, permit or maintain any activity or condition off of or outside the territory of the District Easement which causes directly or indirectly a significant interference with the District's Easement rights; or

6.5.6 **Public or Private Nuisance.** Cause or permit any activity or condition on or within a District Easement which constitutes a public or private Nuisance.

SECTION 6.6 EASEMENT ENCROACHMENTS

6.6.1 **Three Classes of Encroachments.** As used in this Chapter, with respect to District Easements, there are three classes of Encroachments as defined in Section 1.2.24.

6.6.2 **Unauthorized.** Except as provided in Section 6.7, Class Two and Class Three Encroachments are not authorized and shall not be maintained or permitted on District Easements.

6.6.3 **Removal and Elimination of Encroachment.** The owner of the property over which the District has an Easement and any other person who has caused or permitted an unauthorized Encroachment to exist is obligated to promptly remove and eliminate the Encroachment.

**SECTION 6.7
ENCROACHMENT PERMITS**

The owner of a property over which the District has an Easement who wishes to maintain a Class Two Encroachment or to obtain “Grandfather” relief (See Section 6.8 below) for a Class Three Encroachment, shall apply for and obtain a District Encroachment Permit. (Refer to Chapter 5.)

**SECTION 6.8
GRANDFATHERING**

An Encroachment which was in existence prior to the effective date of Ordinance No. 1793-0602 enacted on June 20, 2002 may be maintained and shall not be subject to immediate mandatory removal if the Encroachment is Grandfathered pursuant to this Section. An Encroachment shall be Grandfathered if:

6.8.1 **Requested Waiver.** The applicant has requested and obtained a waiver from the strict enforcement of the provisions of this Chapter pursuant to Chapter 8 of this Code, and

6.8.2 **Applied and Obtained Permit.** The applicant shall have applied for and obtained an Encroachment Permit pursuant to Chapter 5 of this Code.

**SECTION 6.9
REMOVAL AND RESTORATION OF IMPROVEMENTS WHICH ARE
DISTURBED BY DISTRICT ACTIVITIES**

Whenever District activities in District Easements result in the need for removal or distribution of improvements or other activities or conditions of the real property which is subject to the Easement, the following provisions apply:

6.9.1 **Conditions and Activities Not Constituting Encroachments.** The District will, at the expense of the District, temporarily remove or discontinue the activity or condition, and upon completion of the District’s activities, the District will, at the District’s expense, restore the activity or condition in kind.

6.9.2 **Class Three Authorized Encroachments.** If the Encroachment is authorized pursuant to an Encroachment Permit and the Encroachment Permit does not provide otherwise, the District will, at the District’s expense, restore the activity or condition in kind.

6.9.3 **Unauthorized Encroachments.** Unauthorized Encroachments shall be permanently removed by the property owner and/or other responsible Person and shall not be restored. Removal shall be performed promptly by and at the expense of the

property owner/responsible parties. If the Encroachment has not been removed within a reasonable time after notice has been given by the District, or if the urgency of the District's Easement activities requires that the activities be commenced without prior notice, the District may remove the Encroachment, but the removal costs shall be charged back to the property owner/responsible party.

**SECTION 6.10
DISTRICT REMEDIES**

Remedies granted to the District in this Chapter are in addition to any other rights and remedies which are available under District regulations or which are otherwise afforded by law, and the District is entitled to exercise any and all such rights and remedies, either serially or cumulatively, as determined by the District.

**SECTION 6.11
REQUEST FOR RELIEF BY AFFECTED PERSONS**

Any person who contends that his/her/its rights have been adversely affected by any action of or failure to act by the District in connection with the provisions of this Ordinance, may seek relief from the District under such rules and procedures as the District may establish.

CHAPTER 7

FEES, RATES AND CHARGES AND OTHER FINANCIAL MATTERS

SECTION 7.1

PURPOSE

This Chapter promulgates regulations governing fees, rates and charges imposed and collected by the District as authorized by the Act and other applicable provisions of law. This Chapter also makes provision for other related financial matters affecting the District and its constituents.

SECTION 7.2

SEWER SERVICE CHARGES

7.2.1 Background Considerations. The District Board has determined that the following considerations are pertinent to the District's sewer service charge system:

7.2.1.1 The average wastewater flow discharged from a typical residential dwelling in the District's territory is 47,574 gallons per year. This is based on the annualized, metered water consumption during the winter period of December, January and February for the average single family residential dwelling unit.

7.2.1.2 It is fair and reasonable to charge residential users for wastewater services based upon a flat rate because the differences in usage between one residential customer have an insignificant effect on the cost of providing service to the users, particularly, and another, when consideration is given to the administrative burden and expense that would be required to conduct a usage-based system. Also, a flat-rate charge system for residential users is reasonable because there is no practical means to directly measure actual sewer use. Therefore, any usage-based system is at best an estimate of actual flows derived from factors which in a residential setting do not ensure that the usage-based charges will be significantly more accurate than a flat-rate charge. The flat-rate charge system achieves substantial proportionality of use on a District-wide basis.

7.2.2 Authority. Pursuant to California Health and Safety Code Section 6520.5, a provision of the Sanitary District Act of 1923, the District elects to impose sewer service charges for the purpose stated in Section 7.2.3 below.

7.2.3 **Purpose.** The purpose of the sewer service charge is to raise revenue for the costs of maintenance, operation, construction and reconstruction of the District's wastewater facilities used for the collection and conveyance of wastewater, and for other expenditures deemed necessary to conduct the lawful business of the District.

7.2.4 **Customers Subject to Charge.** The owners of all premises connected to the District's wastewater system and of all premises that are able to connect to the system are subject to the sewer service charge. Owners of premises that are unable to be connected are exempt from the sewer service charge. It is the sole responsibility of the premise's owner to notify the District of the grounds for any claimed exemption.

7.2.4.1 **Accessory Dwelling Units.** Except for Junior Accessory Dwelling Units, all Accessory Dwelling Units must pay the annual sewer service charge. Junior Accessory Dwelling Units are not considered separate dwelling units for purposes of the sewer service charge. For the definitions of Accessory Dwelling Unit and Junior Accessory Dwelling Unit, see section 7.3.5.3.1.

7.2.5 **Determination of Annual Charges.**

7.2.5.1 **Residential Customer Sewer Service Charge.** Except as provided in Section 7.2.7, each residential customer shall pay an annual sewer service charge established by the District's Board of Directors for one (1) residential dwelling unit, as follows:

a. Single Family Dwellings

- i. For Fiscal Year 2019-20, the sum of \$271.00.
- ii. For Fiscal Year 2020-21, the sum of \$304.00.
- iii. For Fiscal Year 2021-22, the sum of \$341.00.
- iv. For Fiscal Year 2022-23, the sum of \$383.00.
- v. For Fiscal Year 2023-24 and each fiscal year thereafter unless and until amended, the sum of \$429.00.

b. Multi-Unit Dwellings

- i. For Fiscal Year 2019-20, the sum of \$252.00.
- ii. For Fiscal Year 2020-21, the sum of \$263.00.
- iii. For Fiscal Year 2021-22, the sum of \$274.00.
- iv. For Fiscal Year 2022-23, the sum of \$285.00.
- v. For Fiscal Year 2023-24 and each fiscal year thereafter unless and until amended, the sum of \$297.00.

7.2.5.2 Non-Residential Customer Sewer Service Charge. Each non-residential customer shall pay an annual sewer service charge calculated as follows:

7.2.5.2.1 The customer's annualized water consumption shall be determined as provided in Section 7.2.6.

7.2.5.2.2 The customer's annual sewer service charge shall be the amount in dollars obtained when the customer's annualized water consumption is multiplied by the applicable annual sewer charge rate established by the District's Board of Directors, except that in no case shall the annual charge be less than the applicable charge for one multi-unit dwelling unit.

7.2.5.2.3 The non-residential annual sewer charge rate shall be equal to the annual sewer service charge established by the District's Board of Directors for one (1) residential dwelling unit divided by the annual residential unit water discharge specified in Section 7.2.6.1 phased-in over five years. The result shall be expressed in terms of dollars per thousands of gallons, as follows:

For Fiscal Year 2019-20, the rate of \$5.59 per 1000 gallons.

For Fiscal Year 2020-21, the rate of \$6.30 per 1000 gallons.

For Fiscal Year 2021-22, the rate of \$7.10 per 1000 gallons.

For Fiscal Year 2022-23, the rate of \$8.01 per 1000 gallons.

For Fiscal Year 2023-24 and each fiscal year thereafter unless and until amended, the rate of \$9.02 per 1000 gallons.

7.2.5.3 **Annual Charge.** The annual sewer service charge shall be imposed on a fiscal year basis commencing on July 1 of the calendar year in which the fiscal year begins, and ending on June 30 of the next calendar year.

7.2.6 Water Consumption. Subject to the provisions of Section 7.2.6.3, annual water consumption shall be determined as follows:

7.2.6.1 **Residential.** The discharge from each residential dwelling unit is presumed to be 47,574 gallons per year and shall not be based upon measured water consumption or other conditions of occupancy of the dwelling unit. The District may periodically review water consumption figures and update this discharge factor.

7.2.6.2 **Non-Residential.** Water consumption for all other uses, including commercial residential (such as, for example, motels and hotels), shall be based upon actual metered water consumption determined as follows:

7.2.6.2.1 The average water usage for each premise during the preceding “winter” period shall be determined by the District from the annual report furnished to the District by the East Bay Municipal Utility District (EBMUD). The “winter” period is the months of January, February and December of the calendar year preceding the commencement of the applicable fiscal year.

7.2.6.2.2 In cases where meter readings are found to be inaccurate, the District may use other means of identifying the true water consumption. (Refer to Section 7.2.6.3.1.)

7.2.6.2.3 The water consumption determined under Sections 7.2.6.2.1 and 7.2.6.2.2 shall be annualized and calculated in 1000 gallon increments. This is calculated by multiplying the “winter” period consumption usage by four. The result is the annualized discharge to be used for setting charges for all non-residential uses.

7.2.6.3 **Additional Non-Residential Provisions.** The following provisions apply to water consumption by non-residential users.

7.2.6.3.1 Upon application to the District by customers maintaining extensive irrigated landscaping or in other situations where it can be established that the metered water consumption is not a valid measure of the quantity of wastewater discharged, the quantity of wastewater to be used in determining the customer’s annualized water consumption shall be determined by the District. (Refer to Section 7.2.6.2.2.)

7.2.6.3.2 The District may require the installation on the premises of District-approved recording devices or flow meters for use by the District at the customer’s expense. Such devices or meters shall be available for inspection at any reasonable time. Recording devices shall be capable of recording instantaneous and accumulated flows as approved by the District. The customer shall be responsible for the maintenance, calibration, repair and replacement of all recording devices and equipment.

7.2.6.4 **Vacancies.** No credit, adjustment or refund shall be made to any customer because the premises or any portion of them are vacant, unless the premises are disconnected from the District wastewater system.

7.2.6.5 **No Subsidized Users.** No premises or customers shall be provided District wastewater services without charge or at a reduced charge.

7.2.7 **Effective Date of Charges.** Charges and rates established by this Code are effective upon the date specified by the District and shall apply to all premises connected at that time to the District's wastewater system. Premises that are connected to the system after the effective date shall be subject to the sewer service charge effective as of and prorated from the date of connection. The charge shall be billed directly in accordance with Section 7.2.11 below.

7.2.8 **Person Responsible.** The owner of the premises is responsible for payment of all sewer service charges applicable to the premises. It is the duty of the owner to ascertain from the District the amount and due date of any charge applicable to the premises and to pay the charge when due. It is also the duty of the owner to inform the District immediately of all pertinent circumstances and/or change in any circumstances which will affect the applicability of a charge to the owner's premises or the amount of any such charge.

7.2.9 **Collection of Sewer Service Charges on Tax Roll.**

7.2.9.1 **Collection With Property Taxes.** Pursuant to the provisions of Division 5, Part 3, Chapter 6, Article 4 of the Health and Safety Code, but subject to the provisions of this Section, the District elects, as the primary procedure for the collection of sewer service charges prescribed or imposed by the provisions of this Code, to have sewer service charges for each fiscal year collected on the tax roll of the County of Contra Costa in the same manner, by the same persons and at the same time as property taxes, assessments and other charges collected in that manner.

7.2.9.2 **Sewer Service Charge Report.** At the beginning of the District's fiscal year, a written report shall be prepared and filed with the District Secretary setting forth a description of each parcel of real property, inside or outside the District, upon which are situated premises that receive wastewater services of the District and the amount of the charge for each parcel for that year, computed in conformity with the charges prescribed by this Code.

7.2.9.3 **Public Hearing.** The District Secretary shall cause notice of the filing of the report and of the time and place for a public hearing to be published in a newspaper of general circulation within the District. The publication of notice shall be once a week for two successive weeks. Publications shall be made with

at least five days intervening between the respective publication dates not counting the publication dates. A minimum of two public notices shall be published in a newspaper circulated more than once a week. In newspapers, which circulate once a week, the public notice shall be published in each circulation for two successive weeks. The period of notice commences on the first day of publication and terminates at the end of the 14th day, including in that period the first day of publication.

7.2.9.4 Protests and Objections. At the time stated in the notice, the District Board shall hear and consider all objections or protests, if any, to the report and may continue the hearing from time to time. If the District Board finds that protest is made by a majority of separate parcels of property described in the report, the report shall not be adopted and the charges shall be collected separately from the tax roll and shall not constitute a lien against any parcel or parcels of land.

7.2.9.5 Board Determinations. Upon the conclusion of the hearing, the District Board may adopt, revise, change, reduce or modify any charge or overrule any or all protests and/or objections, excepting protests or objections from a majority as described above in Section 7.2.10.4, and the Board shall make its determination upon each charge as described in the report, which determination is final.

7.2.9.6 Filing of Report. By August 10th of each year following the Board's final determination, the District Secretary shall file with the Controller of the County of Contra Costa a copy of the report with a statement endorsed over the Secretary's signature stating that the report has been finally adopted by the District in order that the Controller of the County of Contra Costa shall be able to enter the amounts of the charges against the respective lots or parcels of land as they appear on the current assessment roll and in order that the charges may be collected on the tax roll in accordance with the provisions of Sections 5473.5 through 5473.11 of the Health and Safety Code.

7.2.9.7 Creation of Lien. Except as provided in Section 5473.8 of the Health and Safety Code, the amount of the charges shall constitute a lien against the lot or parcel of land against which the charge has been imposed as of the lien date prescribed by law for property taxes.

7.2.10 Direct Billing. If the full amount of any sewer service charges is, for any reason, not collected in accordance with the provisions of Section 7.2.9 above, the sewer service charges, or the portion of them not appearing on the tax roll, shall be collected by direct billing of the property owner as provided in this Section. The provisions of this Section shall also apply to sewer service charges accruing after a new connection to the District's

wastewater facilities, in which case the annual charge shall be prorated over the period of time from the date of the new connection to the end of the fiscal year.

7.2.10.1 **Billing.** The District shall ascertain the amount of each sewer service charge applicable to each premise and shall mail to the owner and/or owner and occupant, within sixty (60) days from the date any sewer service charges become due and payable, a bill for the sewer service charges which are then due and payable. The bill shall be mailed to all persons listed as the owners on the last equalized assessment roll of the County of Contra Costa at the address shown on the assessment roll, or to the successor in interest of the owner and/or occupant, if known. Each bill shall contain a statement that a delinquency in payment for sixty (60) days shall constitute a lien against the lot or parcel against which the charge is imposed and that when recorded it shall have the force, effect and priority of a judgment lien for three (3) years unless sooner released or otherwise discharged. Failure of the District to mail a sewer service charge bill or failure of the owner to receive a sewer service charge bill, shall not excuse the owner of any premises from the obligation of paying any sewer service charge for any premises owned by him.

7.2.10.2 **How Payable.** Each sewer service charge to be collected by direct billing shall be due and payable in full at the time of billing; provided, however, if in any fiscal year, a sewer service charge is payable for a period covering eight (8) months, or more, of the fiscal year, the sewer service charge shall be billed in two installments with the first installment covering the period for which a sewer service charge is owed during the first six (6) months of the fiscal year, and the second installment covering the remaining six (6) months of the fiscal year.

7.2.10.3 **Delinquency Date of Sewer Service Charges.** Each sewer service charge shall be delinquent if not paid on or before the thirtieth (30th) day of the month following the date upon which such sewer service charge becomes due and payable.

7.2.10.4 **Where Payable.** Sewer service charges collected by direct billing shall be payable at the administrative office of the District, as noted in the billing.

7.2.10.5 **Penalties for Non-Payment of Sewer Service Charges.** Whenever a delinquency shall occur for non-payment of sewer service charges, the provisions of Section 7.7 apply.

7.2.11 **Use of Revenues.** In accordance with Health and Safety Code Sections 5471 and 6520.5 and Section 7.2.1 above. Revenues derived under this Section 7.2 shall be used only for the acquisition, construction or reconstruction, maintenance and operation of

sanitation or sewage facilities of the District and to repay the principal and interest on bonds issued for the construction of such sanitary or sewage facilities and to repay federal or state loans or advances made to the District for the construction or reconstruction of sanitary or sewage facilities; provided, however, that such revenue shall not be used for the acquisition or construction of new local street Sewers or Laterals, as distinguished from main, trunk, Interceptor and outfall sewers.

7.2.12 Automatic Increases; Exceptions. The increases in sewer service charges and sewer service charge rates for Fiscal Years 2015-2016, 2016-2017, 2017-2018, and 2018-2019 shall occur automatically on July 1st of each respective fiscal year without further approval or other actions by the District's Board of Directors. Notwithstanding the automatic nature of those increases, the Board may review scheduled increases at the beginning of each fiscal year and may, in its discretion, reduce the scheduled charges and rates for that fiscal year. Any such reduction for each fiscal year shall not affect the charges and rates for subsequent fiscal years as established by this ordinance unless the Board independently acts to reduce charges for that fiscal year in accordance with this Section. Furthermore, any action by the Board to reduce charges and rates pursuant to this Section 3 shall not affect the Board's ability to increase charges and rates in excess of the charges and rates specified in this ordinance so long as the Board complies with all notice, hearing and other requirements of law.

SECTION 7.3

SEWER CONNECTION CHARGES

7.3.1 **Establishment of District Sewer Connection Charge System.** This Section establishes a system of charges for connections to and the acquisition of discharge capacity allowances in the District's wastewater collection system. For purposes of this Section 7.3, "connection charge" has the same meaning as "capacity charge" in section 66013 of the Government Code.

7.3.2 **Purposes.** The purposes of the sewer connection charge are (a) to provide revenue to acquire, construct, install and replace capital facilities and other assets required for the District's wastewater disposal system, and (b) to distribute the cost of acquisition, construction, installation and replacement of the District's wastewater facilities and other capital assets so that the owner of each parcel connected to the District's system pays a proportionate share of those costs. Payment of the applicable connection charge allows discharges of wastewater to be made from the respective parcel in an amount that corresponds to the amount of the charge established by this Code. The discharge capacity thus acquired is irrevocable and runs with the parcel.

7.3.3 **Payment of Connection Charge Required.** No connection may be made to the District Sewer System, or to any sewer flowing into the Sewer System, until the applicable

sewer connection charge has been paid to the District. The connection charge shall be in addition to charges for permits, inspections or the other requirements of any other rule or regulation of the District. Except as provided in Section 7.3.8, the connection charge shall be paid at the time the application for a sewer connection permit is filed.

7.3.4 Basis of Charge.

7.3.4.1 Connection Charge Calculation. In general, the connection charge is the depreciated replacement cost of all District facilities and other District assets in current dollars divided by the estimated number of plumbing fixture units connected to the District's system at buildout. For purposes of this calculation, the following rules will apply:

7.3.4.1.1 Sewer lines and other similar wastewater facilities are presumed to have a useful life of fifty years. The useful lives of other depreciable facilities and assets shall be based upon depreciation schedules established pursuant to generally accepted accounting principles. Sewer lines installed in 1987 and thereafter shall be presumed to have a useful life of seventy-five years.

7.3.4.1.2 Depreciation of sewer lines shall be calculated on ninety percent (90%) of a sewer's replacement cost at time of installation, such that after fifty years (or the useful life) the residual value will equal ten percent (10%) of the line's replacement cost at time of installation. A depreciable sewer line that has survived beyond fifty years and continues to be in general use by the District shall be deemed to have a residual value equal to ten percent (10%) of the line's replacement cost at time of installation. All other depreciable facilities and assets that have survived beyond the time interval specified in the applicable depreciation schedule and continue to be in general use by the District may have a salvage value, the amount of which will be determined by the District individually for each facility and asset.

7.3.4.1.3 The total number of District connections to be used in the calculation under Section 7.3.4.1 above are the total number of plumbing fixture units. The equivalent flow is 5 gallons per day per fixture unit.

7.3.5 Schedule/Determination of Charges.

7.3.5.1 District-Wide Schedule. The applicable connection charges and connection charge rates for new connections and increased discharges to the District's system shall be as follows:

Sewer Connection/Capacity Charge – District-Wide

| Land Use | Equivalent Fixture Units per Dwelling Unit | Average Gallons per Day per Equivalent Fixture Unit | Cost per Equivalent Fixture Unit | Sewer Capacity Charge |
|---------------------------|--|---|----------------------------------|---------------------------|
| Single Family Residential | 26 | 5 | \$109.78 | \$2,854 per dwelling unit |
| Multi-Family Residential | 17 | 5 | \$109.78 | \$1,866 per dwelling unit |
| Non-Residential | NA | 5 | \$109.78 | \$109.78 per fixture unit |

7.3.5.2 San Pablo Specific Plan Area Schedule. In September 2017, a special study was completed to help plan for future developments in the San Pablo Specific Plan Area (SPSPA) in the City of El Cerrito. (“Sewer Capacity Charge for the San Pablo Avenue Specific Plan Area,” September 12, 2017, Urban Economics) and an additional updated connection fee study was conducted in April 2019 (“Connection Charge and SPSPA Impact Fee Study.”) Without pipe upsizing, the anticipated development in the SPSPA would surcharge existing facilities. An additional capacity charge will fund sewer capacity improvements needed to serve projected growth within the SPSPA. For new connections and increased discharges in the SPSPA, both residential and nonresidential developments will pay \$241.84 per fixture unit. For SPSPA developments, these charges must be paid in addition to the rates listed above in section 7.3.5.1:

Sewer Connection/Capacity Charge – San Pablo Avenue Specific Plan Area

| Land Use | Cost per Equivalent Fixture Unit |
|-----------------|----------------------------------|
| Residential | \$241.84 |
| Non-Residential | \$241.84 |

7.3.5.2.1 If a proposed development in the SPSPA will result in an exceedance of the growth scenario for its specific block and development type as summarized in Appendix C of the BKF technical memorandum dated July 28, 2017, or any subsequent studies or memorandums, and may create, in the sole determination of the District, demand that will exceed the sewer capacity of the planned improvements, then the District may require a sewer capacity study that will confirm whether or not additional changes must be made to the sewer system. For developments that will not result in exceeding the growth scenario, the District will not require a special study. If a study is required, such study must be conducted in accordance with District criteria. Upon District approval and agreement with the study, the District may in its sole discretion, either (a) pay a pro rata share of the costs of any

required improvements; or (b) enter into a reimbursement agreement with the owner(s) in which the owner(s) pay all or a portion of the entire cost of the required improvements, the actual cost to be determined by the District, and the District agrees to collect fees from those subsequently connecting to the oversized facility and to reimburse such payments to the owner(s) for a period not to exceed ten (10) years.

7.3.5.2.2 This section 7.3.5.2 will sunset without further action of the Board when all of the sewer system improvements identified in the September 12, 2017, Urban Economics study have been completed, and either the District has collected enough funds to cover the costs of the improvements, or the improvements have otherwise been paid for.

7.3.5.3 Accessory Dwelling Units. Consistent with state law, the District will neither require a new or separate connection for Attached Accessory Dwelling Units, nor charge a connection charge for such units. The District will require the payment of a connection charge for Detached Accessory Dwelling Units described in the following table:

| Land Use | Cost per Equivalent Fixture Unit |
|--|----------------------------------|
| Attached Accessory Dwelling Unit/Junior Accessory Dwelling Unit | \$0 |
| Detached Accessory Dwelling Unit | \$109.78 |

7.3.5.3.1 For purposes of this subsection, the following terms mean:

“Accessory Dwelling Unit” means an attached or detached residential 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 as the single-family dwelling.

“Attached Accessory Dwelling Unit” means 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.

“Detached Accessory Dwelling Unit” means an Accessory Dwelling Unit that is constructed either to expand the envelope of the existing single-family residence or accessory structure, or to be a new accessory structure on the parcel.

“Junior Accessory Dwelling Unit” means a unit that does not exceed 500 square feet in size and is contained entirely within an existing single-family structure.

7.3.5.4 **Adjustment of Charges.** The above rates may be adjusted annually for inflation based on the Construction Cost Index published by the Engineering-News Record.

7.3.6 **Charges by Type of Connection.**

7.3.6.1 **Residential Connections.** The residential connection charge for connection to the District’s system shall be the corresponding charge for the applicable fiscal year for each dwelling unit.

7.3.6.2 **Non-Residential Connections.** The non-residential connection charge shall be the applicable per fixture unit charge multiplied by the number of fixture units, but in no event shall the charge be less than the residential charge for one dwelling unit. Payment of the non-residential connection charge entitles the owner(s)/occupant(s) of the premises to discharge up to the wastewater discharge capacity acquired, but no more.

7.3.6.3 **Combined Residential and Non-Residential Connection.** In the event a parcel has combined residential and non-residential uses, the connection charge shall be the corresponding residential charge times the number of dwelling units plus the corresponding per fixture unit charge times the number of fixture units in the non-residential premises.

7.3.6.4 **Credit for Contributed Facilities.** In the case of any person who constructs wastewater facilities that are then dedicated to the District for public use, and to the extent the value of those facilities has been taken into account in the District’s establishment of connection charge rates imposed pursuant to this Ordinance, the person shall be allowed an appropriate credit against the connection charges otherwise payable by that person. The credit shall be calculated by the District, consistent with the manner in which the connection charge rate was established by the District.

7.3.7 **Persons Responsible for Payment.** The owner of the premises is responsible for payment of all connection charges applicable to the premises. It is the duty of each property owner to ascertain from the District the amount and due date of any connection charge applicable to the property and to pay the charge when due and payable. Each property owner shall be responsible to inform the District within a reasonable period of time of any changes in circumstances that might result in a change in the amount of the charge.

7.3.8 **Increased Use of Sewers.**

7.3.8.1 **Consent of District Required.** No person shall cause or permit an increase in the wastewater discharge from any premises over the amount of the wastewater discharge capacity allowance for the premises without prior consent of the District and the payment of an additional sewer connection charge. Additional residential units, or the addition of fixture units in non-residential premises, may increase wastewater discharge and trigger the imposition of additional capacity charge(s).

7.3.8.2 **Initial Wastewater Discharge Allowance.** As of March 2004, the effective date of this Code, the wastewater discharge allowance, measured in gallons per day, for any premises in the District shall be as follows:

7.3.8.2.1 For premises not previously legally connected, to the District's wastewater facilities, the initial allowance is "0".

7.3.8.2.2 For residential premises legally connected to the District system as of or after the effective date of this Code, the initial allowance shall be determined by the number of dwelling units authorized to be connected.

7.3.8.2.3 For non-residential premises legally connected to the District's system as of March 2004, the initial allowance shall be the greatest of (a) the flow authorized to be discharged under a District permit or other formal authorization, (b) the flow derived from water use data used by the District in calculating sewer service charges levied for the parcel in Fiscal Year 2006-07, or (c) such other discharge rate as the property owner is able to demonstrate represents actual previous discharges from the premises and for which District sewer service charges were paid.

7.3.8.2.4 For non-residential premises legally connected to the District system after March 2004, the initial allowance shall be the flow authorized to be discharged under a District permit or other formal authorization.

7.3.9 **Resumption of Use.**

7.3.9.1 **Supplemental Connection Charge.** Any person required to obtain a permit for resumption of a discontinued use shall pay a supplemental connection charge computed in accordance with this Section.

7.3.9.2 **Calculation Without Credits.** Before allowing any credits that may be applicable under Section 7.3.9.3 below, the amount of the connection charge that

would be applicable for a new connection shall first be determined as provided in Section 7.3.5.

7.3.9.3 Allowance for Credits. Credit shall then be given for any connection charges previously paid for wastewater use that was disconnected. Credit shall also be given for the differential increase, if any, in connection charges that occurred from the time connection charges were originally paid to the time the original use was discontinued, but only if all sewer service charges levied against the premises during that interval were paid. In no event shall the amount of the credit exceed the amount of the connection charge determined as provided in Section 7.3.5.

7.3.10 Sewer Capacity Study. For only those projects not within the SPSPA, a sanitary sewer capacity study may be required for a proposed project if it consists of any of the following

1. 10 or more residential dwelling units,
2. 10,000 square feet or more of office or commercial space,
3. 1,000 square feet or more of restaurant space,
4. Any laundromat and/or industrial laundry, or
5. Any other project that may create a new connection(s), including an alternative use of existing connection, that will exceed the sewer capacity of existing sewer lines, as determined by the District.

In any of above situations, the District may:

- a. Require the owner(s) of such proposed new connection(s) to contract for, at its own expense, a qualified engineering firm to conduct a study of the impact of such proposed connection(s) on existing pipelines and any required sewer improvements to eliminate under capacity. Such study must be conducted in accordance with District criteria. Upon District approval and agreement with such study, the owner(s) shall pay the entire cost of the required improvements, the actual cost to be determined by the District.
- b. Refuse to approve such connections, if the owner(s) refuses to comply with any of the obligations imposed upon it by a., above.

7.3.11 Administration of Connection Charges.

7.3.11.1 Two-Thirds Vote Requirement. The sewer connection charge rate may be increased only by an amendment to this Ordinance approved by a two-thirds vote

of the members of the District Board and compliance with any other applicable requirements of law.

7.3.11.2 **Periodic Review.** The District Board shall review the sewer connection charge as needed, but at least every five years, to determine whether the connection charge rates should be adjusted. If a request for a permit is received during the periodic review of the connection charge, a provisional fee will be charged by District staff, pending the completion of the review.

7.3.11.3 **Collection Remedies.** Nothing contained in this Section shall be deemed to limit any rights or remedies of the District to collect sewer connection charges. In addition to any other rights and remedies which are available, the District Board may, if it determines to do so, employ the procedures established in the California Health & Safety Code Sections 5474, et seq.

7.3.11.4 **Delinquencies.** Any amount which becomes delinquent shall be subject to the penalties specified in Section 7.7.

**SECTION 7.4
PERMIT AND INSPECTION FEES**

7.4.1 Application for Permits.

7.4.1.1 **Base Fee.** A fee for the District to review and consider a Permit application shall be paid by each applicant at the time the Permit application is submitted. Except as provided in Section 7.4.1.2, this fee covers the administrative tasks of reviewing and processing the Permit application, and plan checks and inspections by the District’s staff and is nonrefundable. The application fees are:

| | |
|--------------------------------|---|
| Lateral Repair or Abandonment | \$25 |
| New Lateral Installation | \$150 |
| Main Line Extensions | \$ (District to be reimbursed for expenses per Section 7.4.1.2) |
| Lateral Time Extension Request | \$50 |

7.4.1.2 **Additional Permit Fees.** For Permits authorizing work, uses or activities other than for non-commercial residential occupancies, the applicant shall also reimburse the District for all amounts in excess of the basic Permit application fee for the time the services of District staff and for any out-of-pocket costs for engineering, legal or other services pertaining to the processing and review of the applicant’s Permit plans and specifications. The District may estimate such addi-

tional fees in advance of issuance of the Permit, in which case the estimated amount shall be deposited by the applicant prior to issuance of the Permit. The unused portion of a deposit will be refunded to the applicant upon final inspection and approval of the activity undertaken. A deposit does not accrue interest. In the event a deposit has not been made or the deposit is insufficient, amounts determined to be due for additional fees shall be paid and/or deposited within fifteen (15) days after written demand by the District to the applicant.

7.4.2 Extension of Permits. A non-refundable fee of \$25 shall be imposed for the review and consideration of any request to extend a Permit. No extension shall be effective until the fee is paid.

7.4.3 Time for Payment. Except as otherwise provided in this Code or by the District Board, all fees and charges required by this Section 7.4 shall be paid in advance.

7.4.4 Reinspection Fees. In any case in which a Permit is issued subject to a condition that the work or activity authorized by the Permit is to be inspected and approved by the District, and if thereafter upon inspection by District representatives it is determined that District approval will not be granted until corrective action or other measures (a) have been satisfactorily completed by the responsible party and (b) have been reinspected by the District, the responsible party shall pay a reinspection fee to the District. The reinspection fee shall be equal to the actual cost incurred by the District for each reinspection, but in no event shall the reinspection fee be less than \$40.

SECTION 7.5

ENVIRONMENTAL IMPACT REPORT AND NEGATIVE DECLARATION – PREPARATION OR REVIEW FEE

A charge shall be imposed upon and collected from applicants to defray costs for the preparation or review by the District of any environmental documents including an Environmental Impact Statement (EIS), an Environmental Impact Report (EIR), a Negative Declaration or other similar statement, report or study for any projects (as defined in the California Environmental Quality Act of 1969) undertaken by any Person other than the District. The charge shall be the actual cost incurred by the District for preparation and/or review and shall be reimbursed by the applicant to the District.

SECTION 7.6

EASEMENT ENCROACHMENT PERMIT FEE

A fee for the District to process an Easement Encroachment Permit application shall be paid by each applicant at the time the Permit application is submitted. This fee covers the administrative tasks of reviewing and processing the Permit application and all plan

checks, inspections and other necessary reviews by the District staff. The fee is \$25 and is nonrefundable.

SECTION 7.7 PENALTIES FOR DELINQUENCIES

Pursuant to Health and Safety Code Section 5473.10, a penalty may be assessed by the District in any case in which a fee or charge payable to the District has become delinquent. The penalty shall be ten percent (10%) of the delinquent fee or charge plus an additional one and one-half percent (1½ %) for each month that all or a portion of the fee or charge remains delinquent. The penalty shall be assessed to the Person or Persons obligated to, but who did not pay, the fee or charge within the time provided in this Code. Delinquent fees and charges, together with penalties assessed pursuant to this Section, may be collected in any manner authorized by law.

SECTION 7.8 CLAIMS

7.8.1 Claims against the District subject to Tort Claims Act.

Any claim against the District for money, damages, or a refund that is subject to the claims presentation requirements of the Tort Claims Act, Government Code Section 900, et. Seq., must be presented by the Person who claims to be entitled to be paid the money or damages or who has paid the money sought to be refunded, except that it can be filed by the claimant's guardian, conservator, or the executor or administrator of his or her will or estate. No claim may be presented on behalf of a class of persons.

7.8.2 Claims against the District not subject to the Tort Claims Act.

Any claim against the District for money, damages, or a refund that is excepted by section 905 of the Government Code from the claims presentation requirements of the Tort Claims Act, and which is not governed by other statutes or ordinances expressly relating thereto, shall be governed by subsections 7.8.2 through 7.8.4 of this Section. Any Person pursuing such a claim must file a claim with the District Secretary, and the claim must conform to all of the following requirements:

7.8.2.1 The claim shall be in writing.

7.8.2.2 The claim shall contain the name and postal address and telephone number and e-mail address, if any, of the claimant.

7.8.2.3 The claim shall be verified by the Person who claims to be entitled to be paid the money or damages or who has paid the money sought to be refunded, ex-

cept that it can be verified by the claimant's guardian, conservator, or the executor or administrator of his or her will or estate. No claim may be filed on behalf of a class of persons unless verified by every member of that class as required by this section.

7.8.2.4 The claim shall state the date, place, and circumstance of the occurrence or transaction giving rise to the claim and a general description of the indebtedness, obligation, or injury so far as it may be known. It shall also list the name(s) of the public employee(s) causing the injury, damage, or loss, if known.

7.8.2.5 If the claim is seeking a refund of a tax, fee, or assessment, the claim shall state whether the payment or payments of the tax, fee, or assessment were made to the District directly or to another entity collecting the tax, fee, or assessment on behalf of the District.

7.8.2.6 The claim shall state the total amount of the claim, together with the basis for computation of the amount claimed.

7.8.2.7 The claim shall be filed with the District Secretary not later than one year after the accrual of the cause of action of the underlying claim.

7.8.3 Action by District Board.

The District Board shall take action upon a claim submitted pursuant to section 7.8 of this Code within 45 days of its filing with the District Secretary. If the District Board fails to do so, the demand or claim shall be deemed to have been rejected by the District Board on the last day of the period within which the District Board was required to act. Action by the District Board shall otherwise be subject to the provisions of section 912.4 of the Government Code.

7.8.4 Prerequisite to lawsuit.

No lawsuit may be brought against the District on any cause of action for which a claim must be filed under section 7.8.1 of this Code until the claim has been filed with the District Secretary as required by this Section and has been acted upon by the District Board or has been deemed to have been rejected. Any action brought against the District on such a claim shall be subject to the provisions of sections 945.6 and 946 of the Government Code. Only the Person who filed the claim may bring such a lawsuit, and if another Person should do so judgment shall not be rendered for the plaintiff. The Person who filed the claim may not bring such a lawsuit on behalf of any other Person.

CHAPTER 8

WAIVERS

SECTION 8.1 PURPOSE

The purpose of this Chapter is to authorize the Board to grant waivers from strict compliance with the provisions of this Code and other District requirements, and to establish the procedures under which this power may be exercised.

SECTION 8.2 GRANTS OF WAIVERS

Subject to the provisions of this Chapter, the Board may grant waivers from compliance with the provisions of this Code and other District requirements. A waiver may be granted on the Board's own motion or upon the application of any Person pursuant to Section 8.4.2 below.

SECTION 8.3 LIMITATIONS ON WAIVERS

No waiver shall be granted if the waiver would result in a violation of any statute, regulation, order or other provision of law promulgated or enacted by a federal, state, or local government entity having jurisdiction over the matter in question.

8.3.1 Required Determination. A waiver may be granted only upon the determination by the District Board that:

8.3.1.1 In the absence of a waiver, the strict application of the provisions of this Code would result in a substantial hardship peculiar to a Person or Persons which is not generally applicable to other Persons similarly situated; or, because of peculiar circumstances, strict application of the provisions of the Code would be unjust or inequitable;

8.3.1.2 The waiver is necessary for the preservation and enjoyment by a Person or Persons of substantial personal and/or property rights possessed by other Persons similarly situated, and granting of the waiver will not accord a special privilege to the Person or Persons who may benefit from the waiver; and

8.3.1.3 The waiver will not be materially detrimental to the public health, safety and welfare, nor will it result in undue hardship to other Persons.

**SECTION 8.4
PROCEDURES**

8.4.1 On Board's Own Motion. A proposal by a Board member or the Manager to grant a waiver on the Board's own motion shall be agendized for consideration at a regular or special meeting of the Board in the same manner as other items of District business.

8.4.2 Requests By Others. Persons other than Board members or the Manager may request a waiver by satisfying the following requirements:

8.4.2.1 Applications for waivers shall be submitted in writing and shall be considered and acted upon by the Board at a regular or special meeting.

8.4.2.2 The burden of establishing facts to support the necessary determinations for a waiver shall be upon the applicant. The Board may deny any application if the applicant fails to supply sufficient relevant information, including available documents and records, to enable the District Board to make the necessary determinations.

8.4.2.3 The District Board may impose reasonable fees and charges to cover the cost to the District of considering the application, including the cost of giving notice of a public hearing and the cost of engineering, legal and other consulting services which the Board deems necessary to evaluate the application.

8.4.3 Resolution Required. Whenever the Board determines that a waiver should be granted, the Board shall do so by adopting a resolution specifying the terms of the waiver and any conditions upon which the waiver grant may be made. The resolution shall include findings of fact supporting the Board's determinations.

CHAPTER 9

ENFORCEMENT

SECTION 9.1 PURPOSE

The purpose of this Chapter is to provide procedures for the enforcement of this Code.

SECTION 9.2 RESPONSIBILITY

The primary responsibility for enforcement of this Code is vested in the Board and shall be executed by the Manager and other authorized District representatives. The District's representatives are authorized and empowered to act as enforcement agents of the District with power to inspect and issue notices of violations of the provisions of this Code. However, the final determination of the existence of a violation of any of the provisions of this Code (including, without limitation, levying of fines, termination of service, revocation of Permits, and civil and criminal court actions) shall be made by the District Board.

SECTION 9.3 POWERS AND AUTHORITY OF DISTRICT REPRESENTATIVES

District representatives bearing proper credentials and identification shall be permitted to enter upon all properties in the District for the purpose of inspection, observation, measurement, sampling, testing, code enforcement, hazard abatement and other similar purposes as provided in this Code. District representatives are also empowered to ascertain the nature of premises, the type of activities carried on and any other facts and information reasonably necessary to carry out the provisions of this Code.

SECTION 9.4 CORRECTIONS OF VIOLATIONS

9.4.1 Notification of Unauthorized Discharges. Every Person using the District's Sewer System shall notify the District immediately upon discharging wastes or Wastewater in violation of the provisions of this Code or of any Permit issued pursuant to this Code. A Person who discharges, causes to be discharged, or Permits to be discharged such wastes or Wastewater shall, within fifteen (15) days of the occurrence, submit a written report to the District describing the cause or causes of the unauthorized discharge and the measures taken, or proposed to be taken, to prevent further similar occurrences. The report shall not relieve any Person of liability for any expense, loss, or damage suffered or incurred by the District, directly or indirectly, by

reason of such unauthorized discharge. The report shall not relieve or absolve any Person from civil liabilities or imposition of civil or criminal penalties.

9.4.2 Requirement for Non-Residential Discharger to Provide Notices to Employees Regarding Unauthorized Discharges. The District may require any nonresidential Discharger to prominently post a notice on the Discharger's premises advising employees of the requirement to notify the District of any unauthorized discharge, including the telephone number of the District to be called in the event of such discharge. The District may require any Discharger to inform and advise the Discharger's officers, agents and employees of the provisions of this Code, or the provisions of any Permit issued pursuant to this Code, or of other requirements of law, or any other information which may be of assistance in ensuring compliance with the Code, Permit or other requirements of law.

9.4.3 Cease and Desist Orders. Upon a determination by the District that a discharge of Waste or Wastewater has occurred, is occurring or is about to occur in violation of any provision of this Code or of any Permit issued pursuant to this Code, the District may issue an order to cease and desist such discharge or any practice or operation likely to cause such discharge and further order the Person to:

9.4.3.1 Comply with the provisions of this Code or the provisions of any Permit issued pursuant to this Code;

9.4.3.2 Comply with a time schedule established by the District; and/or

9.4.3.3 Take appropriate remedial or preventative action.

9.4.4 Time Schedules. Upon a determination by the District that a violation of this Code or of any Permit issued pursuant to this Code has occurred, is occurring, or is about to occur, the District may establish a detailed time schedule of specific actions which the Person shall take in order to eliminate or prevent such violation.

9.4.5 Emergency and Corrective Work on Wastewater Facilities.

9.4.5.1 In the event repairs, construction or other public work is performed on any premises pursuant to any provision of law authorizing the emergency performance of public work and the expenditure of public funds, or pursuant to any other provision of law authorizing public work on private property in order to correct, eliminate or abate a condition upon such premises which threatens to cause, causes, or caused a violation of any provision of this Code, or any other requirement of law, the Person responsible for the occurrence or condition giving rise to such work, the occupant and the owner of the premises shall be liable, jointly and severally, to the District for such public expenditures.

9.4.5.2 In order to enforce the provisions of this Code, the District may correct any violation. The cost of such correction, including but not limited to District repair, monitoring, inspection and legal expenses, may be added to any sewer service charge payable by the Person violating the Code or by the owner or occupant of the property upon which the violation occurred, and the District shall have such remedies for the collection of such costs as it has for the collection of sewer service charges. The District may also petition the court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any Person from the continued violation of this Code.

9.4.6 **Court Injunctions.** Upon a determination by the District that a discharge of waste or Wastewater has occurred, is occurring, or is about to occur in violation of the provisions of the Code or of any provision of a Permit issued pursuant to the Code, and further that the customer, occupant or owner of the premises has not complied with the provisions of a duly issued cease and desist order as prescribed in Section 9.4.3 or has not complied with the terms and conditions of a time schedule as described in Section 9.4.4, approved by the District, then the violation shall be reviewed by the District Board, which may request a court injunction in order to compel the customer, occupant or owner of the premises to do or to refrain from doing a specified act or acts in order to correct the violation.

SECTION 9.5 TERMINATION OF SERVICE

To fully effect its powers, the District may terminate Wastewater service to any premises from which wastes or Wastewater have been discharged, are being discharged, or are threatened to be discharged in violation of any provision of this Code, or because of a delinquency in the payment of any charge or fee assessed by the District, or because of a violation of any other requirement of law of this Code.

9.5.1 **Notification/Hearing.** Prior to termination of service to any premises, the District Board shall notify, in writing, the owner and tenant, if any, of the property that service is intended to be terminated. The notice shall state the date of proposed termination of service, the reason(s) therefore, and the date, time and place of a hearing to be held by the District Board upon the question of the termination. The notice shall be mailed to the owner at the address shown on the records of the assessor of the County of Contra Costa or as known to the District, and a copy shall be delivered to the tenant or posted conspicuously on the property. The hearing shall be held not sooner than ten (10) days after the required notice is given.

Any owner, any tenant, the alleged violator, the District's representatives and any other Person the District Board deems appropriate shall be heard at the hearing on the question of termination of service. The District Board shall make such order as it deems appropriate under the circumstances and in furtherance of the purposes and intent of this Code.

9.5.2 **Imminent Threat.** Notwithstanding the foregoing, any unauthorized connection with, opening into or discharge to the District's Wastewater system or appurtenances may be abated by the District without notice if such unauthorized connection, opening or discharge poses an imminent threat of damage to the District's Wastewater system or of injury to the public health, safety and welfare.

9.5.3 **Public Hazard or Nuisance.** The District's authorized representatives may enter upon the premises for the purpose of doing such things as may be reasonably necessary to alleviate or remove a hazard or Nuisance. The owner of the premises shall reimburse the District for all expenses incurred by the District in disconnecting any such premises or in doing other things authorized by this Section; and no reconnection shall be made until any such charges are paid.

SECTION 9.6 REVOCATION OF PERMITS

9.6.1 Subject to the procedure set forth in Section 9.6.2 below, the District Board may revoke any Permit issued pursuant to the provisions of this Code upon a determination by the District Board that:

9.6.1.1 The permittee has failed to factually report the Wastewater constituents, characteristics or volume of a Permitted Wastewater discharge;

9.6.1.2 The permittee has failed to report significant or substantial changes in the operations conducted upon the premises to which the Permit pertains or has failed to report significant or substantial changes in Wastewater constituents, characteristics, or volumes pertaining to the premises;

9.6.1.3 The permittee has failed to factually report other relevant information requested by the District in connection with its consideration and issuance of the Permit or has failed to report significant or substantial changes in the information;

9.6.1.4 The permittee has refused, or failed to allow, reasonable access to the premises to which the Permit pertains; or

9.6.1.5 The permittee has violated, caused to be violated or allowed to be violated, any term, condition, or provision of the Permit.

9.6.2 Prior to revocation of the Permit, the District Board shall notify, in writing, the premises' owner, any tenant and the alleged violator that the Permit is intended to be revoked. The notice shall state the date of the proposed revocation, the reason(s) for the revocation, and the date, time and place a hearing will be held by the District Board upon the question of revocation of the Permit. The notice shall be mailed to the owner at the address shown on the records of the assessor of the County of Contra Costa, or as known to the District, and a copy shall be delivered

to the tenant or posted conspicuously on the property. The hearing shall not be held sooner than ten (10) days subsequent to the giving of the required notice.

The owner, any tenant, the alleged violator, the District's representatives and any other Person the District Board deems appropriate shall be heard at the hearing on the question of revocation of the Permit. The District Board shall make such orders as it deems appropriate under the circumstances and in furtherance of the purposes and intent of the Permit and other provisions of this Code.

**SECTION 9.7
PUBLIC NUISANCE**

Any discharge, threatened discharge or other condition which is in any manner a violation of the provisions of this Code or of any Permit issued pursuant to this Code or of any order or directive of a District representative authorized by this Code, is unlawful and a public Nuisance. The Nuisance may be abated, removed, or enjoined and damages assessed in any manner provided by law.

**SECTION 9.8
CRIMINAL PENALTIES**

Any Person found to be violating any provision of this Code shall be guilty of a misdemeanor punishable by a fine of one thousand dollars (\$1,000.00), or imprisonment in the County jail for a period of one month, or both, for each violation committed. Each date in which any such violation continues shall be deemed a separate offense.

**SECTION 9.9
CIVIL PENALTIES**

Pursuant to and in the manner provided by Government Code Section 54740, the District may impose, and violators of this Code shall be liable for, civil penalties of up to twenty-five thousand dollars (\$25,000.00) per day for each day in which a violation of this Code occurs. The District may also impose the Civil Penalties authorized in Government Code Section 54740.5.

**SECTION 9.10
ENFORCEMENT COSTS**

In any case where it is necessary for the District to pursue enforcement actions under this Code or otherwise as provided by law, any Person who is responsible for the condition which gave rise to the need for the enforcement action shall be responsible for and shall reimburse to the District all of the District's enforcement costs, including the costs of District staff, advisors, consultants, and legal counsel, unless waived by the District Board for good cause.

SECTION 9.11**REMEDIES CUMULATIVE**

The remedies provided for in this Code are cumulative and not exclusive, and are in addition to any or all other remedies available to the District. Nothing in this Code shall be interpreted to, nor does it, relieve any Person from complying with other applicable provisions of law, including, without limitation, the rules and regulations promulgated by other governmental agencies, such as the East Bay Municipal Utility District that have appropriate jurisdiction and authority.

CHAPTER 10

APPEALS

SECTION 10.1

PURPOSE

The purpose of this Chapter is to establish the procedures for appeals of District decisions related to the provisions of the Code.

SECTION 10.2

APPEAL TO DISTRICT BOARD

Any Person taking exception to the denial, suspension or revocation of a Permit applied for or held by them pursuant to any of the provisions of this Code, or to any administrative decision directly affecting them made by any official of the District pursuant to any of the provisions of this Code, may appeal to the District Board. The appeal shall be made by filing a written notice of appeal with the Board Secretary describing the issue and basis for the appeal.

SECTION 10.3

TIME FOR FILING APPEAL

The written notice of appeal shall be filed with the Board Secretary within ten (10) calendar days after the date written notice of the subject action of the appeal was mailed or personally delivered to the appellant, but in no event later than twenty (20) calendar days after the date such action is taken.

SECTION 10.4

NOTICE OF HEARING

The Board Secretary shall set a date for hearing before either the District Manager or District Board and shall give the appellant at least five (5) calendar days notice of the time and place of said hearing.

SECTION 10.5

HEARING

The appellant shall show cause on the grounds specified in their notice of appeal why the action excepted to should not be approved. The District Manager or District Board may continue the hearing. The findings on the appeal shall be final and conclusive in the matter.

SECTION 10.6**JUDICIAL REVIEW OF ADMINISTRATIVE DECISION**

Any interested Person seeking judicial review pursuant to Code of Civil Procedure (CCP) Section 1094.5 of any final decision, as defined in CCP Section 1094.6(e), of the District Manager or District Board may do so only if the petition for writ of mandate pursuant to CCP Section 1094.5 is filed within the time limits specified in CCP Section 1094.6.

SECTION 10.7**APPEAL FROM DECISION OF DISTRICT BOARD**

Any judicial action challenging a final decision of the District Board not otherwise specified in Section 10.6 must be commenced within thirty (30) days after the decision being challenged, unless a different limitation period is otherwise specified in other portions of this Code.