

RESOLUTION NO. 238

**A RESOLUTION OF THE
FOUNTAIN HILLS SANITARY DISTRICT,
BOARD OF DIRECTORS
AMENDING THE DISTRICT'S
RULES AND REGULATIONS BY AMENDING
ARTICLES I (REORGANIZING, ADDING AND
CLARIFYING DEFINITIONS); AMENDING ARTICLE V
(REORGANIZING, ADDING AND AMENDING REGULATIONS AND PENALTIES
REGARDING USE OF PUBLIC SEWER AND PRETREATMENT); AMENDING ARTICLE IX,
SECTION 4 (REORGANIZING, ADDING AND AMENDING CONSTRUCTION STANDARDS),
DELETING ARTICLE IX, SECTION 5 (EFFECTIVE DATE) AND RENUMBERING SECTION 6
(LOW FLOW FIXTURES AND DEVICES) AND SOME OF ITS SUBSECTIONS; DELETING
ARTICLE IX, SECTION 6, SUBSECTION D (VIOLATIONS; PENALTIES); ADDING A NEW
ARTICLE X (PENALTIES, COSTS AND APPEALS); AND RENUMBERING ARTICLE X
(GENERAL) AS ARTICLE XI.**

WHEREAS, the Board of Directors of the Fountain Hills Sanitary District is authorized and empowered to formulate and adopt rules governing the installation, use and maintenance of the public and private sewers within the District;

WHEREAS, the Board as a step toward updating its existing Rules and Regulations desires to amend its existing Rules and Regulations to:

- a) Reorganize, add and amend the definitions contained in Article I;
- b) Re-title Article V
- c) Reorganize, add and amend the use restrictions and pretreatment requirements and penalties in Article V;
- d) Reorganize, add and amend the construction standards contained in Section 4 of Article IX;
- e) Delete Section 5 of Article IX dealing with the Effective Date as unnecessary;
- f) Renumbering Section 6 of Article IX as Section 5, correcting the numbering of some of its subsections and deleting Subsection D (Violation; penalties);
- g) Adding Article X specifying penalties, costs and appeal procedures for violating the Rules and Regulations; and
- h) Renumbering the existing Article X (General) as Article XI.

WHEREAS, the Board of Directors, after review and discussion at its duly noticed public meeting held March 20, 2007, determines the proposed changes to the Rules and Regulations to be in the interest of the public and the District;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE FOUNTAIN HILLS SANITARY DISTRICT THAT Article I (Definitions) of the District's Rules and Regulations be amended to read as follows:

**“ARTICLE I
DEFINITIONS**

The following definitions shall apply unless specifically defined otherwise:

1. **“Availability Fee”** means the fee imposed upon the owner of a parcel of real property situated in the District and NOT connected to the public sewer and which lies adjacent to a sewer line and which benefits from having the sewer line and capacity in the treatment works and effluent disposal facilities to accommodate the development thereof. The availability fee shall be no more than 50% of the minimum user fees fixed by the Board.
2. **“Best management practices”** means schedules of activities, pollution treatment practices or devices, prohibition of practices, general good housekeeping practices, pollution prevention, waste minimization, educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the amount of pollutants entering the sanitary sewer system, surface water, air, land or groundwater. Best management practices may include a physical, chemical, structural or managerial practice or device that can help to achieve compliance with these Rules and Regulations
3. **“Board”** means the Board of Directors of the Fountain Hills Sanitary District.
4. **“B.O.D.”** (*biochemical oxygen demand*), means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at twenty (20) degrees centigrade expressed in parts per million (P.P.M.) by weight or in milligrams per liter.
5. **“Capacity Fee”** means the fee imposed upon all owners of real property upon application for connection to the District's sewer system and based upon the cost to develop the sewage collection, treatment, and effluent disposal facilities required to treat the flow of sewage which enters the sewer system of the District from a particular sewer connection.
6. **“Cooling water”** means the clean wastewater discharged from any heat transfer system such as condensation, air conditioning, cooling or refrigeration.
7. **“Contract Land”** means that land as defined in Resolution No. 146 of the Fountain Hills Sanitary District.
8. **“District”** means the Fountain Hills Sanitary District.
9. **“District Engineer”** means the engineer employed by the District, charged with carrying out the duties of District Engineer.
10. **“District Manager”** means the chief administrator of the Fountain Hills Sanitary District or his authorized assistant or representative.
11. **“Effluent limitation”** means the maximum allowable concentration as specified in these Rules and Regulations or any applicable stricter limitations set forth in a permit or by any Federal, State or local law, rule, regulation or order as measured in a representative sample gathered and analyzed consistent with an approved procedure.
12. **“Garbage”** means solid waste from the preparation, cooking, and dispensing of food and from the handling, storage, and sale of produce.
13. **“Hook-up Fee”** means the fee imposed upon owners of real property upon application for connection to the public sewer and to connect to the public sewer, but not to include the cost of the actual physical connection.
14. **“Industrial waste”** means any liquid, free flowing waste, including cooling water, resulting from any industrial or manufacturing process or from the development, recovery or processing of natural resources, with or without suspended solids,

excluding uncontaminated water. Industrial waste shall not be discharged into the public sewer unless permission is first secured from the District Manager under such terms and conditions determined by the District Manager to be necessary and appropriate to protect the public sewer and comply with these Rules and Regulations, other District regulations, any permit and any applicable stricter Federal, State or local law, rule, regulation or order.

15. “**Lateral Fee**” means the fee imposed upon an owner of real property upon application for connection to the public sewer and to cover the cost to construct a sewer lateral from the property line of the said owner to the middle of the easement or right-of-way in which the sewer is located.

16. “**Lower Explosive Limit**” (LEL) means the concentrations in air below which there is not enough fuel to continue an explosion.

17. “**Natural outlet**” means any outlet into a watercourse, ditch, or other body of surface or groundwater.

18. “**New Development**” means any new improvements on land within the boundaries of the District which includes facilities generating sewage.

19. “**New Subdivision**” means the splitting of land within the boundaries of the District into two or more individual lots, consistent with State and local requirements.

20. “**Permit**” means any written authorization required pursuant to these Rules and Regulations or any other regulation of the District controlling the installation, use or maintenance of any portion of the sewerage system.

21. “**Person**” means any individual, partnership, co-partnership, firm, company, corporation, limited liability company, association, joint stock company, trust, state, municipality, Indian tribe, political subdivision, federal governmental agency or any other entity recognized by law, including their legal representatives, agents and assigns.

22. “**pH**” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

23. “**Pollutant**” means any dredged spoil, solid waste, incinerator residue, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock sand, cellar dirt, and industrial, municipal and agricultural wastes and any other substance that is prohibited from being discharged to the sewerage system by these Rules and Regulations, including Article V.

24. “**Pretreatment**” means the physical, chemical, biological or other treatment or barrier of any sewage or industrial waste prior to discharge to the sewerage system for the purpose of (a) reducing the amount or concentration of any pollutant, (b) eliminating the discharge or any pollutant, or (c) altering the nature of any pollutant characteristic to a less harmful state.

25. “**Private sewer**” means the portion of the sewerage system under the jurisdiction of the District owned, operated and maintained by the property owner, generally, but not exclusively, on private land connecting a sewage source to the public sewer, including, without limitation, laterals, force mains and private lift stations.

26. “**Proper District Authority**” means the District Manager or one charged with the responsibility of carrying out the objectives of the District as prescribed by the Board.

27. “**Properly shredded garbage**” means garbage that has been shredded to a degree that all particles will be carried freely under the flow conditions prevailing in the District's sewers, with no particles greater than one fourth (1/4) of an inch in any dimension.

28. **"Public sewer"** means the portion of the sewerage system under the jurisdiction of the District owned, operated and maintained by the District, but does not include private sewers.
29. **"Sanitary sewer"** means a sewer which carries sewage and to which storm, surface, and ground waters are not deliberately admitted.
30. **"Sewage" or "Sanitary sewage"** means any and all waste substances, liquids or solids associated with human habitation, together with such garbage and storm, surface and ground waters as may be present, but excluding industrial waste. Industrial waste, which is uncommon for the District, must be evaluated and addressed by the District Manager on a case-by-case basis.
31. **"Sewage treatment plant"** means any arrangement of devices and structures used for treating sewage.
32. **"Sewer connection"** means the connection to the public sewer and the extension therefrom of the sewer to the property line.
33. **"Sewer line"** means any pipe, conduit, or apparatus owned by the District and used or usable for transporting sewage.
34. **"Sewerage system"** means all facilities for collecting, pumping, transporting, treating, and disposing of sewage.
35. **"Shall"** means mandatory.
36. **"Storm sewer" or "storm drain"** means a system separate from the sanitary sewer designed to carry storm and surface water and drainage, but not designed or intended to carry sewage or industrial waste.
37. **"Suspended solids" (SS)** means solids that either float on the surface of or are suspended in water, sewage, or other liquids and which are removable by laboratory filtering.
38. **"User"** means (a) the owner, tenant, trustee, mortgagee, receiver or occupier of any property or structure that is connected, directly or indirectly, to the public sewer or any other approved disposal system under the jurisdiction of the District and (b) any person that causes or permits the discharge of sewage or industrial waste to the public sewer or any other approved disposal system under the jurisdiction of the District.
39. **"User Fee"** means the fee imposed upon users to defray the proportional share of the cost of the operation, maintenance, and replacement of the public sewer.
40. **"Wastewater"** means any liquid or water-carried pollutant introduced into the sewerage system from any source.
41. **"Watercourse"** means a channel in which a flow of water occurs either continuously or intermittently."

BE IT FURTHER RESOLVED THAT Article V (Regulations Regarding Usage of Sewer System) of the District's Rules and Regulations be re-titled and amended to read as follows:

**"ARTICLE V
REGULATIONS REGARDING USE OF PUBLIC SEWER
AND PRETREATMENT**

Section 1. CERTAIN SUBSTANCES PROHIBITED/ BEST MANAGEMENT PRACTICES

A. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described substances to the public sewer:

1. Any storm water, surface water, groundwater, roof runoff, sheet flow, cooling water, water used for air cooling purposes, or process waters, unless otherwise approved in writing by the District Manager,

2. Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (66 degrees Centigrade),
3. Any water or waste which may contain more than 100 parts per million, by weight, of fat, oil, or grease,
4. Any antifreeze, paint, paint thinner, lacquer, lacquer thinner, gasoline, benzene, naphtha, fuel oil, motor oil or other flammable or explosive liquid, solid, or gas, or any other substance which creates a fire or explosion hazard to the public sewer. In no case shall any substance be discharged with a closed cup flashpoint less than 140 degrees Fahrenheit (60 degrees Centigrade), or which causes an exceedance of ten percent of the lower explosive limit (LEL) at any point within the public sewer for any single reading of more than five percent for any two consecutive readings,
5. Any garbage that has not been properly shredded,
6. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, or paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in the public sewer or otherwise causing interference with the proper operation of any portion of the sewage system,
7. Any water or waste having a pH lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to the sewage system or to the employees of the District,
8. Any water or waste containing a toxic, radioactive, poisonous or other substance in sufficient quantity to cause or to have the potential to cause injury to or interference with the flow or operation of any portion of the public sewer, cause corrosive structural damage, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant,
9. Any water or waste containing any pollutants which result in the presence of toxic gases, vapors, or fumes within the public sewer in a quantity that may cause acute worker health or safety problems,
10. Any water or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant or elsewhere within the public sewer,
11. Any noxious or malodorous gas or substance capable of creating a public nuisance,
12. Any water or waste that has in any way been diluted, as a substitute for pretreatment, for the purpose of obtaining compliance with any categorical standard or pretreatment requirement imposed by this Article or any Federal, State or local law, rule or regulation, except where dilution is expressly authorized by any categorical standard,
13. Any water or waste that is transported from the point of generation to the public sewer by any septic tank pumper, or chemical waste hauler, or similarly transported unless the transporter has first:
 - i. Disclosed to the District Manager the origin, nature, concentration and volume of all pollutants to be discharged; and
 - ii. Obtained the written consent of the District Manager to discharge,
14. Any water or waste that could cause a violation of any categorical standard or pretreatment requirement imposed by this Article or any Federal, State or local law, rule or regulation,
15. Any discharge that exhibits a characteristic of a hazardous waste, or contains a substance that is listed as a hazardous waste pursuant to either Arizona Administrative Code R18-8-261, as amended, or Title 40, Code of Federal Regulations, Part 261, as amended, whichever is applicable, whether or not the discharge is otherwise subject to hazardous waste regulations and is subject to pretreatment pursuant to this Article, or any applicable stricter Federal, State or local law, rule or regulation, unless the discharge is disclosed to and approved, in writing, by the District Manager, and
16. Any substance whose physical, chemical, or electrical properties might be such as to interfere with any phase of the operation of the public sewer.

B. In addition to the prohibitions and effluent limitations set forth in Section 1, Subsection A of this Section, the District Manager may:

1. Establish limitations for individual users or class of users for various pollutants, materials, waters or wastes that can be accepted into the public sewer,

2. Prohibit any discharge to the public sewer that is deemed, by the District Manager, to have an adverse effect on any part of the public sewer,
3. Identify those pollutants, materials, waters or wastes to be controlled with best management practices, and
4. Require implementation of best management practices by individual users or class of users.

C. The District Manager shall make the determinations allowed by Subsection B of this Section, based on sound engineering and operational evaluations, taking into consideration such things as the nature and concentration of the discharge, its point of entry into the public sewer and its compatibility with other discharges in the public sewer.

D. All prohibitions, effluent limitations and best management practices established by the District Manager shall be placed on file with the District and will become effective and enforceable on the thirty-first day after the date of filing with the District.

E. All affected users shall comply with any prohibitions, effluent limitations and best management practices established by the District Manager in accordance with this Section.

Section 2. TRAPS AND INTERCEPTORS

A. Unless otherwise approved by the District Manager, traps and/or interceptors are required to be installed:

1. At all non-residential premises where food is or can be prepared and/or served, including, without limitation, restaurants, school and church cafeterias, social halls, and common kitchen facilities maintained by apartments, condominiums and boarding houses,
2. When, in the opinion of the District Manager, they are necessary for the proper handling of liquid waste prohibited or in excess of limits set forth in Section 1 of this Article or any applicable and stricter Federal, State or local law, rule or regulation, including without limitation, supermarkets, service stations, and equipment service and repair facilities,
3. On all lateral lines which contain or carry wastewater discharge from washing machines into the sewer system, except those maintained for private use in homes, apartments, or condominiums, and
4. When otherwise determined by the District Manager to be necessary and appropriate to protect the public sewer or its operation. The District Manager shall make the determination of whether to require a trap or interceptor based on sound engineering and operational evaluations, taking into consideration such things as the nature and concentration of the discharge, its point of entry into the public sewer and its compatibility with other discharges to the public sewer.

B. All traps and interceptors shall be:

1. Installed by and maintained at the expense of the user,
2. Be of a type, material and capacity approved by the District and in accordance with the District's Design Standards,
3. Located in such a manner as to provide easy access for cleaning and inspection,
4. Maintained, including the complete removal of contents, including floating materials, wastewater and bottom sludges and solids and kept in continuously efficient operation at all times,
5. Pumped out or cleaned out completely at least once every one hundred eighty (180) days, or more frequently as required by the District, unless otherwise authorized in writing by the District Manager,
6. Operated so that no decanting or discharging of removed waste back into the trap or interceptor from which the waste was removed or any appurtenance of the wastewater collection system is allowed,
7. Free from all noxious odors, and
8. Subject to inspection by District personnel, upon presentation of District credentials, at any time during normal work hours.

C. The use of any enzymes, chemicals, or bacteria as a substitute for grease traps or grease trap or interceptor maintenance is prohibited. The District Manager may authorize the use of such additives as a supplement to maintenance after a written request, including material safety data sheets. Addition of emulsifiers into grease removal devices is prohibited.

D. Interceptors shall be equipped with easily removable covers which, when installed in place, shall be water and gas tight.

E. The user shall keep written records and documentation of all installation, cleaning, repair, calibration and maintenance required to demonstrate compliance with this Section. Records shall be kept at the facility for a minimum of three years and shall be made available to the District for review and copying upon request.

Section 3. SEWAGE REQUIRING SPECIAL TREATMENT OR HANDLING

A. Where the sewage or industrial waste from any manufacturing or industrial plant, building, or premises will damage the public sewer or cannot be treated satisfactorily by the sewage treatment plant, the user shall, at user's cost, prevent such sewage or industrial waste from entering the public sewer and shall dispose of such sewage or industrial waste in compliance with all applicable laws, rules and regulations.

B. Preliminary treatment shall be provided by the user at the user's cost:

1. When necessary for the sewage or industrial waste entering the public sewer to comply with this Article, or if stricter, any applicable Federal, State or local law, rule or regulation, or
2. When necessary to, in the opinion of the District Manager, based on sound engineering and operational evaluations, taking into consideration such things as the nature and concentration of the discharge, its point of entry into the public sewer and its compatibility with other discharges to the public sewer:
 - i. prevent imposing an unreasonable burden upon the sewerage system,
 - ii. prevent damage to the sewerage system, or
 - iii. control the quantities and rates of discharge.

C. The admission into the public sewer of any water, sewage or industrial waste having any of the characteristics described below shall be subject to review and approval by the District Manager, which approval may be contingent upon the installation, at the user's cost, of such preliminary treatment as the District Manager may deem necessary:

1. A five (5) day B.O.D. greater than 250 parts per million by weight,
2. Containing more than 250 parts per million by weight of suspended solids,
3. Containing any quantity or substances having the characteristics described in Section 1 of this Article, or
4. Having an average daily flow greater than two percent (2%) of the average daily sewage flow of the District.

D. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the District Manager and the Maricopa County Environmental Services Department. No construction of preliminary treatment facilities shall be commenced until the Maricopa County Environmental Services Department issues an approval to construct and written authorization to commence construction is received from the District Manager. The completed facilities shall not be placed in service until:

1. They have been inspected for conformance to the approved plans, and
2. The final construction is approved by the District Manager and an approval of construction is issued by the Maricopa County Environmental Services Department.

E. The approval of the plans and inspection of construction shall not relieve the user and property owner from complying with all discharge limitations set forth in this Article and, if stricter, any applicable Federal, State or local law, rule or regulation, including without limitation, Federal Pretreatment Regulations set forth in 40 Code of Federal Regulations, Part 403, as amended.

F. Prior to any industrial user connecting to the public sewer, the industry and the District will develop and enter into an agreement encompassing an Industrial Cost Recovery system that complies with the applicable Federal and/or State Regulations and which has received all required Federal, State and local approvals.

Section 4. MAINTENANCE OF PRELIMINARY TREATMENT FACILITIES

A. All preliminary treatment facilities shall be:

1. Installed by and maintained at the expense of the user,
2. Maintained continuously in satisfactory and effective operation by the user,
3. Free from all noxious odors, and
4. Subject to inspection by District personnel, upon presentation of District credentials, at any time during normal work hours.

B. The user shall keep written records and documentation of all installation, cleaning, repair, calibration and maintenance required to demonstrate compliance with Section 3 and 4 of this Article. Records shall be kept at the facility for a minimum of three years and shall be made available to the District for review and copying upon request.

Section 5. CONTROL MANHOLES FOR SAMPLING AND MEASURING

A. When the District Manager determines that a control manhole is necessary to facilitate observation, measurement or sampling of water, sewage or industrial water for compliance with this Article, the owner of the affected property or the affected user shall install a suitable control manhole in the private sewer.

B. Such manhole, when required, shall be:

1. Installed by and maintained at the expense of the user,
2. Accessible and safely located,
3. Constructed in accordance with plans approved by the District Manager,
4. Maintained continuously in satisfactory and effective operation by the user so as to be safe and accessible at all times, and
5. Subject to inspection by District personnel, upon presentation of District credentials, at any time during normal work hours.

Section 6. SAMPLING AND MEASURING PROCEDURES

All measurements, tests, and analyses of the characteristics of water, sewage and industrial waste taken in order to comply with or determine compliance with this Article shall be determined at the control manhole in accordance with approved laboratory procedures, such as the "Standard Methods for the Examination of Water and Wastewater" and acceptable to the District Manager. Where no control manhole has been installed, sampling and measuring shall take place at the nearest downstream manhole in the public sewer from the point at which the private sewer is connected. If deemed appropriate by the District Manager, sampling, testing and measurements may be required at multiple locations. The user is responsible for the cost of all re-sampling and re-testing where testing and sampling performed by the District show non-compliance with this Article.

Section 7. SPECIAL AGREEMENTS

Nothing in this Article shall be construed as preventing the District and a user from entering into a special agreement consistent with all applicable Federal, State and local laws and regulations whereby an industrial waste of unusual strength or character may be accepted by the District for treatment, subject to payment therefore by the user, if the District concludes such an agreement will benefit the District.

Section 8. VIOLATIONS AND PENALTIES

A. In addition to the penalties set forth in Article X, any person, firm, corporation or entity violating any of the provisions of this Article, including, without limitation, the failure to install and properly maintain required traps, interceptors, and pretreatment facilities, shall be subject to:

1. The payment of a civil penalty of not less than Five Hundred Dollars (\$500.00) and up to Twenty-Five Thousand Dollars (\$25,000.00) for each violation. For continuing violations, each day shall be deemed and considered a separate offense, and
2. Injunctive or other equitable relief.

B. In establishing the amount of civil penalty to impose pursuant to this Section 9, the District shall consider the following factors:

1. The seriousness of the violation,
2. The economic benefit, if any, resulting from the violation,
3. Any history of such violation,
4. Any good faith efforts to comply with the applicable requirements,
5. The economic impact of the penalty on the violator, and
6. Such other factors as justice may require.

C. The District shall not receive civil penalties under this Section if an interested person, the United States, this State or a city, town, county or another sanitary district has received civil penalties or is diligently prosecuting a civil penalty action in a court of the United States or this state, or in an administrative enforcement proceeding, with respect to the same allegations, standard, requirement or order.”

BE IT FURTHER RESOLVED THAT Article IX, Section 4 (Construction Standards) of the District’s Rules and Regulations be amended to read as follows:

Section 4. CONSTRUCTION SPECIFICATIONS

A. All sewer laterals, house laterals, or other connections or connecting sewers which adjoin or connect to any portion of the District sewer system shall be constructed in accordance with the Uniform Plumbing Code and any applicable District Design Standards. Additionally, all sewer main line construction shall conform to the District’s Design Standards and specifications.

B. All users connecting to the public sewer shall, at their own expense, install and maintain a check valve or backwater valve where:

1. Deemed necessary in the opinion of the District Manager,
2. Required by the provisions of the Uniform Plumbing Code, or
3. A house or building structure is situated above a sewer line but below the next upstream manhole.

C. The District, its agents, servants, and employees shall not be responsible for the ownership, installation, operation or maintenance of a check valve or backwater valve installed on a private sewer.

D. Except as expressly set forth in this subsection, the user is responsible, at its cost, for the design, construction, operation, maintenance, repair and replacement of all facilities and equipment needed to convey sewage and industrial waste within and from its land to the public sewer, including, without limitation, any lift station and force main. Such facilities shall conform with the Design Standards and other requirements of the District.

1. Laterals shall be designed and constructed by the District, provided the required Lateral Fee has been paid to the District.
2. The District may agree to own, operate, maintain, repair and/or replace lift stations and other facilities at no cost to the user when installed in public utility easements or dedicated rights-of-way and serve more than one property.
3. This subsection does not affect the obligations of the original developer under Article VII “Standards Applying to New Developments”.

E. The failure of the original developer to fully or properly fulfill its obligations under Article VII does not affect the obligations of the current user under this section.

BE IT FURTHER RESOLVED THAT Article IX, Section 5 (Effective Date) of the District’s Rules and Regulations be deleted.

BE IT FURTHER RESOLVED THAT Article IX, Section 6 (Low Flow Fixtures and Device) of the District’s Rules and Regulations be renumbered as Section 5, and that the second Subsection B thereof be re-lettered as Subsection C; and that the second subsection 2 under the renumbered Subsection C be renumbered as Subsection C.3; that Subsection D entitled “Violations; Penalties” be deleted; and that Subsection E shall become Subsection D.

BE IT FURTHER RESOLVED THAT Article X (General) of the District’s Rules and Regulations be re-titled as Article XI.

BE IT FURTHER RESOLVED THAT the District’s Rules and Regulations be amended by adding the following new Article X entitled “Penalties; Costs and Appeals”:

ARTICLE X

PENALTIES, COSTS AND APPEALS

Section 1. PENALTIES

A. Any person, firm, corporation or entity violating any of the provisions of these Rules and Regulations, including, without limitation, the failure to install and properly maintain required traps, interceptors, and pretreatment facilities, in addition to being subject to any other penalties and remedies set forth above or provided by law, shall be:

1. Committing a public nuisance which may be abated,
2. Deemed guilty of a class 2 misdemeanor and, upon conviction thereof, shall be punishable by a fine as allowed by law. Each day such violation continues shall be deemed and considered a separate offense,
3. Subject to termination of their service in accordance with Article VI, Section 1.M and Article VIII, Section 7,
4. Subject to citation by the District and payment of an administrative penalty payable by user to the District in an amount not to exceed \$500.00 per citation, and
5. Responsible for and pay the District, any expense, loss or damage incurred by the District as a result of such violation, including without limitation, the increased cost of treatment and disposal and attorneys fees.

B. Any amount due under this Article or Article V, Section 8 shall be due and payable twenty (20) days after the date of the notice of penalty or billing for costs and shall be deemed delinquent if not paid within said twenty days, unless appealed pursuant to Section 2 of this Article.

Section 2. Appeals of Penalties and Costs

A. Any person notified of a violation, penalty or billed for costs under these Rules and Regulations may appeal to the Board of Directors. A notice of appeal must be made in writing submitted to the District within twenty (20) days of the date the bill or notice of penalty. The notice of appeal shall set forth with particularity the basis of the appeal.

B. The Board, or a Director designated by the Board, shall consider the documentation submitted in the notice of appeal and any written response submitted by the District Manager. The Board or designated director may request supplemental information to be submitted. Within forty-five (45) days of submittal of the notice of appeal, the Board, or the designated Director, shall determine whether there is cause to conduct a hearing on the matter and provide written notice either: (i) of the date, time, place and scope of such hearing, or (ii) confirmation of the initial violation, billing and penalty. The hearing, if held, shall be conducted by the Board, or the designated Director, not less than ten (10) days or more than forty-five (45) days after the date of the notice of hearing. Decisions rendered by the Board, or the designated Director, shall be final.

BE IT FURTHER RESOLVED THAT the changes to the Rules and Regulations adopted herein shall become effective on May 1, 2007;

BE IT FURTHER RESOLVED THAT the District staff shall, not later than the effective date of the changes to the Rules and Regulations specified herein:

1. Provide notice of the changes by publishing a copy of this Resolution as specified in Arizona Revised Statutes Section 39-204;
2. Not later than the effective date specified herein, post a copy of this Resolution in three or more public places within the District; and
3. File affidavits of publication and posting with the District.

BE IT FURTHER RESOLVED THAT the District staff, utilizing such manner or methods as the District Manager deems appropriate, shall contact commercial establishments likely to be subject to Article V's trap, interceptor or pretreatment requirements and disseminate information regarding the requirements and the penalties associated with a failure to comply; provided such failure to be contacted shall not exempt or excuse a user from fully complying with the amended Rules and Regulations.

PASSED AND ADOPTED by the Board of Directors of the Fountain Hills Sanitary District on this 20th day of March, 2007.


Bruce Hansen, Chairman