

SOUTH ADAMS COUNTY WATER & SANITATION DISTRICT
RULES AND REGULATIONS

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ARTICLE I

GENERAL PROVISIONS

These Rules should be read in conjunction with the District's Design Standards and Master Plans.

1. GENERAL

- 1.1 Authority: The District is a pre-1965 special district and political subdivision of the state of Colorado, acting pursuant to its pre-1965 standing and those powers set forth in Colorado laws, including but not limited to certain provisions of the Colorado Special District Act, C.R.S. § 32-1-101, *et seq.* These Rules and Regulations ("Rules") are adopted in accordance with the authority conferred in the Colorado Revised Statutes, by the Board of Directors of South Adams County Water and Sanitation District ("District"), a political subdivision of the State of Colorado, and a quasi-municipal corporation with all the powers thereof, which are specifically granted to the District, or are necessary, incidental to, or implied from powers specifically granted by statute, constitution or other law, for carrying out the objectives and purposes of the District.
- 1.1.1 The District is empowered by Colorado law, including the authorizations contained in C.R.S. §32-1-1001(1)(m), to adopt, amend and enforce Rules that are not in conflict with the Constitution and laws of the State of Colorado for carrying on the business and affairs of the District.
- 1.1.2 The District is empowered by Colorado law, including the authorization contained in C.R.S. § 32-1-1001(1)(d)(I) to enter into contracts and agreements affecting the affairs of the District.
- 1.1.3 The District has the authority to implement these Rules by policies and resolutions.
- 1.1.4 In addition to the powers of the District pursuant to statute and under Colorado law referenced above, the District was formed prior to the enactment of the Special District Control Act of 1965, originally codified at Article 18 of Chapter 89, C.R.S. (1965 Perm. Cum. Supp.), and therefore retains and exercises other powers as a pre-1965 Special District.
- 1.2 Policy: It is hereby declared that the following Rules will serve the public purpose of promoting the health, safety, and general welfare of the inhabitants and visitors of the District. It is the District's policy that growth and development within the

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District's boundaries, or areas to be included within the District's boundaries, must pay for itself. In order to obtain public water and wastewater service for property located within the District's boundaries or for property to be included within the District's boundaries, the property owner shall enter into a Water Resources Agreement with the District, as set forth in Article II of these Rules, and may be required to satisfy certain other conditions prior to obtaining such service from the District. The provision of public water and wastewater service by the District to property within the District's boundaries or to property to be included within the District's boundaries is contingent upon the District having sufficient water treatment capacity, wastewater treatment capacity, and water resources. Because of these limitations, the District cannot guarantee that it will be able to provide water and wastewater service to properties within the District's boundaries or to properties within the District's service area. Inclusion of lands within the District's service area does not guarantee the provision of water and wastewater service by the District.

- 1.3 Purpose: The purposes of these Rules are to provide for the orderly provision of water and wastewater services, for the control, management and operation of the water and wastewater facilities and systems of the District, including additions, extensions and connections thereto, and for the administration and enforcement of standards so that the health, safety and general welfare of the inhabitants and visitors of the District are promoted. Water and wastewater service by the District will be available only in accordance with these Rules.
- 1.4 Scope: These Rules shall be considered a comprehensive set of Rules governing the control, management and operation of the District. However, these Rules do not cover every conceivable aspect of the control, management and operation of the District; and the Board reserves the right to make rulings and to adopt resolutions concerning matters not covered herein as and when appropriate, at its discretion. In addition, these Rules are not intended to supersede or contravene specific terms or conditions of any agreement, contract, or other document entered into by the District and a party, unless such agreement or contract is made subject to these Rules.
- 1.5 Regulations by Other Governmental Entities: The District derives part of its treated water supply by contract from the City and County of Denver, acting by and through its Board of Water Commissioners ("Denver"). Accordingly, the provision of water service by the District may also be governed by and subject to the contract with Denver, and to any subsequent amendments or successor contracts, and to Denver's Rules, Policies, and Engineering Standards, as now or hereafter constituted. The District will also deliver part of its wastewater to the Metropolitan Wastewater Reclamation District ("Metro"). Accordingly, the provision of wastewater service by the District is governed by and subject to the contract with Metro, and to any subsequent amendments or successor contracts, and to Metro's

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rules, policies, and engineering standards, as now or hereafter constituted.

Any additional limitations, restrictions or prohibitions validly placed upon the District by any governmental entity or by any agreement between the District and any other governmental entity is hereby incorporated into these Rules by this reference and shall constitute a limitation, restriction and/or prohibition on the District's ability to provide service and on each customer of the District.

- 1.6 Effective Date: These Rules shall be effective immediately upon adoption by a majority of the Board at a public meeting and shall supersede any prior version of the Rules.
- 1.7 Construction: It is the intent of the Board that these Rules shall be liberally construed to effect the general purposes and policies set forth herein. Nothing set forth herein shall be construed as an alteration, waiver or deviation from any grant of power, or any limitation or restriction thereof, conferred or imposed upon the District by the statutes, constitutional provisions or other laws of the State of Colorado as they currently exist and as they may exist in the future. In the event of any ambiguity, inconsistency or conflict between provisions within the Rules, between these Rules and the rules of any other governmental entity, or another document adopted by the District, including, without limitation, the Design Standards, Master Plans, or resolutions, the provision that is most protective of health, safety, the environment and the District's facilities will control. The District Manager is authorized to interpret these Rules in the event of any ambiguity or inconsistency and make a final determination as to the applicable requirements.
- 1.8 Amendments: These Rules may be amended from time to time by the Board in the same manner as the original Rules herein were adopted. Any appendices to these Rules may be amended from time to time by a majority vote of the Board at any Regular or Special Board meeting without the need to amend the Rules.
- 1.9 Saving Provision: The enactment of these Rules, any amendment thereof, or the repeal of any prior Rules or resolutions shall not deny or limit any right, action, cause of action, penalty or fee that arose under a prior version of these Rules.
- 1.10 Repeal of Conflicting Resolutions: All resolutions or parts of resolutions in conflict herewith are hereby repealed, except as may be expressly provided herein.
- 1.11 Severability: The invalidity of any section, clause, sentence or provision of these Rules shall not affect the validity of any other part of these Rules that can be given effect without such invalid part or parts. To that end the provisions of these Rules are hereby declared to be severable.

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- 1.12 Variances: The District's Board reserves the right to waive or modify the provisions of these Rules at its sole discretion. Any person seeking a variance from a provision of the Rules shall have the burden of proving that the operation of such a provision would cause undue hardship, or should not be applied for another justifiable reason, and shall have the burden of proving that the granting of such variance by the District will not endanger the health, safety and welfare of the residents and inhabitants of the District. Any request for a variance shall be made in writing to the District Manager setting forth a detailed explanation of the variance request and the reasons for the request. The Board will consider all written variance requests within sixty (60) days and the Board's decision to grant or to deny the variance shall be final and conclusive.
- 1.13 Delegation to District Management or Staff: The District's Board of Directors may delegate decision-making authority under these Rules to District management or staff.

2. DEFINITIONS

All definitions set forth in this Article I apply throughout these Rules and Regulations, unless otherwise specifically indicated.

- 2.1 Applicant: The party entering into a contract with the District for an extension, connection, new or additional service or an increase in tap size.
- 2.2 As Built: Final construction record that reflects changes made during construction, recording differences between the original design and completed structure.
- 2.3 Board: The duly elected Board of Directors of the District, which acts as the governing body of the District.
- 2.4 BOD5: (5-Day Biochemical Oxygen Demand): The quantity of dissolved oxygen, expressed in parts per million by weight, required by aerobic biological action under standard laboratory procedure in five days at 20°C.
- 2.5 Building: Any structure used or intended to be used for supporting or sheltering any use or occupancy.
- 2.6 Building Drain: That part of the lowest horizontal piping of a building drainage system from the stack or horizontal branch, exclusive of storm sewer, extending to a point not less than 5 feet outside of the building wall.
- 2.7 Connection: The connection of water and/or wastewater service lines to District lines for permanent or temporary purposes.

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- 2.8 Connection Fee (s): The sum of the fees and charges associated with obtaining water and wastewater connection from the District to enable a customer to receive service.
- 2.9 Contractor: Any person acting as an independent contractor or other agent that is (a) hired by either the District or other persons or entities; (b) authorized by the District to perform work on the District's facilities, on facilities to be connected to the District's facilities, or on facilities to be dedicated to the District or authorized by the District to furnish materials within the District for use in connection with the District's facilities; and (c) from whom the District will accept completed facilities so long as such facilities are constructed in accordance with these Rules and the District's Design Standards. All contractors, whether hired by the District, a developer or other persons or entities, shall be required to comply with all District requirements and shall possess a current contractor's license issued by the District and adequate insurance and bond coverage. Depending on the specific circumstances, a contractor may also be a developer.
- 2.10 Cost(s): All costs associated with the construction, reconstruction, enlargement or dedication of any water or wastewater system facilities, including, but not limited to, costs associated with planning, engineering, inspection, administration, acquisition of facilities, acquisition of rights-of-way, acquisition of water rights, attorney fees, and all other fees and/or costs necessary to provide new, different, or additional service.
- 2.11 Crossing Agreement: An agreement between the District and another person allowing a utility to cross District water or wastewater lines or easements in accordance with these Rules.
- 2.12 Customer: Any person, including without limitation, any developer, owner, lessee, tenant or occupant of such owner, who is supplied with service by the District or is authorized by the District to use water or to connect to the District's public water or wastewater facilities.
- 2.13 Deleterious Wastes: Any wastes contained in wastewater that would be harmful to the District's wastewater mains, wastewater facilities, wastewater system, or which, without pretreatment, would violate federal, state or local pretreatment standards.
- 2.14 Denver System Development Charge: The fee charged by Denver Water for water service to properties located south of Sand Creek.
- 2.15 Design Standards: The Design and Construction Standards and Specifications for Water and Wastewater Facilities adopted by the District, as amended from time to time, which establish the minimum standards for the design and construction of water distribution and wastewater collection facilities within the District.

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- 2.16 Developer: Any person who may own or may be developing land or individual lot(s) within the District who seeks to have lands or lot(s) served by the District. A developer shall be held directly responsible by the District for ensuring that all work performed by it or its Contractor(s) is completed in accordance with all District requirements. Depending on the specific circumstances, a Developer may also be a Contractor.
- 2.17 Development Plan Review Fee: The fee collected from the applicant to pay for the District's review of the water and wastewater improvements and water resources required to provide service to the applicant's property in accordance with the District's most recent Master Plans.
- 2.18 District: The South Adams County Water and Sanitation District.
- 2.19 District's Boundaries: The land that has been formally included within the District pursuant to a court order.
- 2.20 District Engineer: A person selected by the Board and employed or contracted to do engineering work for the District.
- 2.21 District Manager: The person retained by the Board to administer and supervise the affairs of the District and its employees, including, but not limited to, enforcement of the District's Rules, who may, among other things, provide for the operation, inspection and approval of all connections, excavations, extensions, installations, systems and facilities owned or controlled by the District.
- 2.22 District Representative: Any District manager, superintendent or other person authorized to conduct and carry out the business of the District.
- 2.23 Dwelling: Any building or portion thereof that contains living facilities, including provisions for sleeping, cooking and sanitation.
- 2.24 ERU (Equivalent Residential Unit): An approximate measure of the level of service necessary to serve a single-family dwelling, which is used to calculate the cost of connection fees and service charges.
- 2.25 Extension: An extension of or new main line required in order to provide service to properties according to the terms and conditions set forth herein.
- 2.26 Extension Contract: A contract between the District and an applicant providing for the installation of an extension by the District and for the payment of the cost therefor by the applicant.

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- 2.27 Facilities: All components of the District's water and wastewater system, including; but not limited to, main lines, treatment units, storage and pumping units.
- 2.28 Garbage: Solid waste from the preparation, cooking and dispensing of food.
- 2.29 General Counsel: The licensed attorney or law firm appointed by the Board to provide legal counsel, and to act on the District's behalf in legal proceedings and contract negotiations and to offer legal opinions.
- 2.30 Hydrant Water Usage Policy: Those portions of these Rules governing use of hydrants, including, without limitation, Articles I § 3.11.3 and V § 6 and the Hydrant Policy as approved by the District Manager.
- 2.31 Inclusion into the District: The process by which parcels may be added to the District's boundaries in accordance with § 32-1-401 *et seq.*, C.R.S. and these Rules.
- 2.32 Industrial Wastes: The liquid wastes from industrial processes, trade or business, as distinct from sanitary wastewater.
- 2.33 Inspection Fee: The charge paid to the District for inspecting a water and/or wastewater service connection, for installing water and wastewater facilities, and for connecting to the District's facilities.
- 2.34 Inspector: The person or persons duly authorized by the District to inspect, monitor and approve the installation and operation of water and wastewater facilities and connections to the District's facilities and water and wastewater systems.
- 2.35 Main Line: Water or sewer pipe owned by the District used to convey water to a service connection or to convey wastewater from a service connection.
- 2.36 Master Plans: Plans prepared for and approved by the Board that identify the necessary infrastructure and resources required for the ultimate development of the District's water and wastewater systems.
- 2.37 May: "May" is permissive.
- 2.38 Meter Charge: The cost of the meter and meter installation only.
- 2.39 Owner: The person or persons who hold fee title to a parcel of land as shown on the property tax assessment roll in the office of the Adams County Assessor.

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- 2.40 Parcel: An area of land, notwithstanding intervening easements and rights-of-way, with a contiguous boundary, the description of which has been recorded in the office of the Adams County Clerk and Recorder or is referenced in a Subdivision Plat recorded in the office of the Adams County Clerk and Recorder.
- 2.41 Permit: Written permission of the Board or a District representative given pursuant to these Rules, subject to the specific terms and conditions contained therein.
- 2.42 Person: An individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns.
- 2.43 Pesticide: Shall be as defined in C.R.S. § 35-9-103, as amended.
- 2.44 pH: The negative logarithm of the concentration of hydrogen ions in grams per liter of solution.
- 2.45 Pollution: The man-made, man-induced, or natural alteration of the physical, chemical, biological and radiological integrity of water or soil.
- 2.46 Pollution - Hazard Activity: Means any of the following activities:
- 2.46.1 Drilling operations.
 - 2.46.2 Surface and subsurface mining operations.
 - 2.46.3 The storage and application of pesticides/herbicides and/or insecticides in any manner, except for private residential or business use.
 - 2.46.4 The storage and application of fertilizers in any manner, except for private residential or business use.
 - 2.46.5 Using, handling, storing, dispensing or transporting toxic or hazardous substances, including, but not limited, to radioactive materials, except in compliance with all laws.
 - 2.46.6 Using, handling, storing, dispensing or transporting flammable or explosive materials, including petroleum products, except for storage of not more than 25 gallons of petroleum products in a private home or business and fuel in vehicular fuel tanks.
 - 2.46.7 Using, handling, storing, dispensing or transporting organic nutrients, including phosphorus and nitrates, or engaging in any activity that creates the same.

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- 2.46.8 Any activity that is conducted in a manner that creates a foreseeable risk of pollution to the District's water supply.
- 2.47 Pretreatment Facilities: Structures, devices, equipment or processes for the purpose of reducing or removing the deleterious wastes from wastewater or altering the nature of deleterious wastes prior to discharging such wastewater into the District's wastewater facilities.
- 2.48 Private: The term "Private," when used in these Rules, means ownership by any person (public or private) other than the District.
- 2.49 Professional Office Building: A facility characterized by activities conducted in an office environment generally focusing on business, government, legal or financial professions. Examples include, but are not limited to, lawyers, accountants, engineers, banking, and real estate professionals. Specifically excluded from this definition are restaurants and any other professions or facilities that may pose special consideration for sanitary sewer waste streams. Professional office building designation will be approved by the District on a case-by-case basis.
- 2.50 Publicly Owned Treatment Works ("POTW"): A treatment works as defined by Section 212 of the Clean Water that is owned by a state or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal wastewater or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term means the municipality as defined in section 502(4) of the Act that has jurisdiction of the indirect discharges to and the discharges from such a treatment works.
- 2.51 POTW Treatment Plant: That portion of the POTW designed to provide treatment (including recycling and reclamation) to wastewater.
- 2.52 Rates, Fees and Charges: The cost of receiving services from the District as periodically established by the Board.
- 2.53 Rules: These Rules and Regulations as they may be amended by the Board from time to time.
- 2.54 Sampling: The periodic collection of water or wastewater samples for testing.
- 2.55 Service Area: A planning term that refers to all areas currently being served or proposed or planned to be served by the District; however, any reference to the District's service area does not mean that the District is capable of serving the property or that the property is entitled to service.

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- 2.56 Service Lines: See water service line and wastewater service line; may be used to refer collectively to water and wastewater (or sewer) service lines.
- 2.57 Shall, Will: “Shall” and “will” are mandatory.
- 2.58 Stub-In: In the context of water service lines, the curb stop; in the context of sewer service lines, shall mean the point where 4-inch PVC lines are brought to within 100 feet of the property line.
- 2.59 Subdivision Plat: A map of a platted subdivision recorded with the proper land use authority for the purpose of creating land parcels that can be identified uniquely by reference to such map.
- 2.60 Suspended Solids: Solids, expressed in parts per million by weight, that either float on the surface of, or are in suspension in, the water, wastewater or other liquids, which are removable by filtration.
- 2.61 System Development Charge: The charge collected from an applicant to pay for existing and planned water and wastewater systems to be used, in part, to serve said applicant.
- 2.62 Tap-In Charge: A component of the water connection fee that pays for the costs of installing, and/or inspecting water service and/or meter connections.
- 2.63 Testing: The analysis of water or wastewater samples for composition, and other characteristics; or the inspection and trial operation of water or wastewater system facilities or as otherwise required herein.
- 2.64 Unit: A building or portion thereof used for a single-family residence, individual commercial use, or which is provided separate service by the District.
- 2.65 Wastewater: A combination of liquid wastes originating from any residential, commercial, or industrial building or other establishment, including household waste, human excreta, animal or vegetable matter, organic or inorganic material in suspension or solution, and other solids in suspension or solution that enter the POTW.
- 2.66 Wastewater Connection Fee: Recovers a proportionate share of the wastewater system costs based on the water tap size(s) requested by an applicant.
- 2.67 Wastewater Main Line: Any pipe, system of piping, and appurtenances used as a conduit for wastewater in the District’s wastewater system that is owned by the District. However, there may be agreements with other districts for sharing and/or splitting conveyance for the purposes set forth in the agreement(s).

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- 2.68 Wastewater Service Line: Any pipe, system of piping, tap, line, or appurtenance owned and maintained by the owner that is used as a conduit for wastewater from a customer's building to the wastewater main line.
- 2.69 Wastewater System: All structures, facilities, equipment, and processes used for collecting, pumping, treating, and disposing of wastewater. The terms "wastewater system," "sewer facility," "public sewer," "wastewater system" and "wastewater facility" are used interchangeably throughout these Rules.
- 2.70 Water Main Line: Any pipe, system of piping and appurtenances used as a conduit for water in the District's water system and owned by the District or other governmental entity.
- 2.71 Water Resources Agreement: An agreement between the District and a person seeking to acquire water and wastewater services from the District that provides the District with adequate water resources to serve the property, and that may establish other contractual obligations as conditions on the provision of service by the District.
- 2.72 Water Resource Development Fee: The fee collected for the development of water supplies needed to serve the applicant applying for service and other new customers.
- 2.73 Water Service Line: Any pipe, system of piping, tap, line, and appurtenance used as a conduit for water from the main line to the building where the water service is provided to the customer.
- 2.74 Water System: All structures, facilities, equipment and processes used for diverting, transporting, distributing, storing, pumping, treating, measuring, and delivering the water of the District. The terms "water system" and "water facility" are used interchangeably throughout these Rules.

Any term not set forth herein shall be as defined in the latest editions of "Glossary - Water and Wastewater Control Engineering," A.P.H.A., A.W.W.A., A.S.C.E., and F.W.S.A., if listed therein.

3. OPERATING PRINCIPLES AND LIMITATIONS

- 3.1 Policy: The District provides water and wastewater services to properties within the District boundaries in an economical manner, subject to any capacity limitations, and providing for the operation, maintenance, repair and replacement of all facilities owned by the District, in accordance with these Rules. The use of the District's water or wastewater system is only by permission of the District. The District reserves the full right to determine all matters related to the control and use of its

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water and wastewater system, and use of the District's water and wastewater systems is subject to suspension or revocation by the District, in accordance with these Rules.

- 3.2 Construction Costs: Notwithstanding any other provision of these Rules to the contrary, all costs of new construction, reconstruction or enlargement of any water or wastewater facilities, (including but not limited to, service lines, main lines and water or wastewater treatment facilities), including all associated planning, engineering, administration and attorney fees, which are necessary to provide new, different or additional water or wastewater service within the District's service area, shall be paid by the owner(s) of the property or building to be provided service. The provisions of these Rules apply regardless of whether the District or some other person contracts for, or initially pays for, such construction, reconstruction or enlargement, or whether such service is compelled by the District. The District's Board may act other than as set forth in this section when, in its sole discretion, it determines that such action is in the best interests of the District or is necessary to provide for the health, safety, and welfare of the inhabitants and visitors of the District.
- 3.3 Compliance with Design Standards: All water and wastewater facility construction, repair, maintenance or modification work within the District shall comply with the District's Design Standards, as they currently exist and may be amended.
- 3.4 Limitations on District Liability:
- 3.4.1 The District and its officials and employees shall not be liable or responsible for damages to or failure of water or wastewater service lines, plumbing facilities, lift stations or other facilities not owned by the District and each owner shall assume all responsibility therefor, including responsibility for maintaining their own such facilities. The District shall not be liable for damages caused by or related to water or wastewater service lines, plumbing facilities, lift stations or other facilities now owned by the District.

The District and its officials and employees shall not be liable for or responsible for damage resulting from breaking or failure of any sewer main, water main or other District facilities, interruption of service brought about by the request of claimant, by circumstances beyond the District's control (including without limitation, acts by a third party, acts of nature or acts of terrorism), or from any failure or interruption of water supply, and no claim for such damage shall be made against the District. Nor shall the District and its officials and employees be liable for damage caused by shutting off or turning on water in the water main lines; the making of connections or extensions; water running or escaping from

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open or defective faucets; burst service pipes or other facilities not owned by the District; damage to water heaters, boilers, or other appliances resulting from shutting water off, or from turning it on, inadequate, sporadic and excessive pressures; blockage in the system causing the backup of sewage; failure of water and wastewater facilities to be located where the District's map indicates they should be; the shutting off of a sewer lift station and possible backflow resulting therefrom; failure to obtain access to isolation valve; or for taking certain actions with respect to the water or wastewater system of the District deemed necessary by the Board of Directors or its agents. This paragraph shall not relieve the District from liability for negligence of its employees, if such liability would otherwise have existed.

- 3.4.2 District Not Responsible for Damages: These Rules shall not be construed to hold the District in any manner responsible for any damages to persons or property resulting from any inspections as herein authorized or resulting from failure to inspect or resulting from the issuance or denial of any permit as herein provided, or resulting from the institution of court action as allowed by law, or the forbearance by the District to so proceed.
- 3.4.3 Officials Not Liable: Any District official or employee, who is charged with the enforcement of these Rules and is acting in good faith and without malice on behalf of the District in the discharge of his/her official duties, shall not thereby render himself or herself personally liable for damages that may accrue to persons or property resulting from any such act or omission committed in the discharge of his/her duties. Any suit or proceeding instituted against such official or employee, stemming from any act or omission performed by him/her in the enforcement or attempted enforcement of any provision of these Rules, shall be defended by the District until final termination of the proceedings, in such a manner as to be consistent with the District's resolution indemnifying such officials and employees. Nothing herein shall be deemed to repeal or supersede the District's indemnification resolution.
- 3.4.4 Non-Liability for Work of Others: The District does not assume any liability for any work performed by others. No claim shall be made against the District or any of its officers or employees, due to errors of omission or commission by the District's licensees or independent contractors.
- 3.4.5 Indemnity: The owner(s) shall indemnify the District from any loss or damage that may directly or indirectly be caused by or result from the installation of a main or service line to serve the property, and the District may require the property owner to obtain some security before proceeding.

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3.4.6 Non-Waiver: Nothing in these Rules shall constitute a waiver by the District of the defense of sovereign immunity or any protections under the Colorado Governmental Immunity Act, § 24-10-101, *et seq.*, C.R.S., or any other defenses it may have to an action against the District, its officials or employees, nor a waiver of its insurance coverage.

3.5 Ownership and Maintenance of Water and Wastewater Facilities: Except as otherwise provided in these Rules, all existing and future water and/or wastewater facilities connected with and forming an integral part of the District's water and wastewater system shall become and are the property of the District except for service lines and related facilities owned by the owner. The District shall be responsible for maintenance, repair and reconstruction of such property, including water or wastewater main lines, at its own cost, unless the facility is under warranty or unless the situation necessitating such repair or reconstruction is the result of a change or enlargement of use, abnormal use or damage to such facilities, in which case such repair or reconstruction will be done at the expense of the person responsible for such change or enlargement of use, abnormal use or damage. The District's ownership will remain valid regardless of whether such property is constructed, financed, paid for, or otherwise acquired by the District or by other persons. No other persons, except those authorized by the District, shall have any right to enter upon, inspect, operate, adjust, change, alter, move or relocate any portion of the foregoing or any of the District's facilities.

3.6 Ownership and Maintenance of Water and Wastewater Service Lines:

3.6.1 Water service lines from the District owned main line to the downstream side of the meter pit or vault are the property and maintenance responsibility of the District whether located on public or private property. Such water service lines and meters maintained by the District will be located on a public right-of-way, except when such location is not physically, technically or financially feasible. As a condition of receiving water service from the District, upon the request of a District Representative, owners shall provide an appropriate location for installation or relocation of the meter, which must be accessible and approved by the District. Water service lines from the downstream side of the meter pit or vault to the building or unit are the property and maintenance responsibility of the owner of said building or unit. All curb boxes, valve boxes and meter pits are owned and shall be maintained by the District.

The District shall have a right of access to the property, receiving water and/or wastewater service from the District (public or private) for the purposes of operation, inspection, installation, maintenance, repair, removal, relocation, renewal and replacement of improvements owned and

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maintained by the District, including without limitation the water service line from the District owned main line to the back of the meter, curb boxes, valve boxes and meter pits.

No person owning or possessing the property on which a meter is located shall obstruct the meter in any manner that would prevent access to the meter, including planting shrubbery, trees, or placing any other type of physical obstruction. Existing shrubbery, trees, or any other type of plants must be kept trimmed so as not to obstruct the meter set. If such obstruction is not removed within fifteen (15) days after the receipt of a notice to remove from the District, the owner or possessor shall be deemed to have consented to the District's entry upon the property and the District will have the obstruction removed or will relocate the meter, at the expense of the customer or the owner.

3.6.2 Wastewater service lines including the tap, tapping saddle, tee, wye or manhole bore extending from the District owned main to each building or unit are the property and maintenance responsibility of the owner of said building or unit. All appurtenances associated with wastewater service lines, including clean outs, grease traps/interceptors and sand/oil interceptors, shall be maintained by the owner of the building or unit being serviced.

3.6.3 Leaks, stoppages or breaks in the portions of the service lines of the owner shall be repaired by the owner within a reasonable period of time after discovery or notification of such condition by the District. If satisfactory progress toward repairing the leak, stoppage, or break has not been made within such time period, the District may shut off the water and/or wastewater service until the leak, stoppage or break has been repaired or may take actions necessary to make the required repairs at the full expense of the owner. The District reserves the right to make the repairs without prior notice to the owner, at the expense of the owner, when, in the opinion of the District, immediate repair is necessary to protect the health, safety and welfare of the inhabitants and visitors of the District or the District's water or wastewater system. Responsibility for maintenance shall remain with the owner whether the service lines are constructed, financed, or paid for by the District or by other persons.

3.7 Ownership And Maintenance Of Water Meters, Related Assembly And Remote Register:

3.7.1 It shall be the duty of all customers to notify the District if a water meter and/or remote register are defective. It shall also be the duty of all owners to maintain free and clear access to the water meter and all component

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parts making up the meter assembly and the remote register.

- 3.7.2 The District shall be responsible for the maintenance and repair of all water meters unless it determines that a meter has been willfully damaged, in which case the District will have the water meter repaired or replaced and will charge the owner or person who damaged the meter. If the District determines that a water meter has been willfully damaged, the District may make the necessary repairs itself and charge the owner for the repairs. If the District determines that a damaged or defective water meter and its component parts making up the water meter assembly, including the connecting wire/cable and remote register, are not repairable by District staff, it shall notify the owner of its findings in writing by hand-delivery or by certified mail.

The District may designate by whom repairs to meters may be made or may provide assistance where it deems necessary. The District shall provide notice following repair stating the cost of the repairs and that payment for said repairs is due within 30 days. If the payment is not received in 30 days, a 10-day shut off notice shall be issued.

- 3.7.3 If the District determines that a water meter or remote register is not functioning properly, an appointment will be scheduled with the owner, during normal business hours, for District staff to assess and, if possible, repair the problem. District staff, in their sole discretion, will determine if the problem is repairable by the District.
- 3.7.4 If any water service meter and/or its related remote register shall fail to register in any billing period, the owner will be charged the average period consumption as determined by the District Manager.

- 3.8 Encroachment of the District's Easements: No person shall construct any permanent building or similar structure, or place any fill material on one of the District's easements, although such persons may install temporary or removable and replaceable objects, such as yard lights, mailboxes, signs, fences, shrubs, flowers or plants within the easement, if permitted by the District easement. If in the process of exercising one or more of the rights to the use of an easement, the District finds it necessary to remove any of the permitted items placed or planted within the easement, the District shall not be responsible for replacing those items after it has exercised its rights. If an owner or other person seeks to construct a permanent building or other structure on one of the District's easements, the owner or other person shall apply to the District for approval of the construction of the encroaching structure. The District's approval, if granted, shall be in the form of an encroachment agreement.

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- 3.9 Use of the District's Easements: An owner, developer or contractor may request permission from the District to share or use the District's easements for the installation of drains, pipelines or other facilities. The District's determination to allow an owner, developer or contractor to share or use one of the District's easements shall be made in the sole discretion of the District. Any such approval shall be in the form of a written agreement, setting forth the terms of the agreement, specifically including, but not limited to, the terms set forth below:
- 3.9.1 Any person wishing to install or construct a utility, railroad or other improvement that will cross a District easement or District water or wastewater line may be required to enter into a Crossing Agreement and pay a Crossing Permit Fee, in accordance with Section 3.10 of these Rules.
- 3.9.2 The owner, developer or contractor shall, at all times, have the obligation, enforceable at the demand of the District, to operate, maintain, repair and replace the non-District owned drains, pipelines or other facilities as may be desirable from time to time.
- 3.9.3 If maintenance or replacement of non-District owned drains, pipelines or other facilities results in damage to the District's water or wastewater facilities, the owner, developer or contractor shall immediately notify the District of the damage, and shall be liable for such damages, and will compensate the District for repair costs.
- 3.9.4 The District shall not own or have any obligation to operate, manage or control the drains, pipelines or other facilities installed by an owner, developer or contractor within the District's easements, except for facilities explicitly accepted by the District for ownership. However, if the physical condition or operation of the District's water or wastewater facilities is interfered with or endangered, or if there is a risk to the health and safety of the public as a result of the owner's, developer's or contractor's drain, pipeline or other facilities, the District shall have the right, at the property owner's, developer's, or contractor's expense, to do whatever is reasonable and necessary under the circumstances so that the District's water or wastewater facilities are no longer endangered, or interfered with, and it may mitigate any risk to the health and safety of the public.
- 3.9.5 As-built construction drawings for the drains, pipelines or other facilities installed within the District's easements by an owner, developer or contractor shall be furnished to the District as required by the District's Design Standards.

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3.9.6 The owner, developer or contractor shall indemnify and save the District, its officers, directors, agents and employees harmless from and against every claim, demand, liability, cost, charge, suit, judgment and expense of whatsoever kind or nature, including, but not limited to, interest, court costs and attorney fees that the District, its officers, directors, agents or employees may pay or incur as a result of, or in any way arising out of, the sharing or using of the District's easements. Said indemnification shall extend to claims, demands and liability for injury to persons and property, and for financial losses that occur off the job site as well as on, and for injury and damage to person and property, as well as financial losses occurring after construction and installation of the drains, pipelines or other facilities within the District's easements by the owner, contractor or developer.

3.10 Review of Crossing and Adjacent Utilities: Utility companies and other persons who would like to install utilities, which would: (a) cross District facilities or (b) be adjacent to District facilities and located within ten (10) feet from the District's existing facilities, shall submit a copy of the plans for the utility installation to the District's development department for review and approval, in advance of construction / installation. The District shall review the plans and may request any changes deemed necessary, in the reasonable discretion of the District, to protect the integrity and safety of existing or planned District facilities and for compliance with the general requirements set forth in section 3.10.2 below.

3.10.1 For the purpose of this section 3.10, utilities are defined as including without limitation water or wastewater lines, storm sewer improvements, gas or oil lines, television, cable or internet lines, water conveyance structures, electrical lines, or railroad improvements.

3.10.2 General requirements for utilities which cross District facilities or will be located within ten (10) feet of District facilities, are as follows, but they may be waived, in writing, by the District Manager on a case-by-case basis:

3.10.2.1 The utilities shall be installed in accordance with the District's Design Standards and Rules, existing as of the date of installation, including without limitation vertical clearance requirements for crossings, and in compliance with all requirements of applicable laws.

3.10.2.2 Utilities which cross the District's existing water and/or wastewater pipelines shall cross District facilities at or near a perpendicular angle.

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- 3.10.2.3 Utilities shall take reasonable measures required by the District to protect in place any existing District facilities in the area of the crossing that may be reasonably affected by construction or replacement of the utility, at the cost of the utility.
- 3.10.2.4 The District Manager, in his reasonable discretion, may impose a crossing fee, in order to cover the District's costs of reviewing a crossing that requires an unusual amount of review, due to the nature or complexity of the project, the number of crossings, or for any other reason. The District may require a Crossing Agreement for such complex projects, or when deemed necessary by the District Manager.
- 3.11 Temporary Water Usage: The District may allow temporary water leases on a case by case basis. Short-term low water volume leases, of up to six (6) months, may be accommodated in accordance with the District's Hydrant Water Usage Policy. Water Leases involving extended time periods, up to two years, or high volumes of water will require a Temporary Water Lease Agreement. The terms of each Temporary Water Lease Agreement will be established by the District based on a case by case evaluation. The applicant, owner or developer applying for a temporary water lease will pay a fee of \$500 for the preparation of a standard lease. If a particular lease is more complicated and will require more time for the District to prepare, the District will inform the applicant of such and will determine an appropriate fee for the lease. All lease preparation fees shall be paid to the District prior to the preparation of the lease agreement.
- 3.11.1 Temporary Water Lease Agreements are for special purposes including, but are not limited to temporary buildings, temporary irrigation, and special events. Other special purposes shall be approved by the District on a case by case basis.
- 3.11.2 The applicant will fill out a water lease application identifying specific items that the District will consider as it determines if the use will be allowed, and if allowed, whether that use will be accommodated via the District's Hydrant Water Usage Policy or a Temporary Water Lease Agreement including:
- Timing and duration of use;
 - Amount of water to be used, both the instantaneous rate of withdrawal and the total volume;
 - Location of use;
 - Verification that this use will not negatively affect the District's ability to provide water to its residential, commercial and industrial users;
 - Proper use of District equipment;

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- Information to ensure that all water leases provide for payment of an appropriate amount for the water that will be used;
- All governmental permits have been issued for the anticipated use;
- Verification that all proper notifications have been provided, both governmental entities and the public;
- The lessee is utilizing proper waste handling procedures for all chemicals used in their processes, as well as wastewater treatment, recycling and disposal.

3.11.3 Use of Hydrant: No person shall take water from a District hydrant without the prior authorization of the District. All use of District hydrants will be in conformance with the established District Hydrant Water Usage Policy and requirements for temporary water usage set forth in this section 3.11 of these Rules.

3.11.3.1 Authorized Users: District personnel and fire prevention agencies are considered authorized users of District hydrants.

3.11.3.2 Issuance of a Hydrant Permit: If it is determined that the usage falls under the Hydrant Water Usage Policies, a hydrant permit may be issued. Approval of any Hydrant Permit application shall be at the sole discretion of the District.

3.11.3.3 Payments to the District: The applicant will be responsible for the payment of all deposits, application fees, user fees and fines in accordance with the Hydrant Water Usage Policies in place at the time.

3.11.3.4 Equipment Requirements: Only District meters and Backflow Prevention Assemblies shall be used for the withdrawal of water from District hydrants.

3.11.3.5 Refund of Deposit: If all meter readings are current, the associated usage fees are paid, and the District's equipment is returned in good working condition, the hydrant deposit will be returned to the permit holder. To the extent that there are late fees, fines, outstanding balances, or damage to District equipment, those costs will be deducted from the deposit. If the deposit does not cover all fines and fees an additional invoice will be mailed. Failure to pay any fines or water consumption fees may result in legal action.

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- 3.12 Service Outside the District's Service Area: No future service is available outside the District's service area except as specifically authorized by the Board, at its sole discretion. Any service outside the District's service area would be dependent on, among other issues, discussions with other service providers, inclusion into the District boundaries or payment of extraterritorial fees, extension of District water and wastewater facilities, consideration of urban growth boundaries, and any other factors deemed relevant by the District. Nothing herein shall limit the District's authority, in its sole discretion, to approve water leases or sales, or short-term/emergency use of District water outside of District boundaries.

4. EXPANSION OF DISTRICT BOUNDARIES

- 4.1 Policy: The District's boundaries may be expanded by inclusion of property pursuant to § 32-1-401, *et seq.*, C.R.S., in compliance with these Rules, provided that the property lies within the service area of the District. Any property proposed for inclusion within the District must provide all of the water and sewer facilities and water resources necessary to serve the property or, in the District's sole discretion, the financial resources sufficient to compensate the District for the provision of service to the property.

Growth and development to be included within the District's boundaries must pay for itself and neither the District nor its existing residents shall be required to subsidize the growth and development of any property proposed to be included within the District's boundaries.

Inclusion of property within the District does not obligate the District to provide water and/or wastewater service to the property.

- 4.2 Petition for Inclusion: The owner of parcels capable of being served by facilities of the District shall file a written petition on forms provided by the District, requesting that such parcels be included in the boundaries of the District in accordance with C.R.S. § 32-1-401. A petition for inclusion shall include all the land that the person owns that is contiguous to and adjoining the parcel upon which service from the District is desired, unless the District permits otherwise. The petition for inclusion shall be submitted to the District; along with the inclusion fee. The Board determines whether to approve petitions for inclusion from time to time. However, the owner must first meet and consult with the District's Development Manager before submitting a Petition for Inclusion to the District.

The owner of land described in a subdivision plat shall petition to include the entire platted area into the District before service shall be furnished to individual parcels included within the subdivision plat. The property owner of a single unplatted parcel of real estate shall be required to petition the entire parcel for inclusion in the District in one petition for inclusion. A petition for inclusion for properties more

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than 10 acres in size shall contain the following information. A petition for inclusion for properties less than 10 acres in size may, in the District's discretion, also be required to contain the following information:

- 4.2.1 A legal description of the property to be included, setting forth the total acreage, together with proof of title, and a survey of the property showing its location with respect to the District's existing boundaries.
- 4.2.2 The existing zoning for the property to be included together with any proposed zoning changes, including all documents submitted to Commerce City and/or Adams County pertaining to such re-zoning request.
- 4.2.3 A description of the proposed uses of the property to be included, together with:
 - 4.2.3.1 The proposed total population for the property, including a breakdown into types of uses such as single family residences, condominiums, commercial development, recreational uses, etc.
 - 4.2.3.2 The proposed maximum population density for each area of the property, including the number of acres to be used for various types of uses, together with an indication of lot sizes, irrigated acreage, water and wastewater requirements, and any limitations proposed on water usage.
 - 4.2.3.3 The number of acres to be dedicated to open space, green belts and parks, and the anticipated location of each such area, a description of the proposed ground cover and the irrigation water requirements for each such area.
 - 4.2.3.4 Detailed engineering plans on how the petitioners propose that water and wastewater services be provided, including cost estimates of all facilities.
 - 4.2.3.5 Any other pertinent facts that will assist the District in considering the petition for inclusion.
- 4.2.4 The proposed development schedule.

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- 4.2.5 A complete description of all surface and ground water rights, water storage and related facilities associated with or acquired for the property, including proof of ownership, copies of all court decrees and well permits, etc.
- 4.2.6 Any additional information as requested by the District.
- 4.3 Conditions for Inclusion: In addition to the requirements for inclusion set forth above, the District may require that an owner seeking to include property into the District's boundaries satisfy certain conditions including, but not limited to, those set forth below.
- 4.3.1 Inclusion Agreement: As a condition of inclusion, the owner shall enter into an Inclusion Agreement with the District, in a form acceptable to the District.
- 4.3.2 Dedication of Water Resources and Signing of a Water Resources Agreement: As a condition of inclusion of property within the District's boundaries, the owner shall be required to enter into a Water Resources Agreement with the District at the time of inclusion by which the owner shall dedicate water rights, water storage or related facilities or the equivalent thereto to the District that are sufficient to provide water service to the subject property. The Water Resources Agreement shall comply with the provisions of Article II, and with additional provisions set forth herein. Even if an owner seeking inclusion of property into the District enters into a Water Resources Agreement, the District may deny a request for water and wastewater service because of limited water treatment capacity, wastewater treatment capacity, or other limitations.
- 4.3.3 Assignment of Groundwater Resources to the District: An owner petitioning for inclusion of property within the District's boundaries shall convey and dedicate to the District, on forms prescribed by the District, all groundwater rights, including all tributary, not nontributary, nontributary and Denver Basin water rights (including all decrees, permits, wells and any other evidence of any right, title and interest thereto) underlying, appurtenant to, or in any manner associated with the property.
- 4.3.4 Restriction on Sale to Avoid Requirements: An owner petitioning for inclusion of property within the District's boundaries shall not sell, convey or transfer the water rights appurtenant to the property sought to be included into the District for the purpose of avoiding the assignment of those water rights to the District in the inclusion process as set forth in these Rules. These water rights include, but are not limited to, senior surface water rights, water storage rights, water related facilities, groundwater rights, including all tributary, not nontributary, nontributary

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and Denver Basin water rights underlying the property and wells overlying the property.

- 4.3.5 Abandonment of Wells: Within one year of the inclusion or within three months of the District's request, an owner or a developer must abandon all wells located on the property whether such wells have been conveyed to the District or not, unless the District objects to the abandonment in writing. The developer or owner shall be responsible for the costs associated with such abandonment, in accordance with the rules of the State Board of Examiner of Water Well Construction and Pump Installation Contractors and any other agencies having jurisdiction thereof and for providing a copy of the Well Abandonment Form to the District. If the District determines, at its sole discretion, to abandon any of the initially objected wells, the owner shall provide the District with all necessary access onto the property for the purpose of physically abandoning any such wells, with the District being responsible for the costs associated with such abandonment.
- 4.3.6 Option to Purchase Surface Water Rights: In addition to the District's water resources dedication requirements, and as a condition of granting the inclusion of property within the District's boundaries, or as a condition of the provision of water and wastewater service, the owner shall grant, at no cost to the District, in the form prescribed by the District, an option and right of first refusal for the District to purchase the owner's interest in the water rights appurtenant to, or that have been used on, the property sought to be included. The option and right of first refusal for the District to purchase water rights shall be in addition to any requirements for dedication of water rights to the District under a Water Resources Agreement.
- 4.3.7 Property Dedication: As a condition of inclusion of property within the District's boundaries, or as a condition of receiving service from the District, owners may be required to dedicate easement(s), easement(s) for well site(s), access easement(s), water, sewer and electrical line easement(s), or fee simple property to the District, at no cost to the District, in order to facilitate the provision of water and wastewater service to the property and to implement the District's non-potable irrigation system. The dedication of such easements(s), well site(s), and/or fee simple property shall be in addition to the dedication of water required under a Water Resources Agreement with the District and the other requirements of these Rules.
- 4.3.8 Non-Potable Outdoor Irrigation System: Owners applying for water service by the District, or seeking inclusion of property within the District

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may be required, in the sole discretion of the District, to construct and use a separate non-potable outdoor irrigation system in order for the District to deliver non-potable water for irrigation uses, at the owner's cost.

4.4 Inclusion Fee: The petitioner for inclusion shall pay a fee to the District that is intended to cover the costs incurred by the District in evaluating the petition for inclusion. The inclusion petition fee shall be assessed regardless of whether the petition for inclusion of the property into the District's boundaries is finally granted by the Board, or whether a Water Resources Agreement is entered into with the District. The petitioner shall be required to pay the inclusion petition fee at the time of filing its petition for inclusion and Water Resources Agreement. Upon completion of the Board's granting or denying the petition for inclusion, and on completion of the Water Resources Agreement, the District may determine the actual costs expended by it in considering the petition for inclusion and Water Resources Agreement. If the inclusion petition fee paid by the owner to the District is less than the actual cost expended by the District in considering the petition for inclusion and Water Resources Agreement, an additional charge will be levied on the owner by the District for the difference. Additional charges shall be paid by the property owner within 15 days of being invoiced, or the Hearing for Inclusion will be postponed until payment is made.

4.4.1 Reimbursement for Evaluation of Water Resources: In cases that do not require a detailed evaluation of water resources, the inclusion fee will also cover the cost to evaluate the petitioner's water resources. However, when more detailed legal and engineering costs are required to evaluate the petitioner's water resources, the District may require a deposit or payment at the time of submittal of the petition for inclusion.

4.5 Hearing on Petition for Inclusion: The Board shall conduct a hearing, as provided by Colorado law, on whether the petition for inclusion should be granted or denied, in whole or in part. The Board shall decide, in its sole discretion and judgment, whether the granting of the petition for inclusion is in the best interests of the District and its residents and owners. The Board shall withhold entry of the final order approving inclusion until the petitioner has entered into an agreement with the District that details the terms and conditions of inclusion and provides for payment of all fees and costs of inclusion. The Board's action granting or denying the petition for inclusion shall be final, and the inclusion shall take effect following receipt of a court order of inclusion and recordation with the County Clerk and Recorder. In the event that the District is not able to finalize an inclusion and obtain a court order because the property owner has not provided all required information, the property owner may be required to submit a new petition for inclusion and start the process over. The owner is responsible for confirming that the inclusion process has been completed, and the District shall not be liable for any development delays due to failure to complete the inclusion process.

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- 4.6 Mil Levies: Applicable mil levies shall be assessed upon inclusion of the property into the District's boundaries.
- 4.7 Service to Included Property: Inclusion of property within the District's boundaries does not obligate the District to provide service to such property nor does it guarantee the ability of the District to provide service to such property. Owners of included property seeking to acquire water and wastewater service from the District shall comply with all provisions of these Rules, and shall apply for service in accordance with Article II.

5. USE OF PUBLIC WATER AND WASTEWATER SYSTEMS REQUIRED

- 5.1 Unlawful To Deposit Waste In Unsanitary Manner: It is unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner, on public or private property within the District, any human excrement or other objectionable waste. This also includes unlawful dumping by any person(s) or entities pulling open District manhole covers to dispose of any liquid waste and or materials.
- 5.2 Wastewater Must Be Treated by the District: It is unlawful to discharge any wastewater or other polluted waters to any natural outlet, or surface or subsurface system within the District, unless authorized by the District in accordance with these Rules with the limitations of the NPDES Facility Permit of the District and any other public wastewater provider.
- 5.3 Water Wells Prohibited: Unless otherwise approved by the Board, after the effective date of these Rules, the construction, use or connection to the District's facilities of any water well within the District is prohibited. The District is not responsible for the augmentation of any wells within the District other than its own.
- 5.4 Use of District Water and Wastewater Systems Required: No water system or wastewater disposal system shall be constructed within the District unless such system is connected with the District's water or wastewater systems, and is specifically authorized by the Board. The owner(s) of any parcel of land within the boundaries of the District that is subdivided subsequent to the effective date hereof, shall apply to the District for extension of its water and wastewater facilities to serve said subdivision. The District shall require said owner(s) to construct or pay for the construction of the extension or enlargement of all facilities necessary to serve said subdivision, including any facilities necessary to deliver non-potable water for irrigation pursuant to Article II. If the District elects to extend such service, the District and the owner(s) shall enter into an extension agreement as more fully set forth in Article II of these Rules.

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5.5 District's Power to Compel Connection:

- 5.5.1 Unless otherwise agreed to by the Board, the owners of all dwellings, units or other buildings within the boundaries of the District where a water supply shall be used or where domestic or industrial wastes or wastewater are generated, stored or treated, shall be required, at their expense, (1) to install suitable water and wastewater facilities therein; and (2) to apply for and to connect such facilities directly to the District's public water and wastewater system within 20 days after written notice from the District, by certified or registered mail, so long as the public water or wastewater main is within 400 feet of the owner's property line. The purpose of this requirement is to protect the health, safety and welfare of the inhabitants and visitors of the District in accordance with the provisions of these Rules.
- 5.5.2 If connection is not commenced within such period and completed with reasonable diligence by the owner, the District may make such connection, and the owner shall be liable for all expenses incurred by the District for the completion of the connection, including any unpaid connection fees. The District shall also have a first and prior lien on the premises for such costs and fees, and such lien shall be enforceable in accordance with the provisions of § 32-1-1006 (1)(a)(I), C.R.S.
- 5.5.3 If an owner's service line must cross another person's property in order to connect to the District's water or wastewater system at the point designated by the District, and the owner is unable to obtain the easement(s) required for such service line, the District may, in its sole discretion, initiate proceedings to acquire such easement(s). All costs incurred by the District in the prosecution of such proceedings, including, without limitation, the amount determined to be payable as just compensation, attorney fees, engineering and survey fees, appraisal fees and expert witness fees, shall be paid by the owner of the premises to be connected. The amount required to be deposited with the court in order for the District to obtain possession of the property included within the easement(s) shall be paid at that time by the owner of the premises to be connected. The District shall have a first and prior lien on the premises to be connected and the land on which they are located for all such costs, and the lien shall be enforceable in accordance with the provisions of § 32-1-1006(1)(a), C.R.S.

6. INSPECTIONS

- 6.1 Powers and Authority of Inspectors: The District Manager, or a representative bearing proper credentials and identification, shall be permitted to enter all private

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property within the District for the purpose of reading meters, testing related to discharge(s) to the public water or wastewater system, inspection, observation, measurement, sampling, repair, maintenance of any portion of the water or wastewater facilities lying within said properties, and related matters.

- 6.2 Construction Inspection: The District Manager, representative or their designee shall have the right to inspect any and all work during construction to ensure installation is in accordance with District standards. After completion of construction of any water or wastewater line, the District Manager, superintendent and/or a representative shall make a final inspection of construction.

7. PROTECTION OF DISTRICT FACILITIES

- 7.1 Compliance with Statutes and Regulations: For all projects that require digging, boring, directional drilling or excavation around District facilities, the person, contractor or excavator wishing to dig or excavate around said facilities shall comply with all applicable statutes and regulations of the State of Colorado, including, but not limited to, § 9-1.5-101, *et seq.*, C.R.S.

- 7.2 Locate Information: For projects that require digging, boring, directional drilling or excavation around District facilities, a contractor or excavator must provide locate information to the District and must fax the locate request to 720-206-0598, at least two business days prior to commencing any digging, boring, directional drilling or excavation, in addition to any other legal requirements. The locate request must include the name and telephone number of the person submitting the request and of the excavator, the starting date, a description of the proposed excavation, and the location of the work. No activity shall take place until the District provides a signed copy of a locate sketch sheet defining the dig area, or written notice to the contractor or excavator of the absence of any District facilities in the area, and physically marks the facilities. If the original locate is considered an extended job, all locates shall be done on a day-to-day basis. It is the responsibility of the contractor or excavator to perform the work safely without damaging District facilities. If the District fails to respond within two business days, a new request shall be faxed to the District. The contractor shall not proceed with the construction/excavation if the District has not marked the water and wastewater facilities or provided written notice that there are no District facilities in the area. If the contractor decides to proceed without proper and/or updated locates, the contractor will be 100% liable for all damages to infrastructure and private property, for the District's equipment, wages and all remedial cleanup costs associated with a punctured force main, damaged water and/or sewer lines owned by the District.

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- 7.3 Hand Digging Near Underground Facilities: Contractors and excavators are required to hand dig and expose all facilities before using mechanical devices near underground facilities of the District.
- 7.4 Marking the Area: The contractor or excavator must mark the project vicinity to indicate to the District whether the area is marked by paint, flags or nylon whiskers.
- 7.5 Standby: The contractor or excavator must indicate whether a standby is required at the site.
- 7.6 Diagram of Dig Area: The contractor or excavator must provide a diagram of the dig area.
- 7.7 Contact Information: The contractor or excavator must indicate the locator's name, and must provide a signature of the person on the job site. The contractor's or excavator's name and mobile phone number shall also be provided to the District.
- 7.8 District Not Liable: The District is not responsible for locating water or wastewater service lines of any owner other than the District. The locating shall be done by a private locating service at the owner's expense. Private locators and contractors accessing District facilities shall notify the District in writing of such locating prior to proceeding with their work.
- 7.9 Protection of the District's Water Supply from Pollution and from Activities that create a Hazard to Health and Water Quality: In order to protect the District's water supply from pollution and from activities that create a hazard to health and water quality and to protect the health, safety and welfare of the District's residents and visitors, the District will not provide water and wastewater service to property that is used for a Pollution - Hazard Activity if said property is located such that the use poses an unreasonable risk of contamination or pollution of the District's water supply or such that the District would not have adequate time following a release of contaminants to protect or provide for a substitute water supply. Such determinations shall be made in the sole discretion of the District.

8. ENFORCEMENT

- 8.1 Prohibitions: No unauthorized person shall turn on service from, uncover, make any connection or reconnection with, open, extend, use, alter or disturb any public water or wastewater main facility or appurtenance, or fail to comply with these Rules, or construct a main line extension.
- 8.2 Violations: In case of a violation of its Rules, the District may revoke a permit, revoke or suspend service, and/ or require the responsible person to return the District's system to its original condition. In addition, the District shall require payment of all current applicable fees and charges provided by these Rules and all

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costs associated with the violation, including any expenses, loss, damage or attorney fees caused by the violation prior to the District providing service to any property or facilities owned, leased or occupied by the responsible party, whether or not such property or facilities are directly involved in the violation of this section. This section shall not be construed to limit the right of the District to pursue other fees, charges, remedies or forms of relief provided in these Rules and by other applicable law.

- 8.3 Criminal Offenses: The District will notify law enforcement of any person who maliciously, willfully, negligently, or criminally breaks, damages, destroys, uncovers, defaces or tampers with any part of the District's water or wastewater system or facilities, or takes water from the District's facilities, including fire hydrants, without written authorization by the District. Such persons may be subject to fines and/or imprisonment, if convicted of a criminal violation, which shall be in addition to whatever penalties and charges are imposed by the District.
- 8.4 Temporary Suspension of Service: Service may be suspended by the District upon non-payment of fees, rates, tolls, penalties, or charges owed to the District, upon failure to comply with these Rules or drought resolutions or policies, or when the District Manager, District Superintendent or District Representative determines that an emergency exists and such revocation is necessary to protect the health, safety and welfare of the inhabitants and visitors of the District or the District's water or wastewater system. The temporary suspension of service as a result of nonpayment, for failure to comply with the District's cross-connection control requirements or drought restrictions, or because of maintenance, is not considered an involuntary disconnection or revocation of service. If an owner wishes to challenge or contest a temporary suspension for non-payment, he/she may contact the District's Customer Service/Billing Department at 303-288-2646 to discuss and/or dispute the fees, rates, tolls, penalties, or charges and present objections to the bill and/or the suspension of services. If an owner wishes to challenge or contest a temporary suspension for failure to comply with backflow or drought requirements, he/she may contact the Water System Manager at the same number to discuss and/or dispute the suspension of services. The determination of the Customer Service/Billing Department regarding the fees, rates, tolls and charges and the suspension of services for non-payment or drought violations shall be final. In its sole discretion, the District may determine to provide additional process for suspensions, including without limitation a hearing before a Department Manager, District Manager, or the District's Board of Directors.
- 8.5 Revocation or Disconnection of Service – Notice And Hearing: Except as specifically provided otherwise in these Rules, or except in those circumstances involving an imminent hazard to the health, safety or welfare of the inhabitants or visitors of the District, or to the District's water or wastewater systems, or the environment, an owner shall be given notice and the opportunity to request a

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hearing prior to involuntary disconnection or revocation of service. Any request for such a hearing shall be in writing and submitted to the District Manager within fifteen (15) days of receiving notice from the District. Such notice shall be deemed to have been received by the owner upon the deposit of the notice within the mail or delivery by hand or courier service of such notice to the owner's residence or business if located within the District or, if the owner neither resides nor does business within the District, three (3) days after mailing of notice to the owner's billing address. Said hearing shall be held by the District with a hearing officer to be designated by the District Manager, which hearing officer may be the District's Board of Directors sitting at a Regular or Special meeting of the Board, the District Manager, or other hearing officer designated by the District Manager, at which time the customer or owner shall have an opportunity to present testimony and evidence. Following said hearing, the hearing officer's decision shall be made. If it is the decision of the hearing officer to revoke service to the property, it shall be revoked by disconnecting or otherwise discontinuing all water services to the property.

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ARTICLE II

REQUIREMENTS FOR ACQUIRING WATER
AND WASTEWATER SERVICE FROM
SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT

1. WATER AND WASTEWATER SERVICE

1.1 Policy: Provision of water and wastewater service by the District to property located within the District's boundaries or to property proposed for inclusion within the District's boundaries is subject to these Rules. It is the District's policy that growth and development within the District's boundaries, or on land proposed to be included within the District's boundaries, must pay for itself. Accordingly, owners seeking to acquire water and wastewater service from the District shall enter into a Water Resources Agreement with the District, and may be required to meet certain additional conditions prior to obtaining service from the District.

1.1.1 No Obligation of Service: The District is not obligated to provide public water and wastewater service other than as required by existing express written contracts approved by the District's Board.

1.1.2 Denial of Service: The District's Board retains, in its sole discretion and judgment, the right to deny an application for service when granting the application would not be in the best interests of the District or its residents and owners. The factors that the District's Board may consider, not by way of limitation, include:

1.1.2.1 Whether adequate water rights, water storage, water treatment facilities and other water facilities are available and will be available in the future to serve the development proposed for the property;

1.1.2.2 Whether adequate wastewater collection, delivery, and treatment and related facilities are available;

1.1.2.3 The impact of the requested service on the District's existing water and wastewater service, treatment, transmission and storage facilities;

1.1.2.4 The economic effect that the approval of the application for service would have on the District and its residents and owners;

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1.1.2.5 Whether granting the application for service would adversely affect the public health, welfare or safety of the District's residents and owners; and

1.1.2.6 Any other factors related to the application for service.

There may be factors and aspects of an application for service that are unique to that application and are not contained in this list, and the Board retains the right to consider any and all factors related to an application for service and to make a decision based thereon.

1.1.3 Limitations on the District's Ability to Provide Service: The District's ability to provide service to property included within the District's boundaries, may be limited by factors including, but not by way of limitation: capacity limitations related to water and wastewater treatment; capacity limitations related to main lines, water and wastewater facilities and service lines; available water resources; or other factors resulting in the unavailability of water supply, including restrictions that may be imposed under the District's contracts with Denver and Metro. The District may require that certain conditions be met by the owner in order for the District to provide water or wastewater service to the property.

1.1.3.1 Covenants: Some conditions of contracts or agreements between the District and owners seeking service may require owners to enter into commitments concerning the property. Such commitments shall be recorded and shall constitute covenants that run with the property.

1.1.3.2 Service Dependent on Location of Property: Provision of service to property within the District's boundaries may depend on the location of the property within the District and may be determined and/or limited pursuant to resolutions and agreements entered into by the District.

1.1.4 Contracts and Agreements: Pursuant to §32-1-1001(1)(d)(I) C.R.S., the District may enter into contracts and agreements affecting the District's water and wastewater service and its ability to provide service. Such agreements may include, without limitation, intergovernmental agreements, water purchase agreements, water resource agreements, and wastewater tap agreements. The District's provision of service may be limited under such agreements.

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1.1.5 Responsibility for the Costs of Providing Service: An owner or developer seeking to acquire water and wastewater service from the District shall be responsible for the design, installation, construction, and any other costs and/or fees and charges associated with provision of water and wastewater service to the property and the extension or enlargement of public facilities. Except as otherwise provided in these Rules, or an agreement between the District and the property owner those costs and/or fees and charges include but are not limited to, costs associated with planning, engineering, inspection, administration, acquisition of facilities, acquisition of rights-of-way, acquisition of water rights, attorney fees, and all other fees and/or costs necessary to provide new, different, or additional service.

1.2 General Requirements for Acquiring Water and Wastewater Service:

1.2.1 Included within District Boundaries: An owner seeking to acquire water and wastewater service from the District shall provide proof to the District that the subject property is included within the District's boundaries, and is subject to these Rules and taxation by the District. If the subject property has not been included within the District's boundaries, the District shall not provide water or wastewater service until it has been included, as provided in Article I of these Rules, and all other requirements of these Rules are fully satisfied.

1.2.2 Inclusion of Property into the Denver Regional Council of Governments Urban Growth Boundaries: An owner seeking to acquire water and wastewater service from the District shall provide proof to the District that the property is located within the Urban Growth Boundary (UGB) identified by the Denver Regional Council of Governments (DRCOG), or an existing urban area recognized by DRCOG. Provision of water and wastewater service by the District to any property will not be approved until the property is included within the designated UGB or in other legislatively mandated growth boundaries, and all other requirements of the District's Rules are fully satisfied.

1.2.3 Annexation of Property within the City of Commerce City: Provision of water and wastewater service by the District to any property located within the boundaries of the Northern Infrastructure General Improvement District or to any property to be served by facilities funded by the City of Commerce City will not be approved until the property is annexed into the City of Commerce City. The City may also require inclusion into the Northern Infrastructure General Improvement District.

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1.2.4 Payment of Costs and Fees: All facilities to be constructed by the District in order to serve a particular property must be financed solely by the owner. An owner seeking to acquire water and wastewater service from the District shall be responsible for the payment of fees as set from time to time by the Board. For current fees, please see the District website, <https://southadamswaterco.gov>.

1.3 Procedural Requirements for Acquiring Water and Wastewater Service:

1.3.1 Application for Development Plan Review: A person seeking to acquire water and wastewater service from the District shall submit an application for development plan review, which is the District's review process designed to ensure that all water and wastewater work and facilities proposed within the District comply with the District's Design Standards and these Rules. The District's development plan review will determine the scope of additional water and wastewater facilities required to serve the property for which service is requested.

1.3.1.1 Application Fee: The application for development plan review shall be submitted in accordance with these Rules and the District's Design Standards. An application for the development plan review will be accepted only when filed by the owner or his/her authorized agent prior to any application for service or extension of facilities. The application for development plan review and the development plan review fee shall be submitted on the District's standard forms, which are found on the District's website, <https://southadamswaterco.gov> or made available by District staff. The application will not be accepted by the District until all the information required on the forms is supplied and the fee has been paid. The development plan review fee will cover all consultant review time. The Board of Directors shall set a maximum rate for the development plan review fee, and it may change the maximum rate from time to time. District staff will develop a non-binding estimate of consultant time for a project, which will be the initial basis for the fee. Staff may revise the fee from time to time if plan review for a project may exceed or has exceeded the estimate. Regardless of the accuracy of any estimate, the District may withhold any further development approvals, including up to not approving a connection permit, issuance of a certificate of occupancy, or suspension of service until the District has been reimbursed for all development plan review costs. Upon completion of the development plan review process, any remaining, unused portion of the fee shall be

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reimbursed to the applicant. Any additional fees will be discussed with the applicant applying for service.

- 1.3.1.2 Approval Prior to Construction: Water and wastewater facility plans and specifications must be approved by the District prior to the commencement of any construction activities. Water and wastewater facility plans and specifications shall be submitted in accordance with the procedures set forth in these Rules and in the Design Standards.
- 1.3.1.3 Compliance with Specifications Required for Plan Approval: Construction of water and wastewater facilities within the District shall comply with the District's Design Standards as they currently exist and as may be amended. In the event that materials and installation procedures for the water and wastewater facilities are not explicitly addressed in the Design Standards, supplemental specifications shall be submitted to the District for review.
- 1.3.2 Application for Service: Any owner seeking to acquire water and wastewater service from the District shall submit an application for service. An application for service requires the acceptance of both water and wastewater service. Applications for service will be accepted only when filed by the owner, or his/her authorized agent, and shall include the legal description and street address of the property to be served. The application for service shall be made at the District's office on forms provided by the District and will not be accepted for review by the District until all the information requested on the forms is supplied.
 - 1.3.2.1 Inclusion within the District's Boundaries: All parcels of land outside the District's boundaries must be included into the boundaries of the District, in accordance with the inclusion process set forth in Article I of these Rules, prior to submitting an application for service from the District, unless such inclusion is expressly waived by the District.
 - 1.3.2.2 Conditions on Applications for Service: The District may accept an application for service for property included within the District's boundaries, subject to the following: (1) there are existing water and wastewater main lines fronting the property to be served; or (2) there is an extension contract with an accompanying deposit for water and wastewater main line extensions to provide frontage main lines. However, water and wastewater service by the District is subject to availability of

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service based on adequate water treatment capacity, wastewater treatment capacity, water and wastewater facilities and water resources.

1.3.2.3 Determination of Required Service: The District will determine the number of water and wastewater ERUs necessary to serve each property by analyzing the potable and irrigation water demands associated with the planned development of the property.

1.3.2.4 Approval at Discretion of the District: Approval of any application for service shall be at the sole discretion of the District. If, in its sole discretion, the District determines that there are not adequate or available water and/or wastewater resources or facilities sufficient to serve the property, the District shall deny the application for service.

1.3.2.5 Cancellation of an Application for Service: An application for service may be canceled if the connection fees have not been paid.

1.3.3 Conditions for Connection Permits:

1.3.3.1 Requirements for Construction: All service line extensions and connections to main lines shall be in accordance with the requirements provided in these Rules and the District's Design Standards.

1.3.3.2 Building Permits: Before an owner can acquire water and wastewater service from the District, he/she must obtain a valid building permit from the appropriate agency for the property for which service is requested.

1.3.3.3 Connection Permits Do Not Authorize Road Cuts: Issuance of any connection permit by the District does not authorize the holder thereof to make any cuts in a public road or street or to do anything for which separate permission is required of another governmental entity.

1.3.3.4 Revocation: Any connection permit or grant of service may be revoked at any time by the District Manager or the Board if the planned installation or use of water or wastewater service lines is changed or is not made in accordance with these Rules.

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- 1.3.3.5 Subject to Rules: All connection permits, grants of service and any other agreements issued or entered into by the District shall be subject to each of the provisions of these Rules as they may be amended from time to time.
- 1.3.3.6 Amended Connection Permits: If the meter size, the classification of the property, or the level of service are changed or recalculated by the District from those set forth in the application for service, so as to increase the level of service, quantity of water or wastewater, or amount of water treatment necessary, the property owner shall apply for an amended connection permit and pay the difference between the connection fees for the amended permit and the amount paid.
- 1.3.3.7 Limitations on Connection Permits: Each connection permit shall allow only one service line connection. Connection permits issued to an owner are applicable only to the real property and building(s) or portion thereof specified in the connection permit, and all rights under the connection permit shall be deemed to be automatically conveyed with title to such property. The connection permit shall not be transferable for use on other property or for other buildings on the same property, with one exception. Upon written application, the transfer of the connection permit may be approved by the District, in its sole discretion, upon payment of a connection permit transfer fee, as set forth from time to time by the Board and a District determination that such transfer will not impair the health, safety or welfare of the residents and visitors of the District.
- 1.3.3.8 Expiration of Connection Permit: A connection permit will automatically expire if connection to the District's water and wastewater facilities does not occur within one year from the date of issuance of the connection permit. When connection permits expire, there is no refund of fees.
- 1.3.3.9 Cancellation: The District reserves the right, in its sole discretion, for cost-related, lack of capacity or other reasons, to cancel any connection permit or grant of service issued by the District, including grants of water and wastewater service or approvals of main line extensions at any time prior to connection to the District's water or wastewater system. If the District exercises its right to cancel, it shall refund all fees previously paid that have not been expended for evaluation of

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the respective application for service. For connection permits that expire, there will be no refund of fees.

- 1.4 General Conditions on Service: In addition to the other requirements for water and wastewater service set forth in these Rules, the District may require that an owner seeking to acquire water and wastewater service from the District or seeking inclusion of property within the District's Boundaries satisfy certain conditions, as outlined in these Rules. Those requirements include:
- 1.4.1 Adequate Water Resources: An owner seeking to acquire water and wastewater service from the District may be required to enter into a Water Resources Agreement with the District, which may require dedication of water rights to the District, as more specifically set forth in Article II, Section 1.5 of these Rules.
 - 1.4.2 Adequate Water and Wastewater Facilities: As a condition of service, the District may require advance payment of fees or capital to build the necessary water or wastewater facilities, and may provide for such fees or capital by entering into an agreement with the owner, for which the District may provide credit to the owner. The District also may require payment of additional fees to meet costs of expanding water and wastewater facilities. Those fees are to be determined by the Board from time to time.
 - 1.4.3 Adequate Main Lines and Service Lines: An owner seeking to acquire water and wastewater service from the District may be required to pay the construction costs of all main lines, service lines, and other facility extensions necessary to provide water and wastewater service to the subject property. The owner may not be reimbursed by the District for such costs, as more specifically set forth in Article II, Section 2.0 of these Rules.
 - 1.4.4 Non-Potable Irrigation System: In certain areas of the District, an owner seeking to acquire water and wastewater service from the District may be required to pay for the construction of a separate non-potable irrigation system for the subject property.
 - 1.4.5 "Can Serve" Letters: An owner may be required to provide the City of Commerce City, Adams County or other land use authority, with a "can serve" letter from the District to confirm that there are sufficient water resources and water and wastewater capacity and facilities available to serve a proposed development. The owner must first submit an application to the District identifying the water resources that will be used to serve the property, what level of development will be served by the water resources,

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and what allocation limits will be placed upon the property should the District reach average or peak year development thresholds. After the completed application has been submitted to the District, the District may provide the “can serve” letter identifying the level of service commitment based on the water resources commitments identified in the application, subject to appropriate conditions.

1.4.6 Property Dedication: As a condition of receiving service from the District, an owner may be required to dedicate easements for well sites, access easements, water, wastewater and electrical line easements or fee simple property at no cost to the District, in order to provide water and wastewater service to property within the District’s boundaries, and in order to implement the District’s non-potable irrigation system. Such easements and/or fee simple property shall be in addition to the dedication of water rights that may be required under a Water Resources Agreement with the District and the other requirements of these Rules.

1.5 Water Resources Agreement: Unless otherwise specified by the District, as a condition of receiving water and wastewater service from the District, an owner seeking to acquire water and wastewater service from the District and/or seeking to be included within the District’s boundaries shall enter into a Water Resources Agreement with the District by which the owner shall dedicate to the District water rights, water storage or related facilities or the equivalent thereof sufficient to provide water service to the subject property. The District has the sole discretion to determine the adequacy and sufficiency of the dedication of water rights, water storage or related facilities, and to determine whether, in the judgment of the District’s Board, the water rights, water storage or related facilities are compatible with the District’s water facilities and delivery system. The owner shall convey such water rights, water storage, related facilities or monies to the District, free and clear of all liens and encumbrances prior to inclusion of the property within the District’s boundaries or approval of service to the property. In no event shall the District be obligated to reimburse the owner for any such water rights, water storage rights, water resource reviews, and related water facilities.

1.5.1 Allocation of ERU Water Rights Credit: Pursuant to the terms of a particular Water Resources Agreement, the District may allocate to the owner entering into the Water Resources Agreement ERU water rights credits, which represent partial payment of the water resources component of the connection fees for a like number of ERU water connections. An ERU water rights credit generally consists of: (1) an ERU potable water rights credit, and (2) an ERU irrigation water rights credit, but the individual terms of a Water Resources Agreement control how an ERU water credit is defined for a particular property.

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- 1.5.2 Assignment and/or Transfer of ERU Water Rights Credits, Interests in Water Connection Allocations and Water Resources Agreements: The District's water resources dedication requirement may be met by obtaining an assignment and/or transfer of a sufficient number of ERU water rights credits, an interest in an existing Water Resources Agreement (which may be validly assigned to the property) or ERU water connection allocation. The District may set forth terms and conditions for its consent to assignments of ERU water rights credits, interests in ERU water connection allocations and Water Resources Agreements and to the transfer of such interests to other lands. An ERU assignment and transfer fee shall be paid to the District for the review of any such proposed assignment and/or transfer. Assignments of ERU water rights credits, interests in ERU water connection allocations and interests in Water Resources Agreements and transfer of such interests to other lands shall be in writing and cannot occur without the District's consent, which shall not be unreasonably withheld, although the District may condition its consent upon reasonable terms. The District may adopt policies from time to time, by Board resolution, concerning such consent. The parties to any such assignment and/or transfer shall indemnify and hold the District harmless from and against all liability, claims, demands and expenses, including court costs and attorney fees on account of any loss or damages arising out of or in any manner connected with the District's consent to any such assignment and/or transfer. The parties to any such assignment and/or transfer shall also release the District from, and waive any and all claims, losses or causes of action that may result from the District's consent to any such assignment and/or transfer.
- 1.5.3 Additional Requirements for Transfers of ERU Water Credits: Some ERU Water Credits are not transferable to other properties. For ERU Water Credits that are transferable, the lands to which the transferred interest is to be made must be included in the District's boundaries, annexed into Commerce City (if annexation is legally available), and located within the DRCOG urban growth boundary. The lands from which the water supply is to be transferred shall have an alternate or backup water supply from another source as a condition of the transfer or, in the alternative, the landowner transferring the water supply shall agree that it shall not be entitled to ERU connections unless and until a future water supply has been dedicated by the owners thereof. The District may require the landowner to execute and record a covenant stating that the transferred water supply is no longer available for use on the property from which it was transferred.
- 1.5.4 Reimbursement for District's Review of Assignments and/or Transfers of ERU Water Rights Credits, Interests in Water Connection Allocations,

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Water Resource Reviews, and Water Resources Agreements: Upon completion of the District's review of any proposed assignment and/or transfer of ERU water rights credits, interests in water connection allocations, water resource reviews and Water Resources Agreements the District may determine its actual costs, including, but not limited to, engineering and attorney fees, in making such a review. If the ERU assignment and/or transfer fee paid to the District is less than the actual cost expended by the District in making such a review, an additional charge will be levied on the parties to the assignment and/or transfer by the District for the difference. Additional charges shall be paid by the parties to the assignment and/or transfer within 15 days of being invoiced.

- 1.5.5 ERUs Limited by Water Connection Allocation and/or Water Resources Agreement: If an owner is allocated a specific number of ERU water rights credits pursuant to a water connection allocation or a Water Resources Agreement with the District, the owner shall be limited to the number of ERU water rights credits specified in the particular allocation document or Water Resources Agreement. If additional ERU water rights credits are required for development, the owner shall enter into an additional Water Resources Agreement or obtain additional ERU water rights credits or ERU allocations by assignment and/or transfer.
- 1.5.6 Security Holders: The District recognizes that various owners and developers may, from time to time, grant security interests in ERU water credits or water resources agreements. The District owes no duties to security holders and is not required to provide notice to any holders of security interests regarding proposed assignment or transfer of ERUs or amendments to any District Resolution, the District's Rules, the FRICO Revised Participant Agreements or other water resources agreements. It is the District's policy that the owner or developer is responsible for coordinating with any security holders and informing them of any items that owner or developer deems material. The District may, in its sole discretion, request proof of release of security interests prior to approving an assignment or transfer, but such request (or lack thereof) does not create any duty to the security holders.
- 1.5.7 Payment in Lieu of Dedication: At the sole discretion of the Board, the owner may satisfy, in whole or in part, the water resources dedication requirement stated above through monetary compensation, adequate to purchase or compensate the District for the water rights, water storage or related water facilities required to provide such service to the subject property. The District may adopt policies from time to time, by Board resolution, regarding such determinations.

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- 1.5.8 Option To Purchase Surface Water Rights: In addition to the District's water resources dedication requirement stated above, and as a condition of receiving service from the District, the owner shall grant, at no cost to the District, in the form prescribed by the District, an option and right of first refusal for the District to purchase the owner's interest in surface water rights that are appurtenant to or have been used on the property requested to be served.
- 1.5.9 Dedication of Groundwater Rights: As a condition of receiving service from the District, an owner seeking to acquire water and wastewater services from the District, at no cost, shall also convey and dedicate to the District, on forms prescribed by the District, all tributary, not nontributary, nontributary and Denver Basin water rights and groundwater rights underlying their property requested to be served. The owner shall irrevocably consent to the use by the District, as a part of its water system, of all of such water, including all water subject to the owner's control in the Denver, Arapahoe, Laramie-Fox Hills and Dakota aquifers underlying the property, which use includes, without limitation, the exclusive right to take, appropriate, produce, use and otherwise dispose of said water. The owner further consents to being served with such groundwater through the District's system, wherein such water may be commingled with water underlying the property of others for the purpose of being furnished by the District. The owner further consents to the District's adjudication of said water in its name in the Water Court.
- 1.5.10 Denial of Service Due to Lack of Capacity: Even if the owner enters into a Water Resources Agreement with the District, the District may deny the property owner's application for services because of limited water treatment capacity, wastewater treatment capacity or other limitations within the District's water and wastewater facilities.
- 1.5.11 Reimbursement for Water Resources Agreements and Water Resource Reviews: For small and routine cases, the inclusion fee and/or development plan review fee charged by the District as set by the Board from time to time is intended to cover the costs incurred by the District in connection with the Water Resources Agreement. The District's staff shall be authorized to conduct a preliminary review of the water rights and water resources being offered by the owner. If the District staff determines that a proposed set of water resources is not small or routine, the staff will estimate the preliminary costs to review the proposed water resources to determine feasibility and the potential for entering into a Water Resources Agreement, including, without limitation, legal and engineering costs. These estimated costs shall be paid to the District as a preliminary review fee prior to the review of the proposed water resources. If District staff determines that the proposed water resources offered by the owner appear

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to meet the criteria of the District, the District would estimate the cost for additional technical review and request the owner to deposit that amount to reimburse the District for expenses associated with the evaluation of the water resources and drafting of the Water Resources Agreement. On completion of the Board's approval or denial of a proposed Water Resources Agreement, the District may determine the actual cost expended by the District for water resource reviews and the associated Water Resources Agreement, including, and without limitation, legal and engineering costs. An additional charge will be levied on the owner for the difference between the actual costs and the amount paid to date, which shall be paid by the owner within fifteen (15) days of being invoiced.

- 1.6 Non-Potable Irrigation System: An owner seeking to acquire water and wastewater service from the District in an area served or to be served by the District's non-potable irrigation system shall be required to implement and construct a separate non-potable irrigation system, which requires a separate tap connection and service line for non-potable water to serve the subject property.
 - 1.6.1 Irrigation Connection Permit: An owner required to implement a non-potable irrigation system shall construct an internal dual water distribution system and shall apply for an irrigation connection permit to obtain non-potable water from the District.
 - 1.6.2 Connections to the Non-Potable Irrigation System: No above-ground fixtures or outlets to which hoses could be connected shall be permitted to connect to the District's non-potable irrigation system or to any non-potable irrigation service line. Accordingly, all connections to the District's non-potable irrigation system or to any non-potable irrigation service line shall be made underground and the delivery of non-potable irrigation water from a non-potable irrigation service line shall be by underground sprinkler systems constructed in accordance with the District's Design Standards.
 - 1.6.3 Temporary Irrigation Connections: From time to time an owner may be required to establish native grasses for a portion of his/her development. For a period of up to one year, the District will consider approving a temporary irrigation permit for this purpose. If approved by the District, all temporary irrigation systems will have to be installed in conformance with the requirements for permanent systems. At the end of one year, or when the temporary supplies are no longer needed, the temporary systems and the physical connections to the District's facilities will be permanently removed. The owner will pay the current water rates for all water used in the temporary system, plus an augmentation charge as determined by the

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District Manager. For approved temporary uses, the owner will not be required to dedicate water resources or pay connection fees.

1.7 ERU Wastewater Connection Permits

- 1.7.1 Assignment and/or Transfer of ERU Wastewater Connection Permits: ERU wastewater connection permits may be acquired by an assignment and/or transfer of an interest in an existing wastewater tap purchase agreement, if permitted by the agreement. The District may set forth terms and conditions for the District's consent to such assignments and/or transfers. An ERU assignment and/or transfer fee shall be paid to the District for the review of any such proposed assignment and/or transfer. Assignments and/or transfers of ERU wastewater connection permits shall be in writing and cannot occur without the District's consent, which shall not be unreasonably withheld, although the District may condition its consent upon reasonable terms. The District may adopt policies from time to time concerning such consent. The parties to any such assignment and/or transfer shall indemnify and hold the District harmless from and against all liability, claims, demands and expenses, including Court costs and attorney fees on account of any loss or damages, arising out of or in any manner connected with the District's consent to any such assignment and/or transfer. The parties to any such assignment and/or transfer shall also release the District from, and waive any and all claims, losses or causes of action that may result from the District's consent to any such assignment and/or transfer.
- 1.7.2 Reimbursement for District's Review of Assignments and/or Transfers of ERU Wastewater Connection Permits: The parties to an assignment/transfer will pay the current assignment/transfer fee prior to the District's review of any proposed assignment and/or transfer of ERU wastewater connection permits. The District may determine the actual cost expended by the District, including, but not limited to, attorney fees, in making such a review. If the ERU assignment and transfer fee paid to the District is less than its actual costs, including, but not limited to, attorney fees, for making such a review. If the ERU assignment and transfer fee paid to the District is less than the actual cost expended by the District for its review, an additional charge will be levied on the parties to the assignment and/or transfer by the District for the difference. Those charges shall be paid by the parties to the assignment and/or transfer within fifteen (15) days of being invoiced. The District will not consent to the assignment until all additional fees are paid.

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2. EXTENSION OF FACILITIES

2.1 Policy: If the District's development plan review determines that the construction of main line extensions or water and wastewater facilities is required to provide the requested service to the property, the owner/developer shall be responsible for all costs associated with acquiring service for the property. The District and the property owner may enter into an extension contract by which the District will construct, install, and complete the water and/or wastewater facility extensions necessary to serve the property. In exchange, the property owner seeking to acquire water and wastewater service from the District shall provide funds to the District in advance of the construction of the facility extensions, as more specifically provided in the extension contract and in accordance with these Rules.

2.2 General Rules Regarding Construction of Main Line Extensions, Service Line Connections and Water and Wastewater Facilities:

2.2.1 Design: The District will design all water and wastewater facilities that are included as planned system facilities within the District's most recent Master Plans, or as determined in the development plan review.

2.2.2 Construction Consistent with District Plan: All construction within a development to be served by the District shall be completed in such a manner as to allow the District to continue a main line extension in accordance with the District's Master Plans and Design Standards.

2.2.3 Construction Consistent with District's Design Standards: The District's Design Standards establish minimum standards for the design and construction of water distribution and wastewater collection facilities within the District. All water and wastewater facility construction, repair or modification work within the District shall comply with these Rules, Design Standards and Master Plans, as those documents currently exist or as amended, and shall comply with any additional requirements and modifications that may be adopted by the District as necessary for a particular project. The District reserves the right to impose additional and/or more stringent requirements on all or part of any development as necessary to address the specific circumstances of a project or to ensure the reliability and quality of the District's water and wastewater facilities.

2.2.4 Required Fees, Charges and Permits: No main line, service line or facilities shall be constructed within the District, nor connected to the District's water or wastewater system until all fees and charges have been paid, and all applicable permits have been issued by the District.

2.2.5 Compliance with District Rules: No service line, main line or water and

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wastewater facilities shall be connected to the District's water or wastewater system until all conditions and contractual obligations set forth in these Rules and any applicable contract or agreement have been fully complied with by the applicant/owner.

2.3 Extension of Water and Wastewater Facilities:

2.3.1 Policy: When District water and wastewater facilities are not already located adjacent to a proposed development within the District's Boundaries, it shall be the responsibility of the owner/developer seeking service, to extend existing water and wastewater facilities to provide service to the property. The owner/developer shall pay all costs associated with the water and wastewater facility extensions, including without limitation, engineering and construction costs. If the District constructs the water and wastewater facility extensions, the owner/developer shall provide all funds necessary for such construction. All water and wastewater facility extensions shall be constructed in accordance with these Rules, Design Standards, and Master Plans. Prior to the District's acceptance of the water and wastewater facility extensions, reproducible as-built drawings shall be provided, or reasonable provision made therefor. No work on a proposed water and wastewater facility extension shall commence, and no water and wastewater facility extension shall be constructed within the District, prior to the payment of all fees and estimated costs and the issuance of a water and wastewater facility extension permit.

2.3.1.1 Extension of Water and Wastewater Facilities In and Through a Platted Subdivision: In addition to the other provisions set forth herein, a developer shall install the necessary water and wastewater facilities in and through the subdivision upon approval of the plans and specifications for construction by the Board. The District shall inspect the construction of the water and wastewater facilities, and shall not accept the water and wastewater facilities until it grants final approval.

2.3.1.2 Extension of Water and Wastewater Facilities Outside the District's Boundaries: Water and wastewater facilities shall not be extended to serve properties outside the District's Boundaries without the approval of the Board. If approved, the water and wastewater facility extensions shall meet all criteria of these Rules, Design Standards, and Master Plans.

2.3.2 Construction of Water and Wastewater Facility Extensions: The District will determine whether the District or the owner/developer will construct

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water and wastewater facility extensions. If the District constructs the extensions, the District and property owner may enter into a water and wastewater facility extension contract (“extension contract”) consistent with these Rules.

2.3.2.1 Wastewater Facility: All sewer mains shall be constructed with an access road for cleaning/maintenance at manholes. All manholes shall be located in public street rights-of-way or within permanent easements granted to the District. All manholes shall be accessible by maintenance vehicles via all-weather drives. Where manholes are not located in paved streets, a gravel paved roadway surface shall be installed over the sanitary sewer for access to each manhole. Gravel surfacing shall be CDOT Class 6 road base material a minimum of 4 inches thick and 15 feet wide. All manholes that are not located within paved streets shall have lockable lids in accordance with the Approved Construction Materials List of the District.

Manholes shall be located outside areas subject to flooding. When flood prone locations cannot be avoided, the District, at its sole discretion, may allow the installation of manholes designed to prevent the entry of surface runoff.

2.3.3 Location, Street Lines, and Grading: All water and wastewater facility extensions, including special structures required to ensure proper operation of the water and wastewater facility extensions, shall be designed and constructed according to the District’s Design Standards, Master Plans and subject to the approval of the District. Prior to the District’s acceptance of the water and wastewater facility extensions, reproducible as built drawings shall be provided or reasonable provision made therefore.

Water and wastewater facility extensions will be made in public streets or in rights-of-way granted to the District. Water and wastewater facility extensions may also be made on new streets so long as the streets are constructed to line and grade conforming to the plan and profile accepted by and recorded with the appropriate county or city. No water and wastewater facility extensions shall be installed until street lines and grades are established and the street is graded in a manner acceptable to the county or city, and/or until rights-of-way required by the District have been conveyed to the District, at no expense to the District. If requested by the District, the applicant shall erect and maintain stakes to indicate the correct street lines and grades to facilitate proper installation of the water and wastewater facility extensions.

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- 2.3.5 Street Plan/Profile: If requested by the District, the applicant shall furnish an adequate plan and profile of the street in which the water and wastewater facility extension is to be installed as approved by and filed with the proper county or municipal entity. Said plan and profile shall show, in addition to the street grade as approved, the existing grade at all street corner lines and each property line, or at such other locations as may be designated by the utility, and the date when the profile of the existing street was made. Only maps, plans, profiles, or other drawings prepared and stamped by a licensed engineer (PE) from the State of Colorado will be accepted by the District.
- 2.3.6 Water and Wastewater Facility Extensions in Unfinished Streets: When water and wastewater facility extensions are made in unfinished streets, the applicant shall be fully responsible for any damage to the water and wastewater facilities and all fixtures and appurtenances, such as hydrants, valve boxes, blow off valves, boxes, etc., including the location thereof, if such damage results from or such relocation is necessitated by acts of the applicant or his/her agents. If after the water and wastewater facility extensions are laid, the surface grade is lowered, with the result that the required minimum cover of the water and wastewater facilities, fixtures, or appurtenances is not maintained, the applicant shall pay the cost of lowering the water and wastewater facilities to the level required by the District to correct this deficiency. This responsibility shall remain in force until the street is officially accepted by the proper county or municipal authority.
- 2.3.7 Length and Size of Water and Wastewater Facility Extensions: The determination of the required length and size of a water and wastewater facility extension shall, in all cases, be made by the District but, in general, shall be based on the following principles:
- 2.3.7.1 It shall be each owner's responsibility to extend potable/non-potable water and wastewater facilities to the most distant point(s) of the property so that adjacent owners will be able to connect to and extend those facilities.
- 2.3.7.2 The terminal point of the water and wastewater facility extensions laid in streets not within a development shall be the property line beyond the last owner to be served by the water and wastewater facility extension.

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- 2.3.7.3 When applicable, the wastewater facilities shall be extended to the farthest point or points up-grade of the property to be served so that the system may be perpetuated.
- 2.3.7.4 When applicable, the water facilities shall be extended to the points and locations that will permit the formation of adequate loops and so that the systems may be perpetuated.
- 2.3.7.5 If the water and wastewater facility extension is laid in streets within a development or subdivision, it shall include all water and wastewater facilities required to serve the properties in the development plus any water and wastewater facilities required to connect dead ends within the development or subdivision at intersecting streets.
- 2.3.7.6 The size of the water and wastewater facilities to be installed will be based on the existing and future needs of the District and in accordance with its Design Standards and Master Plans.
- 2.3.8 Additional Water and Wastewater Facilities: The District shall determine if any additional water and wastewater facilities, including, but not limited to, storage tanks, treatment facilities and booster pumps, will be required to provide service in conjunction with a water and wastewater facility extension. The applicant shall be responsible for the installation of such facilities in accordance with the District's Rules, Design Standards and Master Plans.
- 2.3.8.1 Fire Hydrants: The location of public fire hydrants shall be determined by the appropriate fire protection authority and shall be subject to approval by the District.
- 2.3.8.2 Pumping Stations and Force Mains: When pumping stations and force mains are required, the cost of engineering, construction and all other costs of said facilities shall be the responsibility of the owners served thereby. In those instances where more than one tract of land and/or platted subdivision may be served by the pumping station and/or force main, the District may require installation of a larger capacity pumping station and/or force main than that necessary to serve the initial development.
- 2.3.9 Costs: All costs associated with water and wastewater facility extensions and the provision of service by the District shall be the responsibility of the owner or developer seeking to acquire water and wastewater service,

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unless otherwise determined by the District. The costs of water and wastewater facility extensions shall include the actual cost of the extensions, labor, equipment, and overhead at the prevailing District overhead rates. If pavement, excavation, replacement or repairs are required for the water and wastewater facility extension, those additional costs will be added to the cost of the water and wastewater facility extension. There may be additional costs required to provide adequate fire flow as determined by the fire protection authority, including, but not limited to, main lines, storage tanks and booster pumps. The costs of extending water or wastewater facilities that will benefit land for more than one owner may be subject to District participation or special assessment.

- 2.3.10 Ownership and Control of Extension: Ownership of any District operated water and wastewater facility extension shall at all times be and remain vested in the District. All facility extensions are under the sole control and jurisdiction of the District. This includes the right of the District to connect additional customers, without the consent of the applicant, make further facility extensions beyond or running laterally from said facility extension, or to connect the facility extension with any other portion of the water and wastewater systems of the District, without incurring any obligations to the applicant or owner/developer receiving services from the facility extension except as hereinafter provided.
- 2.3.11 Water and Wastewater Facility Extension Contract: The District and the owner may enter into an extension contract by which the District agrees to construct, install, and complete the water and wastewater facility extensions necessary to serve the property, which may require the District to construct main line extensions and the owner to provide funds in advance and upon completion of extensions. The District reserves the right to require that an extension contract cover all facilities needed to supply a real estate development or subdivision in its entirety.
- 2.3.12 Rules Apply: All connections to facility extensions installed in accordance with the terms of an extension contract shall be subject to these Rules and the District's Design Standards.
- 2.3.13 Deposit of Funds: Upon execution of an extension contract, the applicant shall deposit with the District an amount, in immediately available funds, equal to the District's planned cost of the facility extension as indicated in the extension contract. Any additional amount needed as a result of increased costs will be paid per § 2.3.15 below.

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- 2.3.14 Timing of Construction: Facility extensions will normally be constructed in the order in which all requirements outlined herein have been met; however, the District may vary the timing of construction in order to integrate the construction of the main line extension with other approved projects waiting for construction, and to take due consideration of weather conditions, availability of materials and immediacy of need.
- 2.3.15 Refund or Payment of Additional Costs Upon Completion: Upon completion of the main line extension, the District shall determine the actual amounts expended for the main line extension and shall refund the difference between the actual costs and the deposit submitted by the applicant, if the actual cost is less than the deposit. If the deposit is less than the actual cost expended for the main line extension, an additional charge will be levied on the applicant by the District for the difference. Additional charges shall be paid by the applicant within 15 days of being invoiced. The District reserves the right to delay the installation of any service tap or connection until the District has received the additional amount.

2.4 Service Line Extension and Connection to District Service Lines:

- 2.4.1 Policy: Owners seeking to acquire water and wastewater service from the District are responsible for extension of the building facilities and service lines to the District's water or wastewater main lines. All service line extensions and connections shall be constructed in accordance with these Rules and the District's Design Standards. Payment of all fees and the issuance of a connection permit are required prior to connection to the District's main lines.
- 2.4.2 Separate Service Lines: A separate and independent water and wastewater service line shall be provided for every building, business, dwelling, unit, and subdivided lot except approved outbuildings or as otherwise approved by the District. Accordingly, separate and independent water and wastewater service line extensions and connections shall be required for multiple units located on one property whether such units are located in one building or dwelling or otherwise. Service lines shall be installed at the expense of the owner.
- 2.4.2.1 Multi-Family Dwellings: Each multi-family dwelling of four (4) or more units and each property with four (4) or more dwellings may receive service from a master meter so long as (a) all units are owned by the same person or (b) the units are managed by a homeowners' association or other licensed property manager with enforcement powers derived from

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covenants or other documents of record running with the land.

2.4.2.1.1 In the event that ownership of the project is changed from a single owner to a common interest community or other multiple owner structure, the application to change accounts must be accompanied by a letter from a Colorado-licensed attorney or real estate broker certifying that under the new ownership structure the units are required to be managed by a condominium association or other licensed property manager with enforcement powers derived from covenants or other documents of record running with the land.

2.4.2.1.2 In the event the project falls under the Colorado Department of Health and Environment's consecutive systems rules, the property owner(s) shall be responsible for compliance with all rules applicable to consecutive systems. Under no circumstances shall an "integrated system" be created without the express resolution of the Board. As between the District and any customer, the customer shall be responsible for determining whether it is subject to the consecutive systems rules.

2.4.2.2 Commercial/Industrial/Business Buildings: Each commercial, industrial, or business unit within a building shall have a separate and independent water and wastewater service line, connection, and water meter, which connection may be to a District facility or a private facility which taps into a District facility; provided, however, that units in a building classified as a professional office building, as defined in section 2.4.2.2.1 below, may be permitted to have common water and wastewater taps to occupants of a multi-office/multi-story facility, as though it were a single business, upon consent of the District. Sewer tap fees will be calculated and based on the size of the water tap to the District facility. Water tap fees will be based on the size of the water tap to the District facility or by the meter size for the individual units whichever is deemed to be lower; provided, however, that if the proposed use of a unit or building is a high-water use (e.g. laundromat or car wash), the District may conduct a site-specific demand analysis upon which to base the fee. If the water demands change for

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the building or an individual unit in a manner that exceeds the capacity of the main water tap or the individual service size, a new and additional service connection will be required including the payment of additional water and sewer tap fees.

2.4.2.2.1 Professional Office Building: A facility characterized by activities conducted in an office environment generally focusing on business, government, legal or financial professions may be classified by the District as a professional office building. Examples include, but are not limited to, lawyers, accountants, engineers, banking, and real estate professionals. Specifically excluded from this definition are restaurants, cooking and any other professions or facilities which may pose special consideration for sanitary sewer waste streams. The purpose of this designation is to permit common water and sanitary sewer taps to occupants of a multi-office/multi-story facility, as though it were a single business. Professional office building designation will be approved by the District on a case by case basis and may be documented in a recorded document.

2.4.3 Design And Construction Specifications for Service Lines: Service lines shall be installed in accordance with the specifications set forth in the District's Design Standards, and shall meet the requirements of all other regulatory agencies. All contractors, licensed plumbers and others doing work within the District shall comply with these requirements.

2.4.3.1 All water service lines shall be brought to the meter riser (on the private property side) at the expense of the owner and shall meet all requirements of the District and other regulatory agencies.

2.4.3.1.1 Each water service line shall have an independent connection to the District's main line and shall not be interconnected with any other water supply system.

2.4.3.1.2 Contractor Qualifications: No person, other than a licensed contractor, shall construct a building water or wastewater service line or make a connection to the facilities of the District. All contractors and

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subcontractors shall be approved by the District Manager prior to commencing work as allowed by a connection permit. Service line connections shall be made by bonded, licensed plumbers or pipe layers, but plumbing contracted by a licensed master plumber may be performed through journeyman plumbers or apprentices under their direction. The District assumes no responsibility for work performed by general contractors, subcontractors, or their agents.

- 2.4.3.1.3 Inspections: The applicant shall notify the District by fax at 720-206-0598, or as otherwise designated by the District, when the main line or service lines are ready for inspection and connection to the District's facilities. The connection and testing shall be made under the supervision of the District or a representative of the District. The entire length of the trench containing the service line, from the building to the District's facilities, or a main line extension, shall not be backfilled until inspection by the District.
- 2.4.3.1.4 Costs: All costs and expenses of the installation and construction of water or wastewater service lines or connections shall be the responsibility of the owner or developer seeking to acquire water and wastewater service.
- 2.4.3.1.5 Damages: The owner shall indemnify and hold the District harmless from any loss or damage that may directly or indirectly be occasioned by the installation of a water or wastewater service line or connection to the District's service lines.
- 2.4.3.1.6 Maintenance/Replacement of Service Lines: Each owner shall be responsible for owning, repairing, maintaining and/or replacing his/her wastewater service lines including the tap. Each owner is also responsible for that portion of the water service line from the downstream side of the meter pit or vault to the building or unit.

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2.5 Private Fire Protection Systems: To the extent that the local Fire Protection District requires an owner to install a private fire system, the District will provide water for that system for fire protection purposes only. All underground utilities associated with the private fire system are to be built per the District's Design Standards and approved specifications. A private fire protection system is further defined as either a private fire line, or a private fire hydrant.

2.5.1 Private Fire Line: Lines of various sizes that are normally required by the Fire Department in accordance with the NFPA standards for the sole purpose of providing water for fire suppression systems (sprinklers) located within a structure or building. Fire suppression systems are for serving the interior of a building with either automatic and/or manual fire extinguishing systems. The private fire suppression line shall start on the system side of the valve connecting it to the District's water supply and include the entire sprinkling system.

2.5.2 Private Fire Hydrant: A hydrant, located on private property, connected to a main that is at least six (6) inches in diameter required by the Fire Department in accordance with NFPA standards. The private fire hydrant line shall start on the hydrant side of the valve connecting into the District's water supply and includes the fire hydrant.

2.5.3 Water Quality: To maintain water quality throughout its distribution system, the District will have the right to flush all dead-end lines created when a fire system is installed. To the extent that a backflow prevention assembly is required on the private fire system, the owner is responsible for the installation and testing of the backflow prevention assembly. The installation of backflow prevention assemblies shall be in accordance with Article V of these Rules.

2.5.4 Service Charge: The District will assess a monthly service charge for each private fire line based on the size of the fire system. There is currently no monthly service charge for private fire hydrants.

3. FEES, RATES AND SERVICE CHARGES

3.1 Policy: Owners, developers, and other persons seeking to acquire water and wastewater service from the District, or seeking changes to existing service, shall be responsible for all applicable fees, rates and service charges as periodically determined by the Board.

3.1.1 Modification of Fees, Rates and Service Charges: The fees, rates and service charges of the District may be modified from time to time by Board action at a Regular or Special meeting of the Board without

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amending these Rules. Some modifications may also implement additional fees, rates and/or service charges and/or expand existing fees, rates and/or service charges.

- 3.1.2 Payment of Fees: All fees due to the District shall be paid prior to the issuance of the connection permit and provision of service. However, when developers or owners install service lines prior to road paving, no fee shall be required to be paid until the application for service is made as required herein.

- 3.1.3 Connection Fees: Water and wastewater connection fees will be charged to all owners or developers seeking water and wastewater services from the District by means of a new, additional or increased size of tap, meter or connection to District main lines. Each living unit must have a tap unless a master tap is permitted and purchased. A living unit is defined as a living space for one (1) single family. For example, if part of a duplex is sold separately, then each unit must have its own tap. The connection fees shall be determined by the Board.
 - 3.1.3.1 Components of Water and Wastewater Connection Fees:
 - 3.1.3.1.1 Water Connection Fees: Water connection fees may consist of different components such as: water tap fees, tap-in charge, development plan review fees, water resource development charges, system development charges, labor charges, meter charges, and/or rebate fees. South of Sand Creek there are additional charges imposed by Denver Water.

 - 3.1.3.1.2 Wastewater Connection Fees: Wastewater connection fees may consist of different components such as: system development charges, inspection and development plan review fees, per-acreage fees, and/or rebate fees.

- 3.1.4 Payment of Connection Fees: The connection fees will be due and payable when application is made to the District for new or additional water and wastewater service, and prior to the installation of a water or wastewater connection.

- 3.1.5 Expiration of Connection Permit: Any and all connections must be installed and put into service within one (1) year of purchase. Failure to do so will result in the expiration of the connection permit. Reactivation will

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result in additional charges. There will be no refund of the original connection fee.

3.1.6 Increase or Change in Type of Service: A request for an increase in water meter size will be granted upon payment of the difference in water and wastewater connection fees for the water meter size requested and the water meter size for which a connection fee was paid, provided that sufficient capacity is available in the District's facilities.

If a single meter serves multiple dwelling units and the number of units is increased, provided that sufficient capacity is available in the District's facilities, payment of water and wastewater connection fees will be required whether or not an increase in water meter size is requested. The connection fees shall be paid prior to occupancy of the increased number of units. The applicant shall pay a fee for each additional unit or the difference between the fee for the increased water meter size and the fee for the existing water meter size, whichever is greater.

3.1.7 Decrease or Abandonment of Service: No refund shall be made for a decrease in size of the water meter or abandonment of water or wastewater service.

3.2 Inclusion Petition Fee: This fee is charged by the District to cover the costs incurred by the District in evaluating a petition for inclusion and Water Resources Agreement.

3.3 ERU Assignment and/or Transfer Fee: This fee is charged by the District to cover the cost incurred by the District in reviewing an assignment and/or transfer of ERU water rights credits, interests in water connection allocations, Water Resources Agreement and ERU wastewater connection permits.

3.4 Miscellaneous Fees: Other fees may be adopted from time to time by the District's Board and may include the inspection fee, temporary water lease fee, and fees to reimburse the District for actual costs expended.

3.5 Service Charges:

3.5.1 Calculation of Service Charges: Service charges shall be paid by all customers in accordance with the rates schedules adopted.

3.5.2 Amended Service Charges: If in the District's sole discretion, generally approved service charges do not represent fair, reasonable and equitable charges for the intended use, the District may adjust the charges.

3.5.3 Fire Line Standby Charge: The District shall assess a service charge for a standby fire line.

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3.6 Billing Procedures:

- 3.6.1 Commencement of Service: Balances on the account associated with a particular property must be current prior to the commencement of service to said property.
- 3.6.2 Service Charges: Upon the securing of a connection permit for service, and upon payment of the connection fees, service charges shall commence at the time of meter installation.
- 3.6.3 Owner and Occupant Liable: Whenever possible, accounts will be set up in the name of, and service charges will be addressed to the user/occupant. However, the owner of the property remains responsible for payment of any and all fees, rates and charges that are not paid when due by the occupant. The District is not responsible for disputes between an owner and occupant regarding the payment of fees, rates, tolls and charges.
- 3.6.4 Condominiums: When a condominium association exists for a number of units receiving service from the District through one meter, the condominium association shall receive a bill for all units serviced by the association. In no event shall the District be obligated to separately bill the owners of individual units within a condominium unless service to each unit is metered separately.
- 3.6.5 Billing Cycle: Statements of service charges will be mailed monthly. Other fees due to the District may be added to the statements. Except as specifically provided by written agreement between the District and an owner, all service charges are due upon receipt. If a customer contests a statement, he/she may contact the District's Customer Service/Billing Department at 303-288-2646 to discuss and/or dispute the fees, rates, tolls and charges and present objections to the bill. The determination of the Customer Service/Billing Department regarding the fees, rates, tolls and charges shall be final.
- 3.6.6 Delinquent Charges: The District will charge delinquent charges for various actions including late or nonpayment of water and/or wastewater service charges, the illegal operation of shut-off valves in the District owned meter pit and the returning of a check for insufficient funds. The owner or customer is responsible for the payment of all delinquent charges, plus all costs and attorney fees incurred by the District associated with the collection of delinquent charges. At the District's discretion, service to the property will be discontinued until the customer's account is paid in full.

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- 3.6.7 Convenience Fees: The District may elect to temporarily resume service to a turned-off property to allow a property owner or their agent to conduct miscellaneous work, including inspections, in an effort to sell or rehabilitate a property. The cost of these fees will be on a time and material basis and will be determined by the District.
- 3.6.8 Perpetual Lien: Until paid, all billed fees, rates, penalties and charges shall constitute a first and perpetual lien on and against the property served from the time due. Any such lien may be foreclosed in the manner as provided by the laws of the State of Colorado for the foreclosure of mechanics' liens. See § 32-1-1001(1)(j)(I), C.R.S. The District may wish to document its lien by recording a Notice of Lien with the Clerk and Recorder of Adams County, but recordation is not required for the lien to be effective.
- 3.6.9 Certification to the County Treasurer: In addition to, or as an alternative to, the other remedies provided in these Rules or by law, in the event that any of the District's tolls, rates, charges or fees are not paid when due, the Board may authorize the District's Treasurer to certify such delinquent amounts to the Treasurer of Adams County for collection in accordance with § 32-1-1101(1)(e), C.R.S. Upon certification, the Treasurer of Adams County shall collect and remit such delinquent amounts to the District in the manner provided by law for the collection of general property taxes. The Treasurer of Adams County may impose a fee and add to the delinquent amount to defray the costs of collection.
- 3.6.10 Abandonment: Within the majority of the District's service area there is no provision for involuntary abandonment of water and wastewater services. For the District's Service Area south of Sand Creek, which is served via a master meter from Denver Water, the District will comply with any current abandonment policies of Denver Water.

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ARTICLE III

LIMITATIONS ON DISCHARGE

1. **GENERAL**

- 1.1 Policy: All discharges of wastewater into the District's wastewater facilities shall comply with these Rules and Regulations, and more specifically the provisions set forth herein.
- 1.2 Prohibited Wastes: Discharge of any water or wastewater into the District's wastewater facilities containing substances prohibited by these Rules and Regulations or not meeting the requirements set forth in this Article III is prohibited.
- 1.3 Construction Modifications to Limit Harmful Waste: Some customers may be required to install pretreatment facilities, including, but not limited to, grease, sand, and/or oil interceptors into their building construction, as set forth in this Article III in order to prevent the discharge of such materials and other prohibited wastes into the District's wastewater facilities.

2. **PRETREATMENT STANDARDS: PROHIBITED DISCHARGES**

- 2.1 General Prohibitions: As defined in 40 cfr §403.5 (a)(1), an industrial User may not introduce into a POTW any pollutant(s) which cause Pass Through or Interference. These general prohibitions and the specific prohibitions in paragraph (2.3) of this section apply to each User introducing pollutants into a POTW whether or not the User is subject to other National Pretreatment Standards or any national, State, or local Pretreatment Requirements.
- 2.2 Storm Water Prohibition: No person shall discharge, cause to be discharged or introduce into the District's wastewater facilities any storm water, surface water, ground water, artesian well water, roof runoff or subsurface drainage without prior written authorization by the District's Industrial Pretreatment Coordinator.
- 2.3 Specific Prohibitions: No person shall discharge, cause to be discharged or introduce into the District's wastewater facilities cooling water, air conditioning, boiler blow-down or any other commercial or industrial wastewater unless the water meets the following standards:

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- 2.3.1 Must have an instantaneous pH value in the range of five (5.0) to ten (10.0) standard units. Must not contain pollutants that will cause corrosive structural damage to the District's facilities.
- 2.3.2 Must not contain any solid, viscous or liquid wastes that allow or may cause obstruction to the flow in a main line or otherwise interfere with the proper operation of the District's facilities.
- 2.3.3 Must not contain prohibited materials including, but not limited to, all solid objects, material, refuse, and debris not normally contained in sewage.
- 2.3.4 Must not contain explosive mixtures consisting of liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the operation of the District's facilities. At no time shall two (2) successive readings on an explosion hazard meter at the point of discharge into the District's wastewater system be more than five percent (5%), nor may any single reading be over ten percent (10%) of the lower explosive limit (L.E.L.) of the meter.
- 2.3.5 As stated in 40 CFR § 403.5 (b)(1): must not contain pollutants that create a fire or explosion hazard in the District's facilities, including, but not limited to, waste streams with a closed cup flashpoint of less than 60°C (140°F) using the test methods specified in 40 CFR § 261.21.
- 2.3.6 Must not contain heat in amounts that will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40°C (104°F). Must have a temperature between 32° to 150°F.
- 2.3.7 Must not contain grease, oil or other substances that will solidify or become viscous between 32° to 150° F.
- 2.3.8 Must not contain insoluble substances in excess of 10,000 ppm.
- 2.3.9 Must not contain total solids in excess of 20,000 ppm.
- 2.3.10 Must not contain insoluble substances having a specific gravity greater than 2.65.

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- 2.3.11 Must not contain garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the District's wastewater facilities to which the user is connected. At all times, no garbage particle discharged into the District's facilities shall be greater than one-half inch (1/2") in any direction.
- 2.3.12 As stated in 40 CFR § 403.5 (b)(7): must not contain pollutants which result in the presence of toxic gases, vapors, or fumes within the potw in a quantity that may cause acute worker health and safety problems.
- 2.3.13 Must not have a chlorine demand greater than 15 ppm.
- 2.3.14 Under no condition shall any pollutant, including oxygen demanding pollutants (BOD, etc.) be discharged at a rate and/or concentration that will cause interference, pass-through of pollutants, sludge contamination, or endangerment of POTW workers.
- 2.3.15 Must not contain any toxic or irritating substance that will create conditions hazardous to public health and safety.
- 2.3.16 Must not contain in excess of 387 ppm, any grease or oil or any oily substance of petroleum, mineral, animal or vegetable origin including, but not limited to: cooking greases, fats and oils; cooling or quenching oils; lubrication oils; cutting oils; and non-saponifiable oils.
- 2.3.17 Must not contain toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, which could injure or interfere with any sewage treatment process, or create any hazard in the receiving waters of the wastewater treatment plant, or contaminate the sludge of any wastewater treatment process, in order to protect worker health and safety.
- 2.3.18 Must not contain organic toxic pollutants, introduced by the intentional or accidental dumping of solvents into the District's facilities, used in operations involving degreasing, surface preparation, tank washing, paint thinning, paint equipment cleaning or any other process.

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2.3.19 Must not contain storm water, surface water, ground water, roof runoff, or subsurface drainage, cooling water, air conditioning wastewater, wastewater that originates from outside the district, or any other commercial or industrial wastewater without first obtaining a wastewater discharge permit from the control authority for such discharge.

2.3.20 The following limits shall apply to wastewaters that are discharged from the ground water cleanup of petroleum or gasoline underground storage tanks or other remediation wastewaters containing these pollutants or where these pollutants are appropriate surrogates.

Total Benzene	0.050 mg/L
Total BTEX	0.750 mg/L

(1) BTEX shall be measured as the sum of benzene, ethylbenzene, toluene and xylene.

2.3.21 Technically-based Local Limits:

NO SIGNIFICANT INDUSTRIAL USER SHALL DISCHARGE
WASTEWATER THAT EXCEEDS THE FOLLOWING LIMITS
AT ANY TIME FOR ANY LENGTH OF TIME.

Parameter Maximum Concentration (in any sample)

Total Oil and Grease	387 mg/L
Total Arsenic	0.23 mg/L
Total Cadmium	0.47 mg/L
Total Chromium*	3.04 mg/L
Hexavalent Chromium	3.04 mg/L
Total Copper	1.75 mg/L
Total Lead	1.11 mg/L
Total Mercury	0.04 mg/L
Total Molybdenum	0.89 mg/L
Total Nickel	3.49 mg/L
Total Selenium	0.82 mg/L
Total Silver	1.18 mg/L
Total Zinc	4.96 mg/L

* In the event of becoming aware of a Total Chromium violation, a resample shall be taken within 24 hours for Hexavalent Chromium.

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- 2.4 Origin of Discharge: All wastewater discharged to the District's facilities must originate from within the District's wastewater service area.
- 2.5 Trucked or Hauled Pollutants: All trucked or hauled wastewater shall be preapproved by the Industrial Pretreatment Coordinator and the District's Board of Directors prior to discharge to the District's facilities, with the exception of domestic waste from RVs owned by District residents, and only at discharge points designated by the Industrial Pretreatment Coordinator. Approved trucked or hauled wastewater discharges shall meet all of the District's Prohibitive Waste Standards, be treated in a facility located within the District's service area, and only be discharged once an Industrial User has been issued a wastewater discharge permit.
- 2.6 Septic System Waste: No sludge, solids or other waste material removed from septic tanks or other similar facilities shall be discharged or otherwise placed in the District's facilities.
- 2.7 Pretreatment Requirement May Apply: Compliance with the above numeric or narrative standards shall not relieve owners of property or users of the District's facilities from installation or construction of pretreatment facilities required by the District.
3. **CONSTRUCTION MODIFICATIONS TO LIMIT THE DISCHARGE OF HARMFUL WASTES INTO THE DISTRICT'S FACILITIES: GREASE INTERCEPTORS/TRAPS AND SAND/OIL INTERCEPTORS/TRAPS**
- 3.1 General Requirements:
- 3.1.1 Policy: Property owners may be required to install a grease interceptor/trap and/or a sand/oil interceptor/trap on a waste line in order to protect the District's wastewater facilities from the introduction of excessive quantities of grease, sand and/or oil. A determination by the District that a grease interceptor/trap and/or sand/oil interceptor/trap is required to be installed on a waste line in order to protect the District's wastewater facilities from the introduction of grease, sand and/or oil shall be final and conclusive.
- 3.1.2 Property/Facilities Requiring Grease Interceptor or Trap: Where the District determines that a property owner is required to install a grease interceptor or trap, a District-approved grease interceptor/trap shall be installed on the waste line leading from sinks, drains and all other fixtures or equipment in food preparation establishments such as (but not limited to) restaurants, cafes, lunch counters, cafeterias, bars and clubs, hotels, hospitals, factory

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kitchens, school kitchens, church kitchens or other establishments where grease may be introduced into the District's facilities.

- 3.1.3 Property/Facilities Requiring Sand/Oil Interceptor: Where the District determines that a property owner is required to install a sand/oil interceptor, a District-approved sand/oil interceptor/trap shall be installed on the waste line for all parking and repair garages, filling stations, car washes, truck terminals with washout facilities, engine steam cleaning facilities, commercial laundries, and any other commercial or industrial establishments that have wash racks or oil producing waste products. These establishments shall also have facilities to prevent storm or surface water drainage from entering the waste line.
- 3.1.4 Residential Property: Residential property owners shall not be required to install grease interceptors/traps or sand/oil interceptors/traps for their dwelling units and associated structures, unless there is a likely probability of a significant grease, sand or oil discharge into the District's facilities.
- 3.1.5 District Approval: All grease interceptors/traps and sand/oil interceptors/traps shall meet specific requirements established by the District, and the installation of all grease and sand/oil interceptors/traps shall be subject to inspection and approval by the District. Additionally, all interceptors and traps must be approved by the District prior to installation. The District shall charge an inspection fee, as indicated in Section 7 of Appendix A to these Rules and Regulations, for the inspection and approval of all grease and sand/oil interceptor/trap installations. The District will supply the property owner with acceptable examples of interceptors and traps that meet District specifications.
- 3.1.6 Interceptor/Trap Maintenance: Proper maintenance and operation of all grease and sand/oil interceptors/traps shall be the responsibility of the owner and user, and the owner and user shall ensure that said interceptors/traps are maintained in proper working order. Maintenance of interceptor/trap contents shall be performed by a contractor licensed to perform such work. Maintenance shall entail removal of contents from entire pretreatment system (i.e. interceptor/trap, floor drains, separators, etc). Partial removal of contents (i.e., removal of grease layer, oil layer or sludge layer) is not allowed. Contents removed from interceptors/traps shall be hauled off site and disposed of in accordance with local, state and federal laws and regulations. Records of maintenance of

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interceptors/traps and of off-site hauling and removal of interceptor/trap contents shall be kept by the user and shall remain on-site for a minimum of 3 years, and be accessible for review by District personnel. Records shall contain, at a minimum, the date on which the interceptor/trap was maintained and/or serviced including a description of the specific maintenance or service that was performed, a description of who performed the maintenance or service, the date on which the interceptor/trap contents were removed and hauled off-site including a description of who performed the removal and off-site hauling and where the contents of the interceptor/trap were hauled for disposal. Under no circumstances shall interceptor/trap contents be re-introduced to the District's facilities. Maintenance of all interceptors/traps shall be performed on an as-needed basis and at least once every six (6) months and the District may require maintenance of interceptors more than once every six (6) months if necessary for the protection of the District's facilities. Failure to properly maintain a interceptor/trap will result in enforcement action by the District to ensure compliance.

3.2 Technical Specifications and Design Criteria for Grease and Sand/Oil Interceptors/Traps:

3.2.1 Definitions:

3.2.1.1 Fixture Unit: A rating in terms of gallons per minute (gpm) representing the maximum amount of water that can flow from a fixture or piece of equipment in one minute. The value of one fixture unit (F.U.) is equal to 7.5 gpm.

3.2.1.2 Grease Interceptors - Types A & B: Two compartment interceptors normally located outside of a building and of the following sizes:

Type A: 750 - 1565 gallon capacity - see Appendix B, Drawing 1

Type B: 1566 + gallon capacity - see Appendix B, Drawing 2

3.2.1.3 In-Line Grease Traps: A prefabricated unit, generally made of metal, for the trapping of grease normally set indoors under a sink or near the fixture connected

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to it. In-line grease traps are only allowed where it is not possible to go outside with a larger trap or where there is only a minor concern with grease (this will be determined only by the District). In-line grease traps may not be connected to any water source with a discharge temperature greater than 140° F (60° C).

3.2.1.4 Pretreatment Facilities: Structures, devices or equipment including, but not limited to, interceptors for neutralizing or removing deleterious wastes from wastewater prior to its discharge into the District's facilities.

3.2.1.5 Sampling: A periodic collection of wastewater as it flows through the District's facilities and/or a customer's service line.

3.2.1.6 Sand/Oil Interceptors - Types A & B: Two compartment interceptors normally located outside a building and of the following sizes:

Type A: 750 - 1565 gallon capacity - see Appendix C, Drawing 1

Type B: 1566 + gallon capacity - see Appendix C, Drawing 2

3.2.1.7 Testing: The laboratory analysis of wastewater. Analytical methods shall be those approved under 40 CFR 136.

3.2.2 General Design Criteria for Interceptors: Establishments required to install grease and/or sand/oil interceptors due to the nature of their operations shall use the following design criteria. The design criteria stated below represent the minimum requirements for interceptors and do not reflect special circumstances that may necessitate increased sizing.

3.2.2.1 All interceptor installations shall contain two manholes, one accessing the interceptor's discharge line and one accessing the interceptor's influent line. These manholes shall be accessible to the District at all times, and provide ample room for conducting discharge sampling and flow measurement activities.

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- 3.2.2.2 All interceptor installations shall meet the requirements of the District and all other local government requirements. The District will not be responsible for violations of these requirements.
- 3.2.2.3 Interceptor installation, including equipment, structural design, backfilling, safety provisions, etc., shall be the sole responsibility of the owner and its suppliers, contractors, and other agents.
- 3.2.2.4 Maintenance and removal of interceptor contents (*i.e.*, grease, oil, sand, and water) shall be the sole responsibility of the owner.
- 3.2.2.5 All interceptors shall be accessible for inspection by the District.
- 3.2.2.6 All interceptors shall be divided into two compartments, separated by a divider wall. The first compartment shall contain approximately two-thirds ($\frac{2}{3}$) of the interceptor's total volume.
- 3.2.2.7 All interceptors shall have a minimum capacity of 750 gallons, shall be concrete, unless otherwise specifically authorized by the District, and of a single, monolithic pour and shall be constructed in accordance with the District's detailed drawings attached hereto as Appendices B and C.
- 3.2.2.8 Inlet and outlet pipes for all interceptors shall be elbowed down below the water surface.
- 3.2.2.9 Grease interceptors shall have a first compartment grease volume equal to approximately one-half ($\frac{1}{2}$) of the total first compartment water volume.
- 3.2.2.10 Grease interceptor divider walls shall extend a minimum of 10" above the first compartment water surface. Water transfer to the second compartment shall be via a 90° pipe elbow, turned down in the first compartment, with the bottom of the elbow located 6" to 12" above the floor depending on interceptor size.
- 3.2.2.11 In-line grease interceptors are not permitted unless specifically approved by the District.
- 3.2.2.12 Sand/oil interceptors shall have a full-size divider wall between the first and second compartments. Flow between the compartments must travel over the top of the divider wall or through slots or ports near the top of the divider wall.
- 3.2.2.13 All interceptors must include two vent pipes with a minimum diameter of 2". one vent must be

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connected to the inlet compartment of the interceptor, and the other must be connected directly to the discharge pipe, upstream of the cleanout. the vent pipes must be run separately to at least 12” above the roofline of the building.

3.2.3 Sizing Calculations for Grease Interceptors: Sizing calculations are to be prepared by the owner’s engineer and submitted to the District per the following methods:

3.2.3.1 Where food is served and seating capacity can be determined, compute:

(Number of seats) x (0.9) x (2.2) = number of meals served per meal period.

0.9 = a full capacity factor

2.2 = turnover rate per meal period

or,

(Number of meals served per meal period) x (2.5 gallons per meal) = volumetric water capacity of the grease interceptor.

3.2.3.2 Where food is prepared and where seating capacity or number of meals cannot be adequately determined, the following rule shall apply: Table 1 of Appendix D establishes the fixture unit values for various pieces of equipment that may require connection to a grease interceptor. The total number of fixture units shall be multiplied by 7.5 gpm to determine maximum rate of flow (gpm) into the grease interceptor. The volumetric water capacity of the unit shall be eight times the maximum rate of flow. Table 2 of Appendix D establishes the methodology for sizing grease interceptors for fixtures not described in Table 1 of Appendix D.

3.2.4 Sizing Calculations for Sand/Oil Interceptors: Sizing calculations are to be prepared by the owner's engineer and submitted to the District per the following method:

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3.2.4.1 Total fixture units connected x 7.5 gpm x 5 minutes = interceptor size. The total fixture unit values shall be based on Table 3 of Appendix D.

3.3 Review of Plans for the Construction and Installation of Pretreatment Facilities:

3.3.1 Requirement of Plan Review: If any water or wastewater is discharged, or is proposed to be discharged, to the District's facilities (1) from restaurants or other food preparation establishments described above, or (2) that may contain the substances or exceed the limitations described in this Article III, it shall be the responsibility of the user and owner of the property, business or industry or an authorized representative to contact the Manager of the District's Industrial Pretreatment Program for the purpose of plan review. The plan review shall determine the need, method, and size of pretreatment facilities required to pretreat or otherwise control the wastewater to make it acceptable for discharge into the District's facilities.

3.3.2 Submission of Plans: Upon completion of the plan review, all applicants shall submit a set of complete plans for the pretreatment facilities and details of the proposed installation, including computations relative to sizing. Applicants shall retain a duplicate set of such records for the life of the pretreatment facility. The records shall remain with the property through changes of ownership or tenancy.

3.3.3 Additional Requirements: The District may require additional plans and/or information needed to determine the impact of the proposed wastes on the District's collection and treatment system and the required size and type of the pretreatment facilities.

3.3.4 District Approval Required: Written approval of the District must be granted prior to construction of any pretreatment facility or device.

3.3.5 Inspection: All interceptors must be inspected by the District at the time of installation and, where applicable, before the interceptor is buried.

3.4 Sampling Manholes: The installation of one or more discreet sampling manholes is recommended and may be required by the District. A sampling manhole is usually required to be located downstream of the domestic wastewater and the process wastewater tie-in point. In certain situations, a sampling manhole may be required

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to be placed at the end of the process wastewater discharge. All placements of sampling manholes must be approved by the District's Industrial Pretreatment Coordinator prior to installation.

3.5 Interceptor/Trap Maintenance:

3.5.1 Responsibility for Maintenance: It shall be the user's and owner's responsibility to ensure that grease and sand/oil interceptors/traps are maintained and in proper working order. The interceptors shall be unobstructed and available for periodic maintenance inspections and discharge sampling by the District.

3.5.2 Inspection: Existing interceptor/trap installations shall be inspected to determine compliance with District's oil and grease discharge standards. Installations not able to achieve compliance with such standards due to improper design shall be modified or replaced in order to achieve compliance with District design and sizing criteria.

3.6 Interceptor/Trap Requirements for Existing Property/Facilities: If it becomes necessary for the District to require an existing property, business or industrial user or owner to install suitable pretreatment facilities, a written explanation for the requirement shall be furnished to the user, owner or an authorized agent. Such a case may arise when it becomes apparent that the existing pretreatment facility is deficient in size, or waste emanating from the property, business or industry violates the District's Rules and Regulations and/or may cause harm to the District's facilities, or persons entering said facilities to perform maintenance, or to the treatment process and/or environment.

4. **CONSTRUCTION MODIFICATIONS TO LIMIT HARMFUL WASTES: WASH RACKS/FLOOR SLABS**

4.1 Wash Rack Construction/Modification: In an effort to eliminate the introduction of storm and surface waters into the District's facilities, wash racks must be constructed or modified to drain into the District's facilities only those waters used in the washing process. All wash rack construction or modification plans must be approved by the District. The appropriate local building department (Commerce City or Adams County) must also be notified to ensure compliance with all applicable regulations. All wash racks and/or floor slabs used for cleaning vehicles, machinery or machine parts, with drainage to the District's facilities, shall be adequately protected against storm or surface water inflow. Such protection shall be achieved by the installation of roofing, or other means acceptable to the District.

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ARTICLE IV

INDUSTRIAL PRETREATMENT PROGRAM

1. GENERAL

1.1 Legal Authority: The District is a pre-1965 special District and political subdivision of the State of Colorado, acting pursuant to its pre-1965 standing and certain powers set forth in Colorado laws, including but not limited to the Colorado Special District Act, C.R.S. § 32-1-101, *et seq.* This Article IV is adopted by the District in accordance with the authority conferred in the Clean Water Act, 33 U.S.C. §§ 1251, *et seq.*, and any regulations implementing the Clean Water Act, including, but not limited to, 40 CFR § 403; the District's approved Industrial Pretreatment Program; the Colorado Water Quality Control Act, C.R.S. §§ 25-8-101, *et seq.*, and any regulations implementing the Colorado Water Quality Control Act; and applicable provisions of the Colorado Special District Act, including the authorization but not limitations contained in §§ 32-1-1001(1)(m) and 32-1-1006(5), C.R.S., with all the powers thereof which are specifically granted to the District, or are necessary or incidental to or implied from power specifically granted therein for carrying out the objectives and purposes of the District and this Article IV. Specifically, the Board of Directors of any special District providing water or sanitation services which implements an industrial wastewater pretreatment program pursuant to the Federal Water Pollution Control Act, also known as the Clean Water Act, is authorized to seek such relief and impose such penalties as are required by the Act and its implementing regulations for such programs. 32-1-1006(5), C.R.S.

1.2 Policy and Purpose: This Article sets forth general requirements for actual and potential discharges into the wastewater collection and treatment system of the South Adams County Water and Sanitation District and enables the District to comply with all applicable state and federal laws required by the Clean Water Act of 1977 (P.L. 95-217) and the General Pretreatment Regulations for Sources of Pollution (40 CFR § 403). The objectives of this Article are:

- 1.2.1 To prevent the introduction of pollutants into the District's municipal wastewater system that will interfere with the operation of the system or contaminate the resulting sludge.
- 1.2.2 To prevent the introduction of pollutants into the District's municipal wastewater system that will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system.
- 1.2.3 To improve the opportunity to recycle and reclaim wastewaters and sludges from the District's system.
- 1.2.4 To protect human health and welfare, the environment, property and the District's Publicly Owned Treatment Works (POTW).

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- 1.2.5 To deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by Industrial Users where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate its NPDES permit.
- 1.2.6 To control through permit, order, or similar means, the contribution to the POTW by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements.

1.3 Applicability: This Article shall apply to the South Adams County Water and Sanitation District (“SACWSD” or “District”) and its residents, customers and to persons outside the District who are Users of the District’s POTW. Except as otherwise provided herein, the District’s Industrial Pretreatment Coordinator shall administer, implement and enforce the provisions of this Article.

1.4 Enforcement Response Plan: More detailed policies and procedures governing the implementation of this Article are contained in the District’s Enforcement Response Plan (ERP). Violation of any of the provisions of this Article may subject the Industrial User to enforcement responses by the District in accordance with the provisions of this Article and the ERP. The ERP contains criteria to guide the District in identifying non-compliant Industrial Users and determining what enforcement actions are appropriate. The ERP is intended to complement and build on the Articles contained in these Rules and Regulations. To the extent possible, the ERP and these Rules and Regulations shall be read to be consistent with one another so as to give effect to the language of both documents. However, whenever that is not possible, the more restrictive or limited language that is more protective of the District’s POTW and its facilities and human health and welfare, the environment and property within the District shall govern.

2. DEFINITIONS

As used in this Article, the following words and terms shall have the meaning set forth below:

- 2.1 Act: The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251, *et seq.*
- 2.2 Administrative Enforcement Response: An enforcement action authorized by the District rather than a court.
- 2.3 Administrative Penalty: A monetary charge unrelated to actual treatment costs which is assessed by the District, rather than by a court.

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- 2.4 Administrative Order (AO): An Administrative Order which requires a violator to perform or refrain from performing a specific act. An AO can require, for example, that the violator attend a show cause hearing, cease discharging, or perform activities pursuant to a Compliance Schedule.
- 2.5 Approval Authority: The Regional Administrator of the U.S. Environmental Protection Agency (EPA), Region 8. The approval authority is responsible for approval and oversight of the District's pretreatment program.
- 2.6 Authorized Representative of the Industrial User: All reports and information submitted pursuant to the requirements of these Rules and Regulations shall be signed and certified by an Authorized Representative of the Industrial User, as follows:
- 2.6.1 If permittee is a corporation: A responsible officer of the corporation, specifically the president, secretary, treasurer, or vice-president of the corporation in charge of the principle business activity, or any other person who performs similar policy or decision making functions for the corporation, or the manager of one or more manufacturing, production or operating facilities; provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- 2.6.2 By a general partner if the permittee is a partnership, or by the proprietor if the permittee is a sole proprietorship.
- 2.6.3 By a duly Authorized Representative of the individual designated above if: the authorization is made in writing by the individual described above; the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates; and the written authorization is submitted to the District.
- 2.6.4 If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the above requirements must be submitted to the District prior to or together with any reports to be signed by an Authorized Representative.

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- 2.7 Best Management Practices or BMPs: Means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to implement the prohibitions listed in 40 CFR §§ 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- 2.8 BOD: the five-day measure of the pollutant parameter biochemical oxygen demand (BOD).
- 2.9 Bypass: The intentional diversion of waste streams from any portion of an Industrial User's treatment facility.
- 2.10 Categorical Industrial User: An Industrial User subject to a categorical Pretreatment Standard or Categorical Standard.
- 2.11 Categorical Pretreatment Standard or Categorical Standard: Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- 2.12 Cease And Desist Order: An Administrative Order directing an Industrial User to immediately halt illegal or unauthorized discharges or other actions. a cease and desist order may be issued orally and followed by a written administrative order.
- 2.13 CFR: Code of Federal Regulations, as amended.
- 2.14 Chain-Of-Custody: A written record of sample possession for all persons who handle (collect, transport, and analyze) a sample, including names, dates, times, and procedures followed.
- 2.15 Civil Action: A lawsuit filed in a civil court. If the court rules the defendant Industrial User violated the law, the court may impose civil penalties, injunctions or other equitable remedies and/or cost recovery.
- 2.16 Civil Penalty: A punitive monetary award granted by a court to the District against a non-compliant Industrial User.
- 2.17 Compliance Schedule: An Administrative Order outlining a schedule of required activities (also called milestones) necessary for an Industrial User to achieve compliance with all pretreatment program requirements.
- 2.18 Composite Sample or Composite Method: It is recommended that influent and effluent operational data be obtained through 24-hour flow proportional composite

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samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots should be composited. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites should be flow proportional to either the stream flow at the time of collection of the influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.

- 2.19 Consent Decree: A court supervised settlement agreement, the violation of which may be considered contempt of court.
- 2.20 Consent Order: An Administrative Order embodying an agreement between the District and the non-compliant Industrial User designed to restore the User to compliance status, which is legally enforceable against the Industrial User.
- 2.21 Control Authority: The South Adams County Water And Sanitation District, its Board of Directors, its Industrial Pretreatment Coordinator, or its Authorized Representative.
- 2.22 Conventional Pollutants: As defined in 40 CFR § 401.15 BODs, TSS, fecal coliform, oil and grease, and pH level outside allowed limits.
- 2.23 C.R.S.: Colorado Revised Statutes, as amended.
- 2.24 Daily Maximum Limit: Means the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that calendar day.
- 2.25 Direct Discharge: The discharge of treated or untreated wastewater directly into the waters of the state of Colorado.
- 2.26 Disconnection Of Service: A physical blockage of the water and/or sewer connection to a non-compliant User or issuance of a formal notice of disconnection to the Industrial User.
- 2.27 District or SACWSD: The South Adams County Water and Sanitation District, the Board of Directors of the South Adams County Water and Sanitation District or its Authorized Representative.
- 2.28 District Manager: The general manager of the District.

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- 2.29 Economic Benefit: Economic benefit focuses on the violator's economic gain from non-compliance which occurs from:
- 2.29.1 Delaying necessary pollution control/compliance expenditures
 - 2.29.2 Avoiding necessary pollution control/compliance expenditures
 - 2.29.3 Gaining a competitive advantage during the period of non-compliance
 - 2.29.4 Avoiding or delaying other costs including but not be limited to the cost of sampling and analysis, lease/purchase/installation of monitoring equipment, labor costs, etc.
- 2.30 Enforcement Response Plan (ERP): Document that outlines the policies and procedures to be used by the District to identify noncompliant Industrial Users and to determine the appropriate enforcement action to be taken by the District in response to noncompliance.
- 2.31 EPA or Environmental Protection Agency: The United States Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
- 2.32 Fees: Charges imposed to recover treatment costs (not punitive in nature).
- 2.33 Formal Enforcement Action: enforcement action used for serious violations and/or when informal enforcement actions are ineffective. formal enforcement actions include but are not limited to Administrative Orders, Administrative Penalties, permit revocation or suspension, and judicial action.
- 2.34 Good Faith of the User: A User's honest intention to remedy its non-compliance coupled with actions which give support to this intention. Generally, a User's demonstrated willingness to comply should predispose the Control Authority to select less stringent enforcement responses. However, good faith does not eliminate the necessity of an enforcement action. Compliance with previous enforcement orders is not necessarily good faith if the violations have continued to occur.
- 2.35 Grab Sample or Grab Method: If composite sampling is not an appropriate technique, grab samples should be taken to obtain influent and effluent operational data. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes. The collection of influent grab samples should precede the collection of effluent samples by approximately one detention period except that where the detention period is greater than 24 hours such staggering of the sample collection may not be necessary or appropriate. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based upon the average of the daily flows during the same month of the previous year. Grab sampling should be employed where the pollutants being evaluated are those, such as cyanide and phenol, which may not be held for an extended period

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because of biological, chemical or physical interaction which take place after sample collection and affect the results.

- 2.36 Indirect Discharge or Discharge: The introduction of pollutants from any non-domestic source regulated under sections 307(b), (c) or (d) of the Act (33 U.S.C. § 1317) into the POTW.
- 2.37 Industrial Pretreatment Coordinator: Individual primarily responsible for implementing the District's approved pretreatment program, issuing enforcement actions and submitting the annual compliance report.
- 2.38 Industrial Pretreatment Specialist: Assists the Industrial Pretreatment Coordinator in implementing the pretreatment program.
- 2.39 Industrial Pretreatment Technician: Assists the Industrial Pretreatment Coordinator and Industrial Pretreatment Specialist in implementing the pretreatment program.
- 2.40 Industrial User (IU): All Significant Industrial Users and any source of an Indirect Discharge including, but not limited to, any manufacturing or service facility (vehicle maintenance facilities and restaurants, for example) with non-domestic discharges or potential for non-domestic discharges. This definition will also include Users whose operations generate any toxic pollutants or other substances suspected of having an adverse impact on the POTW as determined by the EPA or the Industrial Pretreatment Coordinator.
- 2.41 Industrial Waste Survey: An Industrial Waste Survey is a means by which the District can collect data on its Industrial Users. data obtained through wastewater Questionnaires, sample results and facility inspections enables the District to establish the type, nature and quantity of pollutants present in an Industrial Users wastewater discharge. This will help determine the industries classification (e.g. categorical, categorical zero-discharger and Significant Industrial User).
- 2.42 Industrial Wastewater Discharge Permit: A discharge permit issued by the District to an Industrial User who introduces pollutants into the POTW, which pollutants may interfere with, pass through or be otherwise incompatible with such works. Industrial Wastewater Discharge Permits will be issued for a specified time period, not to exceed five years.
- 2.43 Informal Enforcement Action: Enforcement action used to respond to minor violations. This includes, but is not limited to, telephone calls, warning letters, requests for information, meetings, and letters of violation.
- 2.44 Injunction, Injunctive Relief: A court order which restrains or compels action by an Industrial User.

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- 2.45 Interference: A discharge that, alone or in conjunction with a discharge or discharges from other sources, both inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal and is a cause of an NPDES Permit violation by the POTW or prevents the POTW from using its chosen sludge use or disposal practice.
- 2.46 Instantaneous limit: Means the maximum concentration of a pollutant allowed to be discharged at any time.
- 2.47 Judicial Action: An enforcement action that involves a court (may be either civil or criminal in nature).
- 2.48 Jurisdiction: The extent of authority of the District to make and enforce laws or regulations or to take other actions.
- 2.49 Letter Of Violation (LOV): A document issued by the District notifying an Industrial User that it has violated Pretreatment Standards and/or requirements of the District's Rules and Regulations or its Industrial Wastewater Discharge Permit. an LOV is generally used when the violation is relatively minor and is expected to be corrected within a short period of time.
- 2.50 Legal Authority: The source of a Control Authority's jurisdiction and regulatory powers.
- 2.51 Litigation: An enforcement action brought in a judicial (court) forum.
- 2.52 Local Limit: Specific discharge limits developed and enforced by the District upon Industrial Users to implement the general and specific discharge prohibitions listed in 40 C.F.R. § 403.5(a)(1) and (b) and article III of the District's Rules and Regulations.
- 2.53 National Categorical Pretreatment Standard or Pretreatment Standard: Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of significant Industrial Users.
- 2.54 National Prohibitive Discharge Standard or Prohibitive Standard: Any regulation developed under the authority of section 307(b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to 40 CFR §§ 403.5 (a) and (b).
- 2.55 NPDES (National Pollutant Discharge Elimination System): A permit system for the direct discharge of pollutants into the waters of the United States.

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- 2.56 National Pollution Discharge Elimination System (NPDES) Permit: A permit issued to the POTW pursuant to section 402 of the Act (33 U.S.C. § 1342).
- 2.57 New Source: defined in 40 CFR § 403.3(m) as follows:
- 2.57.1 Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act which will be applicable to such source if such Pretreatment Standards are thereafter promulgated in accordance with that section, provided that:
- 2.57.1.1 The building, structure, facility or installation is constructed at a site at which no other source is located; or
- 2.57.1.2 The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- 2.57.1.3 The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- 2.57.2 Construction on a site at which an existing source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs 2.25.1.2 or 2.25.1.3 of this section, but otherwise alters, replaces, or adds to existing process or production equipment.
- 2.57.3 Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- 2.57.3.1 Begun, or caused to begin, as part of a continuous onsite construction program:
- Any placement, assembly, or installation of facilities or equipment; or
 - Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- 2.57.3.2 Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options

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to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies, do not constitute a contractual obligation under this paragraph.

- 2.58 Non-Residential User: Any User discharging wastewater into the POTW from a place of business.
- 2.59 Pass Through: An Industrial User Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of an NPDES Permit violation by the POTW (including an increase in the magnitude or duration of a violation).
- 2.60 Penalty: A monetary or other punitive measure. for purposes of the ERP, the term is used synonymously with a fine.
- 2.61 Permit Revocation: Wherein the District revokes an Industrial User's Wastewater Discharge Permit.
- 2.62 Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.
- 2.63 Pollutant: as defined in 40 CFR § 401.11(f) a pollutant is any dredged spoil, solid waste, incinerator residue, Sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.
- 2.64 Pretreatment: The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such Pollutants into the POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR § 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or Slug Discharges that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR § 403.6(e).

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- 2.65 Pretreatment Requirements: Any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.
- 2.66 Pretreatment Records: Records pertaining to the management of industrial waste including but not limited to off-site waste hauling manifests, discharge monitoring reports, quarterly compliance reports, calibration logs, and employee training records.
- 2.67 Pretreatment Standards or Standards: Means any regulation containing pollutant discharge limits promulgated by the EPA or the District in accordance with sections 307(b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge standards (established pursuant to 40 CFR § 403.5 and article III of the District’s Rules and Regulations), Categorical Pretreatment Standards, and local limit/BMPs developed by the Control Authority. In cases of differing standards or regulations, the more stringent shall apply.
- 2.68 Publicly Owned Treatment Works (POTW): A treatment works as defined by section 212 of the Act (33 U.S.C. § 1292), which is owned in this instance by the District. **This** definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. POTW also refers to the District officials responsible for operations and maintenance of the collection system or treatment plant and the administration of the pretreatment program.
- 2.69 POTW Treatment Plant: That portion of the POTW designed to provide treatment (including recycling and reclamation) to wastewater.
- 2.70 Representative of Industrial User: The District may deliver Administrative Orders, letters of penalty or other documents to any representative of the Industrial User. The term “representative” is broader than the term “Authorized Representative,” defined above, and may include an employee of the Industrial User, including, but not limited to, any member of its clerical, administrative or Managerial personnel.
- 2.71 Rules And Regulations: The Rules and Regulations adopted by the Board of Directors of the District, as amended.
- 2.72 Self-Monitoring: Industrial Users are required to sample their discharges and submit samples to a laboratory for analysis.
- 2.73 Severe Property Damage: Substantial physical damage to property, damage to the POTW which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a

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Bypass. Severe property damage does not mean economic loss caused by delays in production.

- 2.74 Shall, Will, May: Shall and will are mandatory; may is permissive.
- 2.75 Show Cause Order: An Administrative Order directing a noncompliant User to appear before the Board of Directors (or its designated hearing officer) to explain its noncompliance and show cause why more severe enforcement actions against the User should not go forward.
- 2.76 Significant Industrial User (SIU):
- 2.76.1 All Industrial Users subject to National Categorical Pretreatment Standards under 40 CFR § 403.6 and 40 CFR Chapter I, Subchapter N, Subsections 405-471 and any other User that: discharges five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW; discharges an average of 25,000 gallons per day (GPD) or more of process wastewater to the POTW; or is designated as such by the Control Authority on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR § 403.8(f)(2)(viii)).
- 2.76.2 Those Industrial Users that discharge under 25,000 GPD that employ processes that generate any toxic Pollutants or other substances suspected of having an adverse impact on the POTW as determined by the EPA or Industrial Pretreatment Coordinator.
- 2.76.3 An Industrial User may be reclassified by the District as a Significant Industrial User at any time depending upon the severity of violations or changes in discharge characteristics, as well as promulgation of new Categorical Standards.
- 2.77 Significant Noncompliance Criteria (SNC): Criteria used by Control and Approval Authorities to identify important violations and/or patterns of noncompliance. An Industrial User meeting any one or more of the following criteria outlined in 40 CFR § 403.8 (f)(2)(viii) is in significant noncompliance:
- 2.77.1 Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) the numeric pretreatment standard or requirement, including instantaneous limits as defined by 40 CFR § 403.3(l).
- 2.77.2 Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined in 40 CFR §

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- 403.3(1) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH).
- 2.77.3 Any other violation of a Pretreatment Standard or requirement as defined by 40 CFR § 403.1(l) (daily maximum, long-term average, instantaneous limit or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public).
- 2.77.4 Any discharge of a Pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR § 403.8 (f)(1)(vi)(B) to halt or prevent such a discharge.
- 2.77.5 Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
- 2.77.6 Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
- 2.77.7 Failure to accurately report noncompliance.
- 2.77.8 Any other violation or group of violations, which may include a violation of best management practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.
- 2.77.9 Slug Discharge: As defined in 40 CFR § 403.8 (2)(vi) a Slug Discharge means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.
- 2.78 Standard Industrial Classification (SIC): Means a classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President - Office of Management and Budget, as it may be revised from time to time.
- 2.79 State: State of Colorado Department of Public Health and Environment.
- 2.80 Suspension Of Service: Physical blockage of a non-compliant Industrial User's sewer connection or issuance of a formal notice of suspension to the User.

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- 2.81 Technical Review Criteria (TRC): Criteria used by the Control Authority to determine a violation based on magnitude; 40% above a limit for conventional pollutants and 20% above a limit for all other pollutants.
- 2.82 Total Suspended Solids (TSS): Means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and that is removable by laboratory filtering.
- 2.83 Toxic Pollutant: Any Pollutant or combination of Pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under section 307(a) of the Act (33 U.S.C. § 1317) or other federal, state or local regulations or as otherwise listed at 40 C.F.R. Chapter I Subchapter D Part 122, Appendix D.
- 2.84 U.S.C.: United States Code.
- 2.85 Upset: An exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- 2.86 User: Any person or entity, including an Industrial User or a Significant Industrial User, using or connected to the District's POTW.
- 2.87 Wastewater: The liquid and water-carried industrial or domestic wastes which enter the POTW from dwellings, commercial buildings, and manufacturing service, and other facilities.
- 2.88 Waters of the State: All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the State or any portion thereof.
- 2.89 Zero Discharge Categorical Industrial User: A Significant Industrial User that is subject to National Categorical Pretreatment Standards that does not discharge or have the potential to discharge regulated materials or regulated pollutants into the District's POTW and that has a sewer service line connected to the District's facilities for the discharge of domestic wastewater.
- 2.90 Zero Discharge Permit: A permit issued to an Industrial User which would be considered a categorical Industrial User, except that the Industrial User does not plan to and has no potential to discharge regulated process wastewater into the

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District's wastewater system. A Zero Discharge Permit does not permit any discharge of categorical process wastewater into the District's sanitary sewer system. Zero Discharge Permits will be issued for a specified time period, not to exceed five years

3. INDUSTRIAL WASTEWATER DISCHARGE PERMITS AND ZERO DISCHARGE PERMITS

- 3.1 General: Industrial Wastewater Discharge Permits and Zero Discharge Permits (sometimes referred to collectively herein as “permit(s)”) are revocable licenses. The permits are issued at the discretion of the District and may be revoked or suspended, for cause, by the District, in accordance with the procedures set forth in section 19 of this Article and in the ERP. Upon revocation or suspension of a permit, any wastewater discharge and/or continued operation of the regulated activity shall be considered prohibited and illegal.
- 3.2 Permit Application: In order to be considered for an Industrial Wastewater Discharge Permit or a Zero Discharge Permit all Industrial Users required to obtain a permit must submit the following information, where applicable, on an application form (“Wastewater Questionnaire”) approved by the District:
- 3.2.1 Name, address and location (if different from the address).
 - 3.2.2 Standard Industrial Classification (SIC) code of both the industry as a whole and any processes for which federal Categorical Standards have been promulgated.
 - 3.2.3 Wastewater constituents and characteristics including any Pollutants in the discharge which are limited by any federal, state, or local Standards. Sampling and analysis will be undertaken in accordance with 40 CFR Subchapter D Part 136.
 - 3.2.4 Time and duration of discharge.
 - 3.2.5 Daily maximum, daily average, and monthly average wastewater flow rates, including daily, monthly, and seasonal variation, if any.
 - 3.2.6 Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used at the facility which are or could accidentally or intentionally be discharged to the POTW.
 - 3.2.7 Facility diagram showing sewers, floor drains, and other pertinent details.
 - 3.2.8 Each product produced by type, amount, process or processes and rate of production.
 - 3.2.9 Type and amount of raw materials processed (average and maximum per day).
 - 3.2.10 Number of employees, hours of operation, and proposed or actual hours of operation of pretreatment system.
 - 3.2.11 Any other information as may be deemed by the Industrial Pretreatment Coordinator to be necessary to evaluate the permit application.

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- 3.3 Overdue Wastewater Questionnaire: The Wastewater Questionnaire shall be completed and returned to the District no later than thirty (30) days after the District provides the Wastewater Questionnaire to the Industrial User. The District shall charge the Industrial User the Overdue Wastewater Questionnaire Fee as determined from time to time by the District as set forth in section 4 of Appendix A for any Wastewater Questionnaire that is not completed and returned to the District within thirty (30) days of the District's provision of the Wastewater Questionnaire to the Industrial User.
- 3.4 Requirements for Significant Industrial Users: All Significant Industrial Users proposing to connect to or discharge into any part of the wastewater treatment system shall obtain a permit therefore. A permit is required for all Significant Industrial Users to which National Categorical Pretreatment Standards apply, even if the Significant Industrial User does not discharge and/or does not plan or intend to discharge the regulated material(s) or Pollutant(s) into the District's POTW and the reported discharge into the POTW for the regulated material(s) or Pollutant(s) is zero.
- 3.4.1 No new Significant Industrial User shall commence Discharging into the system and no new Zero Discharge Categorical Industrial User shall commence operations without first completing the District's Wastewater Questionnaire and the District's Industrial Wastewater Discharge Permit application or Zero Discharge Permit application and obtaining an Industrial Wastewater Discharge Permit authorizing discharge under the District's Pretreatment Program providing for compliance with the General Pretreatment Regulations for Sources of Pollution (40 C.F.R. Part 403) or a Zero Discharge Permit, respectively.
- 3.4.2 Within ninety (90) days from the effective date of this regulation, all existing Significant Industrial Users that have not completed the District's Wastewater Questionnaire shall complete the District's Wastewater Questionnaire and obtain either an Industrial Wastewater Discharge Permit authorizing discharge under the District's Pretreatment Program to continue discharge into the District's sanitary sewage system or a Zero Discharge Permit authorizing continued operations within the District.
- 3.5 Requirements for Industrial Users: All existing Industrial Users shall obtain either an Industrial Wastewater Discharge Permit or a Zero Discharge Permit, whichever is applicable, within ninety (90) days from notification by the Industrial Pretreatment Coordinator that such a permit is required. A separate permit is required for each building or complex of buildings on separate lots with a separate sewer connection.
- 3.6 Objections to Permit Conditions: The applicant shall have fifteen (15) days from the date of notification to file written objections to any permit conditions with the

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Industrial Pretreatment Coordinator, who may, but shall not be required to, schedule a meeting with the applicant's Authorized Representative within fifteen (15) days following receipt of the applicant's objections and attempt to resolve disputed issues concerning permit conditions. If applicant files no objections to permit conditions proposed or if a subsequent agreement is reached concerning same, the Industrial Pretreatment Coordinator shall issue the permit to the applicant with such conditions incorporated.

- 3.7 No Assignment, Transfer or Sale of Permits: Permits are issued to a specific User for a specific operation. No permit shall be assigned, transferred or sold to a new or changed operation.
- 3.8 Permit Conditions: Permits issued to Significant Industrial Users shall include conditions as are reasonably deemed necessary by the Industrial Pretreatment Coordinator to prevent Pass Through or Interference, protect the quality of the water body receiving the POTW's effluent, protect worker health and safety, facilitate POTW sludge management and disposal, protect ambient air quality, and protect against damage to the POTW collections system or plant. Permits may contain, but need not be limited to, the following:
- 3.8.1 Limits on the average and/or maximum wastewater constituents and characteristics.
 - 3.8.2 Limits on the average and/or maximum rate and time of discharge or requirements for flow regulation and equalization.
 - 3.8.3 Requirements for the installation and maintenance of inspection and sampling facilities.
 - 3.8.4 Requirements for the development of a Compliance Schedule by each Industrial User for the installation of technology required to meet applicable Pretreatment Standards and Requirements.
 - 3.8.5 Specifications for monitoring programs, which may include sampling locations, frequency of sampling and reporting schedules.
 - 3.8.6 Requirements for submission of technical reports or discharge reports.
 - 3.8.7 Requirements for maintaining and retaining plant records relating to wastewater discharge and/or regulated activities for a minimum of three (3) years as specified by the District and affording the District access thereto.
 - 3.8.8 Requirements for notification of the District of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW. A change of volume or wastewater constituents of 20% or more shall be considered a substantial change.

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- 3.8.9 Requirements to control Slug Discharges, if determined by the District to be necessary. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:
 - 3.8.9.1 Description of discharge practices, including non-routine batch discharges;
 - 3.8.9.2 Description of stored chemicals;
 - 3.8.9.3 Procedures for immediately notifying the POTW of Slug Discharges as described in 40CFR § 403.12(f), including any discharge that would violate a prohibition under 40 CFR § 403.5(b) with procedures for follow-up written notification within five days;
 - 3.8.9.4 If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.
 - 3.8.10 The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW.
 - 3.8.11 Other conditions as deemed appropriate by the Industrial Pretreatment Coordinator to ensure compliance with this Article, and state and federal laws, Rules and Regulations.
 - 3.8.12 A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal regulations and Pretreatment Standards, including those which become effective during the term of the permit.
- 3.9 Additional Permit Conditions for Significant Industrial Users: In the case of Industrial Users identified as significant under 40 CFR § 403.3(v), including Significant Industrial Users subject to National Categorical Pretreatment Standards who do not discharge regulated material(s) or Pollutants into the District's wastewater system (*i.e.*, Zero Discharge Categorical Industrial Users), the permit shall also include, without limitation, the following conditions:
- 3.9.1 Statement of duration (in no case more than five (5) years).
 - 3.9.2 Statement of non-transferability.
 - 3.9.3 Requirements to comply with prohibited discharges standards as specified in 40 CFR § 403.5 and Article III, section 2 of these Regulations.
 - 3.9.4 Effluent limits, including Best Management Practices based on applicable general Pretreatment Standards, Categorical Pretreatment Standards, Local Limits and state and local law. Provided, however, this

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- condition is not applicable to Zero Discharge Categorical Industrial Users.
- 3.9.5 Self-monitoring, sampling, reporting, notification and record keeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general Pretreatment Standards in 40 CFR § 403, Categorical Pretreatment Standards, Local Limits and state and local law. A chain of custody form is required for any sampling and shall be included with the self-monitoring reports. This condition is not applicable to Zero Discharge Categorical Industrial Users.
- 3.9.6 If sampling performed by an Industrial User indicates a violation, the User shall notify the District within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the District within 30 days after becoming aware of the violation. Where the District has performed the sampling and analysis in lieu of the Industrial User, the District must perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis. Resampling is not required if:
- 3.9.6.1 The District performs sampling at the Industrial User at a frequency of at least once per month; or
- 3.9.6.2 The District performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the District receives the results of this sampling.
- 3.9.7 If an Industrial User subject to the reporting requirement in 40 CFR §§ 403.12 (e) or (h) monitors any regulated pollutant at the appropriate sampling location more frequently than required by the District, using the procedures prescribed in paragraph 40 CFR § 403.12 (g)(5), the results of this monitoring shall be included in the report.
- 3.9.8 Statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements and any applicable Compliance Schedule. Such schedules may not extend the compliance date beyond federal deadlines.
- 3.10 Violation of Conditions: Any violation of the conditions of a permit, of this Article, of Article III, or of applicable federal, state or local laws or regulations shall be reason for suspension or revocation of such permit. A permit may be suspended or revoked by the District in accordance with the procedures set forth in section 19 of this Article and the procedures set forth in the ERP. Upon suspension or revocation of a permit, any wastewater discharge from the affected User and/or continued operation of the regulated activity shall be considered prohibited and illegal.

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- 3.11 Certification: Any person signing a document (such as Wastewater Questionnaires, monitoring reports and other certifications) under this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are substantial penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

- 3.12 Deny or Condition New or Increased Contributions: The District may deny or condition new or increased contributions of Pollutants, or changes in the nature of Pollutants, to the POTW by Industrial Users where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate its NPDES permit.
- 3.13 Denial of Permit: In the event a permit application is denied, the Industrial Pretreatment Coordinator shall notify the applicant in writing of such denial. Such notification shall state the grounds for such denial with a degree of specificity that will inform the applicant of the measures or actions which must be taken by the applicant prior to issuance of a permit.
- 3.14 Permits Limited to Specified Time Period: Permits shall be issued for a period of 3 years, this allows the District to administratively extend permits for up to 5 years from the date the permit became effective.
- 3.15 Reissuance/Expiration of Permits: The permittee is responsible for filing an application for reissuance of the permit a minimum of ninety (90) days prior to the expiration date of the permit. Under no circumstances shall the permittee continue to discharge or operate the regulated activity after the expiration of the permit.
- 3.16 Modifications of Permit Terms and Conditions: The terms and conditions of a permit may be subject to modifications and changes by the Industrial Pretreatment Coordinator throughout the term of the permit, as limitations or requirements identified in this Article, in Article III, or in federal, state or local laws or regulations are modified and changed. Any modification of the permit, including the imposition of new conditions on the permit holder, shall include a reasonable time schedule for compliance as allowed by local, state and federal laws and regulations. A permit may be modified in whole or in part with cause in accordance with the provisions of the District's Rules and Regulations, as amended from time

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to time. Causes that could lead to modifying a permit include, but are not limited to, the following:

- 3.16.1 Promulgation of any new, additional, revised or more stringent Pretreatment Standards or Requirements or effluent limitations by the District, state, or federal agencies.
 - 3.16.2 Changes(s) in the process(es) used by the permittee or change(s) in the volume or character of the process discharge(s), or failure to meet effluent limitations.
 - 3.16.3 Change(s) in design or capability of the receiving POTW Treatment Plant.
 - 3.16.4 Change(s) in any condition of the permittee, or the District, that requires either a temporary or permanent reduction or elimination of the authorized discharge.
 - 3.16.5 Revision or grant of a variance from such Categorical Standards pursuant to 40 CFR § 403.13.
 - 3.16.6 To correct typographical or other errors in the permit.
 - 3.16.7 Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or Rules and Regulations. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination or a notification of planned changes or anticipated noncompliance does not stay any permit condition.
- 3.17 Permit Administration Fee: All Industrial Wastewater Discharge Permit holders shall annually pay to the District the Industrial User Permit Administration Fee, as determined by the Board from time to time as provided in section 2 of Appendix A. All Zero Discharge Permit holders shall annually pay to the District the Zero Discharge Permit Administration Fee as determined by the Board from time to time as provided in section 3 of Appendix A.

4 NATIONAL CATEGORICAL PRETREATMENT STANDARDS

- 4.1 Prohibited Pretreatment Discharge Standards: No User of the District's POTW shall discharge, cause to be discharged or introduce into the POTW and the District's wastewater facilities, any storm water, surface water, ground water, roof run-off, subsurface drainage, cooling water, air conditioning wastewater or any other commercial or industrial wastewater unless the water meets the standards specified in Articles III and IV of these Rules and Regulations.
- 4.2 National Categorical Pretreatment Standards:
- 4.2.1 National Categorical Pretreatment Standards specifying quantities or concentrations of Pollutants with Pollutant properties which may be

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discharged to a POTW by existing or new Industrial Users in specific industrial subcategories will be established under the appropriate subpart of 40 CFR, Chapter I, Subchapter N. These standards shall be in addition to the general and specific prohibitions, including Local Limits, established in 40 CFR § 403.5 and in Article III of these Rules and Regulations.

- 4.2.2 Upon promulgation of National Categorical Pretreatment Standards for a particular industrial subcategory, the Categorical Standard, if more stringent than the limitations imposed under Articles III and IV for sources in that subcategory, shall supersede the less stringent limitations.
- 4.2.3 The Industrial Pretreatment Coordinator shall notify all identified affected Industrial Users of any applicable National Categorical Pretreatment Standards, the applicable reporting requirements as provided in Article III and the schedule for compliance. However, the Industrial User is responsible for complying with all National Categorical Pretreatment Standards and requirements independent of specific notification by the District.
- 4.2.4 Within sixty (60) days after the effective date of a National Categorical Pretreatment Standard for a subcategory under which an Industrial User may be included, the Industrial User or POTW may request that the Approval Authority provide a written determination as to whether the Industrial User falls within that particular subcategory. Each such request shall conform to the requirements of 40 CFR § 403.6(a).

5. LOCAL LIMITS

- 5.1 The District may develop BMPs to implement the requirements as provided in 40 CFR § 403.5(c)(1) and (2). Such BMPs shall be considered Local Limits and Pretreatment Standards for the purposes of this Article and section 307(d) of the Act.

6. REMOVAL CREDITS

- 6.1 Removal Credits for Categorical Pretreatment Standards: Any POTW receiving wastes from an Industrial User to which a categorical Pretreatment Standard(s) applies may, at its discretion and subject to the conditions of 40 CFR § 403.7, grant removal credits to reflect removal by the POTW of Pollutants specified in the categorical Pretreatment Standard(s). The POTW may grant a removal credit equal to or, at its discretion, less than its consistent removal rate. Upon being granted a removal credit, each affected Industrial User shall calculate its revised discharge limits in accordance with paragraph 40 CFR § 403.7(a)(4). Removal credits may

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only be given for indicator or surrogate pollutants regulated in a categorical Pretreatment Standard if the categorical Pretreatment Standard so specifies.

7. NET/GROSS CALCULATIONS

7.1 Adjustment of Standards: Pretreatment Standards may be adjusted to reflect the presence of Pollutants in the Industrial Users intake water in accordance with the provisions of 40 CFR § 403.15.

8. FEDERAL, STATE OR LOCAL REQUIREMENTS

8.1 More Stringent Requirements May Apply: Federal, state or local requirements and limitations on discharges shall apply in any case where they are more stringent than the pretreatment requirements and limitations contained in this Article.

9. COMPLIANCE SCHEDULE

9.1 If additional Pretreatment and/or Operation and Maintenance (O & M) will be required to meet the Pretreatment Standards; the Industrial User must implement the shortest schedule which will provide such additional Pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

9.2 The following conditions apply to the Compliance Schedule:

9.2.1 The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the Industrial User to meet the applicable categorical Pretreatment Standards (*e.g.*, hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

9.2.2 No increment referred to in paragraph 40 CFR § 403.12(c)(1) and paragraph 9.2.1 of this section shall exceed nine (9) months.

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

10. COMPLIANCE SCHEDULE FOR CATEGORICAL STANDARDS

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- 10.1 Existing Industrial Users: Compliance by existing sources with Categorical Standards shall be within three (3) years of the date the Categorical Standard is effective, unless a different compliance date is specified in the appropriate subpart of 40 CFR, Chapter I, Subchapter N. These Industrial Users shall be classified as Significant Industrial Users.
- 10.2 New Sources: Existing sources which become Industrial Users subsequent to promulgation of an applicable Categorical Standard shall be considered existing Industrial Users except where such sources meet the definition of a New Source. New Sources shall install and have in operating condition and shall “start-up” all pollution control equipment required to meet applicable Pretreatment Standards before beginning to discharge. Within the shortest period of time (not to exceed 90 days), New Sources must meet all applicable Pretreatment Standards. Compliance with Categorical Standards for New Sources will be required upon promulgation or as otherwise specified in the applicable Categorical Standard.
- 10.3 Progress Reports on Compliance: Affected Industrial Users shall report in writing to the Industrial Pretreatment Coordinator on incremental progress in meeting their schedule of compliance.

11. REPORTING REQUIREMENTS

- 11.1 Code of Federal Regulations Applies: All existing Industrial Users and New Sources subject to such standards shall comply with the following sections of 40 CFR: § 403.12(b) [Baseline Monitoring Reports], § 403.12(c) [Compliance Schedule for Meeting Compliance Milestones], § 403.12(d) [90-Day Compliance Reports], § 403.12(e) excluding § 403.12(e)(2) [Periodic Reports on Compliance; excluding Pollutants Not Present], § 403.12(f) [Notice of Potential Problems], § 403.12(g) [Monitoring and Analysis to Demonstrate Continuous Compliance], § 403.12(h) [Reporting Requirements for Industrial Users Not Subject to Categorical Pretreatment Standards], § 403.12(j) [Notification of Changed Discharge], § 403.12(l) [Signatory Requirements for IU Reports], § 403.12(o) [Recordkeeping Requirements], And § 403.12(p) [Notification of Discharge of Hazardous Waste]. Reporting requirements shall apply to all Industrial Users subject to National Categorical Pretreatment Standards whether or not they discharge regulated material(s) or pollutants into the District’s wastewater system.
- 11.2 Modification of Reporting Requirements: At its discretion, the Control Authority may agree to alter the months for reporting, but in no event shall reporting be less than once every six (6) months. The Control Authority may also impose mass limitations on Industrial Users which are using dilution to meet applicable

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Pretreatment Standards, or in other cases where the imposition of mass limitations is appropriate.

- 11.3 Unlawful Reporting: It is unlawful for any person to knowingly make any false statement, representation, or certification in any application, Wastewater Questionnaire, record, report, plan, or other document filed or required to be maintained pursuant to this Article or any Industrial Wastewater Discharge Permit or Zero Discharge Permit, or to knowingly falsify, tamper with, or render inaccurate any monitoring device or method required under this Article.
- 11.4 Additional Reporting Requirements: Non-Categorical Significant Industrial Users shall submit to the Control Authority at least once every six (6) months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the Pollutants required to be reported by the Control Authority. These reports shall be based on sampling and analysis performed in the period covered by the report and performed in accordance with the techniques described in 40 CFR § 136 and amendments thereto. This sampling and analysis may be performed by the Control Authority in lieu of the Non-Categorical Significant Industrial User. Where the POTW itself collects all the information for the report, the Non-Categorical Significant Industrial User will not be required to submit the report. It is the Significant Industrial Users' responsibility to determine if the POTW has conducted the sampling in lieu of the Significant Industrial User. The Significant Industrial User is always responsible for ensuring that all sampling and reports are completed and submitted to the POTW.

12. EXCESSIVE DISCHARGE

- 12.1 Dilution Prohibition: No User shall increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, or in any other specific pretreatment standard developed by the District, State or EPA (40 CFR § 403.6(d))
- 12.2 Equivalent Concentration Limit: Where process effluent is mixed, prior to treatment, with wastewaters other than those generated by the regulated process, the Combined Wastestream Formula, as defined in 40 CFR § 403.6(e), shall be applied by the discharger with the written concurrence of the Control Authority and applied to the mixed effluent so as to account for the presence of flows not contributed by the regulated process.
- 12.2.1 In no event may an equivalent concentration limit be used if the regulated Pollutants would no longer be detectable by the equipment monitoring the combined wastewaters.

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12.2.2 The equivalent concentration limit for a specified Pollutant will be derived by use of the formula contained in 40 CFR § 403.6(e) or as said section and formula may be hereafter amended. Under no circumstances will a derived concentration limit be permitted that is below the minimum detection limit for the analytical method.

13. ACCIDENTAL DISCHARGE

- 13.1 Notification: Each Significant Industrial User shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the User's own cost and expense. In the case of accidental discharge by a Significant Industrial User, such User shall immediately telephone and notify the POTW of the incident at the following telephone numbers: 720.206.0466 or 720.206.0467. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions.
- 13.2 Written Notice: Within five (5) days following an accidental discharge, the User shall submit to the Industrial Pretreatment Coordinator a detailed written report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any fines, civil penalties or other liability which may be imposed by this Article or other applicable law.
- 13.3 Notice to Employees: The Industrial User's employees will be advised of the procedures to follow for preventing spills and action to be taken in the case of an accidental spill. A notice must be permanently posted on the Industrial User's bulletin board or other prominent place informing employees whom to call in the event of an accidental discharge. An Industrial User shall advise its employees, who may cause or suffer such an accidental discharge, of the emergency notification procedure.
- 13.4 Slug Control Plans: The District shall evaluate and document whether each Significant Industrial User needs a plan or other action to control Slug Discharges. For Industrial Users identified as significant prior to November 14, 2005, this evaluation must be conducted at least once by October 14, 2006; additional Significant Industrial Users will be evaluated by the District within one (1) year of being designated a Significant Industrial User. For purposes of this subsection, a Slug Discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the District's regulations, Local Limits or NPDES conditions. The results of such activities shall be available to the Approval Authority upon request. Significant Industrial Users shall notify the District immediately of any changes at

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its facility affecting the potential for Slug Discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- 13.4.1 Description of discharge practices, including non-routine batch discharges.
- 13.4.2 Description of stored chemicals.
- 13.4.3 Procedures for immediately notifying the POTW of Slug Discharges, including any discharge that would violate a prohibition under 40 CFR § 403.5(b), with procedures for follow-up notification within five (5) days.
- 13.4.4 If necessary, procedures to prevent adverse impacts from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

14. PRETREATMENT

- 14.1 General: Industrial Users shall provide necessary wastewater treatment as required to comply with Articles III and IV of the Rules and Regulations prior to the point where the Industrial User discharges into the POTW. Any facilities required to pretreat wastewater to an acceptable level shall be provided, operated, used and maintained by the User at the User's own expense.
- 14.2 Pretreatment Technology: Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges that might interfere with or otherwise be incompatible with the POTW. Where there is reason to believe that the use of equalization tanks or other facilities which have potential for dilution are resulting in dilution, the Control Authority shall impose mass limitations or an equivalent concentration limit on an Industrial User employing such tanks or other facilities in accordance with section 11 or 12 of this Article.

15. UPSET PROVISION

- 15.1 Effect of an Upset: An Upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of section 15.2 are met.
- 15.2 Conditions Necessary for a Demonstration of Upset: An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - 15.2.1 An Upset occurred and the Industrial User can identify the cause(s) of the Upset;

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- 15.2.2 The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;
- 15.2.3 The Industrial User has submitted the following information to the District within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within five (5) days):
 - 15.2.3.1 A description of the indirect discharge and cause of noncompliance;
 - 15.2.3.2 The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - 15.2.3.3 Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- 15.3 Burden of proof: In any enforcement proceeding the Industrial User seeking to establish the occurrence of an Upset shall have the burden of proof.
- 15.4 Reviewability of agency consideration of claims of Upset: In the usual exercise of prosecutorial discretion, Agency enforcement personnel should review any claims that noncompliance was caused by an Upset. No determinations made in the course of the review constitute final Agency action subject to judicial review. Industrial Users will have the opportunity for a judicial determination on any claim of Upset only in an enforcement action brought for noncompliance with Categorical Pretreatment Standards.
- 15.5 User responsibility in case of upset: The Industrial User shall control production or all discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

16. BYPASS

- 16.1 Bypass Not Violating Applicable Pretreatment Standards or Requirements: An Industrial User may allow any Bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These Bypasses are not subject to the provision of paragraphs 16.2 and 16.3 of this section.

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16.2 Notice:

16.2.1 If an Industrial User knows in advance of the need for a Bypass, it shall submit prior notice to the District, if possible at least ten (10) days before the date of the Bypass.

16.2.2 An Industrial User shall submit verbal notice of an unanticipated Bypass that exceeds applicable Pretreatment Standards to the District within 24 hours from the time the Industrial User becomes aware of the Bypass. A written submission shall also be provided within five (5) days of the time the Industrial User becomes aware of the Bypass. The written submission shall contain a description of the Bypass and its cause; the duration of the Bypass, including exact dates and times, and, if the Bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the Bypass. The District may waive the written report on a case-by-case basis if the verbal report has been received within 24 hours.

16.3 Prohibition of Bypass:

16.3.1 Bypass is prohibited, and the District may take enforcement action against an Industrial User for a Bypass, unless:

16.3.1.1 Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

16.3.1.2 There were no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a Bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

16.3.1.3 The Industrial User submitted notices as required under paragraph 16.2 of this section.

16.3.2 The District may approve an anticipated Bypass after considering its adverse effects, if the District determines that it will meet the three conditions listed in paragraph 16.3.1 of this section.

17. CHARGES AND COSTS

17.1 Responsibility for Costs: Each Industrial User subject to National Categorical Pretreatment Standards or Pretreatment Standards shall pay all costs incurred by the District in the operation and maintenance of the pretreatment program, which costs relate to the User's facility. Such costs shall include, but are not limited to:

17.1.1 Costs for administration.

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- 17.1.2 Costs for continued implementation of the User's Pretreatment Program on an annual basis.
- 17.1.3 Costs for monitoring, inspections and surveillance procedures, including laboratory analysis costs.
- 17.1.4 Costs for collection of samples, equipment, preparation, data review, etc., as set forth in the District's Sampling Fee as determined by the Board from time to time as provided in Section 4 of Appendix A.
- 17.1.5 All Non-Residential Users which discharge a waste with five-day biochemical oxygen demand (BOD-5) and Total Suspended Solids (TSS) greater than that of the average wastewater treatment plant influent shall pay a BOD and/or TSS Non-Residential Surcharge in addition to connection fees. The BOD and/or TSS Non-Residential Surcharge will be sufficient to cover the cost of treating wastes above normal strength. Normal strength influent wastes of the South Adams County Water and Sanitation District treatment plant have an average BOD-5 and TSS set forth in section 5 of appendix a. This section also contains the formula that shall be utilized in computing the monthly surcharge.
- 17.1.6 The non-residential User shall pay 100% of the monitoring costs incurred by the District in establishing the User's BOD and/or TSS Non-Residential Surcharge.
- 17.1.7 The District reserves the right to restrict BOD and TSS loading rates if levels are sufficient to interfere with the wastewater treatment processes.
- 17.1.8 Non-residential discharges that originate from: (a) centralized wastewater collection and/or treatment companies (note: this wastewater shall only be accepted by the District if preapproved by the Industrial Pretreatment Coordinator, the Board of Directors, and permitted prior to discharge) and (b) permitted discharges of storm water, surface water, ground water, roof runoff, subsurface drainage, commercial or industrial wastewater shall be subject to the Volume Surcharge Fee as determined by the Board from time to time as set forth in Section 6 of Appendix A.
- 17.1.9 Costs for reviewing accidental discharge procedures and construction.
- 17.1.10 Costs for filing appeals.
- 17.1.11 All costs incurred by the District for enforcement, including all legal fees.
- 17.1.12 Other costs as the District may deem necessary to carry out the requirements contained herein.

The above costs relate solely to the matters covered by this Article and are separate from all other fees or costs chargeable by the District.

18. MONITORING AND INSPECTION

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- 18.1 Monitoring Requirements: The Industrial Pretreatment Coordinator has the right to require the installation of monitoring equipment and facilities to allow inspection, sampling and flow measurement of wastewater flows from Industrial Users. Such facilities may include a monitoring and sampling manhole in the User's sanitary service line. All monitoring facilities shall be provided, operated, used and maintained by the User at the User's own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.
- 18.2 Right of Entry:
- 18.2.1 The Industrial Pretreatment Coordinator and/or his Authorized Representative(s) shall have the right to enter upon: (a) the property and premises of any Industrial User in which a discharge source or treatment system is located or in which records are required to be kept at all times for the purposes of inspection, sampling, monitoring, records examination and copying or in the performance of any of the duties required to implement and enforce the provisions of this Article and to determine, independent of information supplied by Industrial Users, compliance or noncompliance by Industrial Users with applicable Pretreatment Standards and other Rules and Regulations of the District.
- 18.2.2 The Industrial Pretreatment Coordinator and/or his Authorized Representative(s) shall have the right to enter upon the property and premises of any Industrial User located within the District, regardless of whether they discharge to the POTW, to determine whether a discharge source or treatment system is located on the property or should be required.
- 18.2.3 Upon arrival at the facility, the Industrial Pretreatment Coordinator and/or his Authorized Representative(s) shall identify themselves to the manager or supervising staff person on duty at the facility, prior to conducting inspections, sampling, or records examination.
- 18.2.4 The Industrial Pretreatment Coordinator and/or his Authorized Representative shall have the right to take photos of any portion of the property to document facility process, pretreatment systems, and compliance status of the Industrial User.
- 18.3 Sampling and Inspection: The POTW shall randomly sample and analyze the effluent from Industrial Users and conduct surveillance activities in order to identify, independent of information supplied by the Industrial Users, the compliance status of the Industrial User with Pretreatment Standards and requirements. In addition, the POTW shall inspect and sample the effluent from each Significant Industrial User at least once a year except as otherwise specified in 40 CFR § 403.8(f)(2)(v).

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- 18.4 Records Review: The Industrial Pretreatment Coordinator and/or his Authorized Representatives shall have the right to review all off-site waste disposal records (e.g. oil/solvent disposal, interceptor pumping, etc.) from any Industrial User during inspections. These records must be kept onsite physically or electronically for a minimum of three years for District review.

19. ENFORCEMENT

- 19.1 General: Violation of any terms of this Article, of Article III, of an Industrial Wastewater Discharge Permit, of a Zero Discharge Permit or of local, state or federal laws or regulations may subject the Industrial User to enforcement responses by the District, in accordance with this Article and with the Enforcement Response Plan (ERP).

- 19.2 Suspension or Revocation of Permit: The District, the District Board or its representative has the authority to suspend or revoke an Industrial User's Industrial Wastewater Discharge Permit and/or a Zero Discharge Permit, suspend or disconnect water and/or sewer service, or both. Revocation, suspension and/or disconnection will generally be used for significant discharge violations or significant violations of the terms of the permit, especially where the discharge or threat of discharge presents a danger to the public health or welfare, property, the environment or the POTW, or may cause the District to violate its NPDES permit or for repeat violations.

- 19.2.1 Grounds for suspension or revocation include, but are not limited to, the following:

19.2.1.1 Violation of the District's Rules and Regulations.

19.2.1.2 Violation of federal, state or local laws or regulations.

19.2.1.3 Violation of any term of the permit.

19.2.1.4 Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts in either the permit or any required report.

19.2.1.5 Failure to pay fines, comply with Administrative Orders or to meet Compliance Schedules, tampering with monitoring equipment, or refusing to allow reasonable access to the facility premises or records.

- 19.2.2 Upon a decision by the Board or its representative to suspend or revoke an Industrial User's permit, an Administrative Order ("AO") containing a formal order of suspension or revocation shall be issued. The order shall notify the User of its right to contest the suspension or revocation, either by requesting a hearing before the District's Board of Directors (or its designated hearing officer), or by responding in writing to the Industrial Pretreatment Coordinator. In either case, the written response or request for a hearing must be received by the District within fifteen (15) days of the User's receipt of the AO. Submission of a request for a hearing or a

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written response shall not excuse compliance with the AO pending resolution of the Industrial User's claim.

19.3 Emergency Suspension: The District's Board of Directors or its Authorized Representative shall make all final determinations regarding the termination of services and the revocation of permits. However, the District Manager or Industrial Pretreatment Coordinator shall have authority to initiate emergency suspensions. An emergency suspension may be required to immediately and effectively halt or prevent a discharge or activity which reasonably appears to present an imminent endangerment to the health or welfare of persons, which presents or may present an endangerment to property, the environment, or the POTW, or which could cause the District to violate its NPDES permit. To initiate an emergency suspension, the District Manager or the Industrial Pretreatment Coordinator shall use its best efforts to notify the Industrial User, by phone or in person, that it must immediately suspend the harmful discharge or activity. However, if giving such notice is impossible, would jeopardize the safety of human health or welfare, property, the environment, or the POTW, or if the Industrial User fails to immediately comply, the District or the Industrial Pretreatment Coordinator may take such steps as are deemed necessary, including immediate severance of the sewer connection.

19.3.1 An emergency suspension shall be followed by an AO containing a formal suspension order. The AO shall notify the Industrial User of its right to contest the suspension, either by requesting a hearing before the District's Board of Directors (or its designated hearing officer), or by responding in writing to the Industrial Pretreatment Coordinator. In either case, the written request for a hearing or written response must be received by the District within fifteen (15) days of the Industrial User's receipt of the notice. Submission of a request for a hearing or a written response shall not excuse compliance with the order pending resolution of the Industrial User's claim.

19.4 Non-Emergency Suspension, Revocation or Disconnection: In all other "non-emergency" suspensions or revocations of permits and/or suspension or disconnection of water and/or sewer services, where no threat to human health or welfare, property, the environment, or the POTW exists, the Industrial User shall be issued an AO informing it of the violation and the impending severance of water and/or sewer services. Non-emergency suspensions, revocations or disconnections may be initiated in response to repeated violations by an Industrial User of the District's Rules and Regulations or of the permit. The AO shall notify the Industrial User of its right to contest the suspension, revocation or disconnection before its services are actually suspended, either by requesting a hearing before the District's Board of Directors (or its designated hearing officer), or by responding in writing to the Industrial Pretreatment Coordinator. In either case, the written request for a hearing or written response must be received by the District within fifteen (15) days of the User's receipt of the AO. The Board or its Authorized Representative shall

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make a final decision on the suspension, revocation and/or disconnection. Submission of a request for a hearing or a written response shall not excuse compliance with the order pending resolution of the Industrial User's claim.

- 19.5 Action Upon Suspension: Once water and/or sewer service has been suspended, whether or not the suspension was an emergency suspension, or disconnected or a permit has been suspended or revoked, the Industrial User must submit within five (5) days of the discharge or activity giving rise to the action a detailed written statement describing the cause of the underlying discharge or activity and outlining the measures that will be taken to prevent any harmful discharges or activities in the future. Upon verifying that the problem has been resolved, the District may reinstate the water and/or wastewater treatment service upon proof that the harmful discharge or activity has been eliminated, unless revocation proceedings are initiated against the Industrial User.
- 19.6 Notification of Violation: Whenever the Industrial Pretreatment Coordinator finds that an Industrial User has violated any provision of Articles III or IV, the User's permit, or any local, state or federal law or regulation, the Industrial Pretreatment Coordinator shall notify the User with a letter of violation and respond in accordance with this Article or the District's Enforcement Response Plan (ERP).
- 19.7 Legal Action: If any person discharges sewage, industrial wastes or other wastes, or similar substances into the District's POTW or takes action contrary to the provisions of Articles III or IV, National or State Pretreatment Requirements, or any order, rule, regulation, or permit issued hereunder, the District may commence actions for appropriate relief, including injunctive relief, in any court of competent jurisdiction. In addition, the District may seek such damages or penalties as may be provided by law or equity, or by the Rules and Regulations of the District, in accordance with the procedures set forth in the ERP, including: suspension / disconnection of water and/or wastewater treatment services to the User and/or suspension / revocation of a permit; and, penalties based on the amount by which the User was unjustly enriched by violating articles III or IV, national or state pretreatment requirements, or any order, rule, regulation, or permit issued hereunder.
- 19.8 Public Notification: The District shall annually publish in the largest daily newspaper of circulation in the District a list of all Industrial Users who were in significant noncompliance with any Pretreatment Standards at least once during the twelve (12) previous months. For purposes of this provision, an Industrial User is in significant noncompliance if its violation meets one or more of the following criteria:
- 19.8.1 Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six-month period exceed (by any

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- magnitude) a numeric pretreatment standard or requirement including instantaneous limits for the same pollutant parameter.
- 19.8.2 Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR § 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH.).
- 19.8.3 Any other violation of a pretreatment standard or requirement as defined by 40 CFR § 403.3(l) (daily maximum, long-term average, instantaneous limit or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public).
- 19.8.4 Any discharge of a Pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR § 403.8 (f)(1)(vi)(B) to halt or prevent such a discharge.
- 19.8.5 Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
- 19.8.6 Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
- 19.8.7 Failure to accurately report noncompliance.
- 19.8.8 Any other violation or group of violations which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.
- 19.9 Hearing Procedure: In order to ensure due process to any party to whom a letter of violation assessing a penalty, or an Administrative Order, except for a show cause order, has been sent or served, the party shall be given the opportunity to contest the order or letter of penalty either by requesting a hearing before the Board of Directors (or its designated hearing officer, which hearing officer may be a District employee or consultant) or by responding in writing to the Industrial Pretreatment Coordinator. If a hearing is requested, the Board may hear the matter or designate a hearing officer of its choice to conduct the hearing. All requests for a hearing and written responses must be received by the District within fifteen (15) days after the Industrial User's receipt of the letter of violation or Administrative Order. The Industrial User shall have twenty (20) days from its receipt of a Letter of Penalty

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(LOP) to pay the fine, whether or not it submits a request for a hearing or written response. Submission of a request for a hearing or written response shall not excuse noncompliance with an Administrative Order pending resolution of the Industrial User's claim.

- 19.9.1 Upon receipt of a request for a hearing, the Board or its duly appointed hearing officer shall set the time and place of the hearing. The Board shall provide notice by certified mail to the party requesting the hearing of the appointment of a hearing officer, if one has been appointed, and of the date, time and place of the hearing.
- 19.9.2 The hearing officer or the Board shall establish a procedure for conduct of the hearing which shall allow for an orderly presentation by all parties. The hearing officer or the Board shall permit all parties to respond to the letter of penalty or Administrative Order, to present evidence and argument on all issues, to cross-examine witnesses who testify at the proceeding to the extent necessary for a full and true disclosure of facts, and to make objections at the proceedings. All parties to the proceedings shall have the right to present their case or defense by verbal or documentary evidence and to submit rebuttal evidence. All parties shall also be entitled to the benefit of legal counsel at that party's own expense, but a party may also appear on its own behalf. An attorney who is a witness may not act as counsel for the party calling him or her as a witness.
- 19.9.3 The hearing officer or the Board shall not be bound by the Colorado Rules of Civil Procedure or the Colorado Rules of Evidence, but may follow selected parts of the rules as are deemed appropriate. The hearing officer or the Board may consider hearsay evidence, or any other evidence reasonably calculated to assist in rendering a decision. However, no *ex parte* materials or representation of any kind shall be received or considered by the hearing officer or the Board.
- 19.9.4 The hearing officer or the Board shall have authority, but not the obligation, to administer oaths and affirmations, sign and issue subpoenas, rule upon offers of proof and receive evidence; dispose of motions relating to the discovery and production of relevant documents and things for inspection, copying, or photographing; regulate the course of the hearing, set the time and place for continued hearings; fix the time for filing of briefs and other documents; direct the parties to appear and confer to consider the implications of the issues, admission of fact or of documents to avoid unnecessary proof, and limitation of the number of expert witnesses; issue appropriate orders that shall control the subsequent course of the proceeding; reprimand or exclude from the hearing any person for any improper conduct in his or her presence; or take any other action authorized by Board rules; or take action consistent with the procedures that generally govern comparable administrative hearings.
- 19.9.5 The hearing officer or the Board shall cause the proceedings to be recorded by a reporter or by an electronic recording device. Any party, upon

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payment of a reasonable charge therefore, shall be entitled to procure a transcript of the record or any part thereof. At the conclusion of the hearing, the hearing officer or the Board shall, within thirty (30) days, issue a written decision and provide each party with a copy thereof, unless the time frame for entering the decision is extended.

- 19.9.6 The decision of the Board or its hearing officer shall be based on the record. The record shall include all testimony, pleadings, applications, evidence, exhibits and other documents presented or considered, matters officially noticed, rulings upon exceptions, any findings of fact and conclusions of law proposed by any party, and all briefs filed. The decision shall include a statement of the findings and conclusions upon all the material issues of fact, law, or discretion presented by the record and the appropriate order, sanction, relief or denial thereof.
- 19.9.7 If a timely request for a hearing is made, the decision of the hearing officer or the Board shall be a final order. Any party adversely affected by the decision may appeal to Colorado District Court with jurisdiction, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. If the alleged violator fails to submit a timely written request for a hearing, the alleged violator has failed to exhaust administrative remedies and may not appeal the letter of penalty or Administrative Order to the District Court.

20. PENALTIES

- 20.1 Administrative and Civil Penalties: Any User who is found to have violated any provision of Articles III or IV, the User's permit, or any local, state or federal law or regulation, or any order or rule, shall be subject to an administrative, criminal or civil penalty of up to One Thousand Dollars (\$1,000), or an amount deemed appropriate by the Industrial Pretreatment Coordinator, for each violation per day plus interest as provided by statute, in accordance with the procedures set forth in the ERP. The Industrial Pretreatment Coordinator may chose, in the alternative, to assess the penalty provided in the preceding sentence in an amount reasonably related to the benefit to the User from such violation had such violation not been detected. Each day on which a violation shall occur or continue shall be deemed a separate offense. In addition to the penalties provided herein, the District may recover reasonable actual damages incurred by the District. Such damages shall include, but not be limited to, reasonable attorneys fees, court costs and fees, and other expenses of litigation by appropriate suit at law. Also included are actual damages incurred by the District and costs incurred by the POTW for violation of its NPDES permit where such permit violation is a direct result of the violation of Articles III or IV.
- 20.2 Criminal Penalties: The District will actively pursue prosecution of any person causing impairment to its wastewater or water system pursuant to local, state and federal laws and regulations.

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- 20.3 Remedies Available to the District: The District may pursue any and all remedies, damages and penalties as may be provided by the Colorado Special District Act, Article 1, Title 32, Colorado Revised Statutes, the Rules and Regulations of the South Adams County Water and Sanitation District, the District's ERP and federal law, which includes but is not limited to the following enforcement actions: consent orders, show cause hearing, cease and desist order, Administrative Order, and administrative penalty.
- 20.4 Reimbursement: The District may pursue reimbursement for any fine, assessment, levy or charge by the Environmental Protection Agency, the Colorado Department of Health, or any other governmental agency having jurisdiction over the subject matter and the District, which fine, assessment, levy or charge is imposed on the District as a result of a violation by the User.
- 20.5 Liens: All charges, costs and penalties, if unpaid, shall become a lien on the User's property pursuant to section 32-1-1001(1)(j)(I), C.R.S.
- 20.6 Recovery of Costs and Fees: In addition to the penalties provided herein, the District may recover reasonable attorney fees, court costs and fees, and other expenses of litigation by appropriate suit at law against the person found to have violated this division or the orders, rules, regulations, and permits issued hereunder.

21. CONFIDENTIAL INFORMATION

- 21.1 Public Information: Information and data on an Industrial User obtained from reports, questionnaires, and monitoring programs and inspections shall be available to the public or other governmental agency without restriction unless the Industrial User specifically requests and is able to demonstrate to the satisfaction of the Industrial Pretreatment Coordinator that the release of such information would divulge information, process or methods of production entitled to protection as trade secrets of the Industrial User or otherwise confidential where release would be injurious to the Industrial User or the Industrial User's business.
- 21.2 Confidential Information: When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes and accepted by the Industrial Pretreatment Coordinator as confidential shall not be made available for inspection by the public but shall be made available to governmental agencies, upon receipt of a written request by the Industrial Pretreatment Coordinator from the agency, for uses related to this Article, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System Permit and/or the Pretreatment Programs. In addition, such portions of a report shall be available for use by the State and any state or local agency in judicial review or enforcement proceedings. wastewater constituents and characteristics,

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including effluent data, standards or limitations, will not be recognized as confidential information. Notwithstanding anything to the contrary, the District may disclose documents if required pursuant to the valid court order.

22. HAZARDOUS WASTE NOTIFICATION

22.1 Reporting Requirements: All Industrial Users shall submit reports pursuant to the reporting requirements for Industrial Users discharging hazardous wastes to POTWs found in 40 CFR § 403.12(p) as follows:

22.1.1 The Industrial User shall notify the POTW, the EPA Regional Waste Management Division Director, and the state hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR § 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other).

22.1.2 If the Industrial User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months.

22.1.3 All notifications must take place within one hundred eighty (180) days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR § 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR §§ 403.12(b),(d) and (e).

22.1.4 In the case of any notification made under paragraph (p) of 40 CFR § 403.12, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

22.2 Exemptions from Reporting Requirements: Dischargers are exempt from the above-stated requirements of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as

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specified in 40 CFR §§ 261.30 (d) and 261.33 (e), requires a one-time notification. Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.

22.3 Notification Upon New Regulations: In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the POTW, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

22.4 Agencies to notify:

Region VIII Director
Land, Chemicals and Redevelopment Division
Environmental Protection Agency
1595 Wynkoop Street
Denver, CO 80202-1129

Director, Hazardous Materials and Waste Management Division
Colorado Department of Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246

Industrial Pretreatment Coordinator
South Adams County Water and Sanitation District
P. O. Box 597
Commerce City, CO 80037-0597

23. CONFLICT

23.1 All other Articles or Resolutions and parts of other Articles or Resolutions inconsistent or conflicting with any part of this Article are hereby repealed or superseded to the extent of such inconsistencies or conflict.

24. VALIDITY/CONSTITUTIONALITY

24.1 If any section, subsection, sentence, clause, phrase or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

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ARTICLE V

CROSS-CONNECTION CONTROL AND BACKFLOW PREVENTION
POLICY AND REGULATIONS

1. PURPOSE:

1.1 The purpose of this Article V is:

- 1.1.1 To protect the public water systems from the possibility of contamination or pollution by backflow.
- 1.1.2 To promote the elimination or control of existing, actual, or potential cross-connections between the District's customers' potable water systems and non-potable water systems, plumbing fixtures and industrial piping systems.
- 1.1.3 To provide for the maintenance of a continuing program of cross-connection control and backflow prevention which will systematically and effectively prevent the contamination or pollution of the potable water system.

2. AUTHORITY

2.1 Authority to implement this Article V and the District's backflow prevention and cross-connection control program comes from Colorado and federal law, including the following authorities:

- 2.1.1 Article 1-114 and Article 1-114.1 of Title 25 of the Colorado Revised Statutes (C.R.S)
- 2.1.2. Section 39 of 5 CCR1002-11, Colorado Primary Drinking Water Regulations
- 2.1.3. The Special District Act (Article 1 of Title 32, C.R.S.)
- 2.1.4. The International Plumbing Code as adopted by the City of Commerce City or Adams County.

2.2. The District shall have the authority to survey all service connections within the distribution system to determine if the connection is a cross-connection.

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- 2.3. The District shall have the authority to control all service connections within the distribution system if the connection is a cross-connection.
- 2.4. The District may control any service connections within the distribution system in lieu of a survey as long as the service connection is controlled with an air gap or reduced pressure backflow prevention assembly.
- 2.5. The District shall collect all costs associated with the administration of this program (i.e., design, installation, maintenance, repair, and testing). Costs shall be at the expense of the customer/owner.
- 2.6. The District shall maintain records of cross-connection surveys and the installation, testing and repair of all backflow assemblies installed for containment and containment by isolation purposes.
- 2.7. Except as otherwise provided herein, the District shall administer, implement and enforce the provisions of this Regulation.
- 2.8. All requirements in Article V apply regardless of the age of the facility. No “grandfather clause” exists.
- 2.9. All connections, backflow assemblies and other improvements must also be constructed and designed in accordance with the District’s Design Standards.
- 2.10. The District may also require compliance with any backflow prevention policies adopted by Denver Water, as applicable.
- 2.11. In the event of a conflict between this Article V and State of Colorado laws, rules and regulations, and policies such that strict application of this Article V would cause the District to be out of compliance with such State laws, rules and regulations, or policies, this Article V is to be disregarded to the extent necessary for the District to be in compliance with applicable Colorado laws, rules and regulations, and policies.

3. APPLICABILITY

- 3.1. This Article V applies to all connections to the water system, whether a connection is to property included within the boundaries of the District or extraterritorial to the District; provided, however, that this Article V does not apply to single-family-residential service connections unless the District becomes aware of a cross-connection at the single family connection. By way of example and not limitation, the following connections are not single family residential connections: commercial, industrial, irrigation (including parks and open space), and multi-family residential service connections.

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4. DEFINITIONS

- 4.1 Active Date: The first day that a backflow assembly or method is used to control a cross-connection in each calendar year.
- 4.2 Air Gap: A physical separation between the free-flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel installed in accordance with standard AMSE A112.1.2 or as may be updated consistent with Colorado statutes and regulations.
- 4.3 Approved Backflow Prevention Assembly: An assembly that has been manufactured and installed in full conformance with the standards established by the Colorado Department of Public Health & Environment Cross-Connection Control Manual and any additional standards of the District.
- 4.4 Atmospheric Vacuum Breaker: An assembly consisting of a body, a checking member and an atmospheric opening.
- 4.5 Auxiliary Water Supply: Any water supply on or available to the premises other than the approved public potable water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source such as a well, spring, river, stream, pond, lake, etc., or "used waters" or "industrial fluids." These waters may be polluted, contaminated or otherwise objectionable, and constitute an unacceptable water source.
- 4.6 Backflow: The reverse flow of water, fluid, or gas caused by back pressure or back siphonage.
- 4.7 Backflow Contamination Event: A backflow into the District's water system from an uncontrolled cross-connection such that the water quality no longer meets the Colorado Primary Drinking Water Regulations or presents an immediate health and/or safety risk to the public.
- 4.8 Backflow Prevention Assembly: Any mechanical assembly installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided the mechanical assembly is appropriate for the identified contaminant at the cross-connection and is an in-line testable assembly.
- 4.9 Backflow Prevention Method: Any method and/or non-testable assembly installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the method or non-testable assembly is appropriate for the identified contaminant at the cross-connection.

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- 4.10 Certified Cross-Connection Control Technician: A person who possesses a valid Backflow Prevention Assembly Tester Certification from one of the following approved organizations: American Society of Sanitary Engineering (ASSE) or the American Backflow Prevention Association (ABPA). If the certification has expired, the certification is invalid.
- 4.11 Containment: The installation of a backflow prevention assembly or method at any connection to the District's water system that supplies an auxiliary water system, location, facility or area such that backflow from a cross-connection into the District's water system is prevented.
- 4.12 Containment by Isolation: The installation of a backflow prevention assembly or method at all cross-connections identified within a customer's water system such that backflow from cross-connections into the District's water system is prevented.
- 4.13 Contamination: Any impairment of the quality of potable water by pollution from wastewater, industrial fluids or waste liquids, compounds or other materials to a degree that creates an actual hazard to the public health.
- 4.14 Controlled: Having a properly installed, maintained and tested or inspected backflow prevention assembly or method that prevents backflow through a cross-connection.
- 4.15 Cross-Connection: Any connection that could allow any water, fluid, solid, or gas to flow from any pipe, plumbing fixture, or a customer's water system into the District's water system's distribution system such that the water quality could present an unacceptable health and/or safety risk to the public.
- 4.16 Double Check Valve Assembly: An assembly of two independently operating approved check valves with tightly closing shut-off valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.
- 4.17 Multi-Family: A single residential connection to the District's water system's distribution system from which two or more separate dwelling units are supplied water.
- 4.18 NPDES: National Pollutant Discharge Elimination System.
- 4.19 POTW: Publicly owned treatment works.
- 4.20 Pressure Vacuum Breaker: A backflow prevention assembly consisting of one or two independently acting, spring-loaded check valves, and an independently acting, spring-loaded air inlet valve designed to prevent backflow.

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- 4.21 Single-Family-Residential means for purposes of this Article V:
- 4.21.1 A single living unit that is supplied by its own separate service line; or
 - 4.21.2 Multiple living units where each individual living unit is supplied by a separate service line; or
 - 4.21.3 Two separate single living units supplied by a common service line.
- 4.22 Reduced Pressure Assembly: A mechanical backflow prevention assembly consisting of two independently-acting, spring-loaded check valves; four appropriately located test cocks; a tightly-closing inlet and outlet valve; and a pressure relief valve mechanism located between the two check valves that is designed to maintain the pressure between the check valves at least 2 pounds lower than the supply pressure to the device.
- 4.23 Submerged Inlet: A water pipe or extension thereto from the public water supply terminating in a tank, vessel, fixture or appliance that may contain water of questionable quality, waste or other contaminant and that is unprotected against backflow.
- 4.24 SFRBD: A backflow assembly for a single family residence that has a fire suppression system.
- 4.25 Uncontrolled: Not having a properly installed, maintained, and tested or inspected backflow prevention assembly or backflow prevention method, or the backflow prevention assembly or method does not prevent backflow through a cross-connection.
- 4.26 Vacuum Breaker: A relief valve that is installed in a pressurized system to prevent the occurrence of a vacuum developing in that system upon a loss of pressure in the supply piping.
- 4.27 Water Supply System: A water distribution system, piping, connection, fittings, valves and appurtenances within a building, structure, or premises. Water supply systems are also commonly referred to as premise plumbing systems.

5. REQUIREMENTS

- 5.1. New construction shall install backflow prevention assemblies on the main line, irrigation and fire lines as determined by the District in conformance with the District's Backflow Prevention and Cross-Connection Control Program. This

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program generally prescribes the following assemblies:

- 5.1.1. Main Line - Reduced Pressure Assembly;
 - 5.1.2. Irrigation lines – Pressure Vacuum Breaker Assembly or Reduced Pressure Assembly;
 - 5.1.3. Fire lines – Double Check Assembly or Reduced Pressure Assembly.
- 5.2. Non-single Family Residential
- 5.2.1 All non-single family residential service connections shall be subject to a survey for cross-connections.
 - 5.2.2 All single-family residential fire suppression systems that are required by CDPHE to be controlled shall be subject to a survey for cross connections.
 - 5.2.3 All single-family residential graywater systems shall be subject to a survey for cross connections, unless such system is not expressly required by CDPHE to not be controlled. Provisions in these Rules and Regulations relating to single family residential graywater systems do not authorize such systems, but instead are added in recognition of the possibility that they might be installed with or without lawful authority to do so independent of the District.
 - 5.2.4 Additionally, any uncontrolled cross connection on a single family residential lot that becomes known to the District shall also be subject to a survey.
 - 5.2.5 If a cross-connection has been identified, an appropriate backflow prevention assembly and/or method shall be repaired or installed at the customer's water service connection within 30 days of its discovery. Failure to complete the repair or installation with a passing certification by the 60th day after its discovery shall result in the District commencing proceedings to suspend service. The District shall develop compliance timelines that ensure that compliance has been met well in advance of the District's outside limit of 120 days to control or remove the cross-connection. In addition, the District is authorized to require compliance, including through the use of duly authorized penalties, charges, disconnection or other suspension of service, in a shorter time frame so as to allow for proper notice of disconnection or other suspension of service and to allow staff and customers flexibility in bringing a connection into compliance.
 - 5.2.6. None of the deadlines in these Rules and Regulations shall prevent the District from suspending service in a shorter period of time where the District had deemed it necessary for the protection of health or the system.

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- 5.3. The assembly shall be installed downstream of the water meter and as close to the water meter as deemed practical by the District. For assemblies that are not on a metered connection (e.g., fire suppression or graywater), the device shall be installed as far upstream on the property's service line as deemed practical by the District.
- 5.4. Under no circumstance shall it be permissible to install taps on the supply side of the backflow assembly.
- 5.5. In instances where a reduced pressure assembly cannot be installed, the owner must install an approved backflow prevention assembly or method at all cross-connections within the owner's plumbing system.
- 5.6. All backflow prevention assemblies shall be installed in a horizontal position unless the assembly is designed to be installed in a vertical position.
- 5.7. Backflow prevention assemblies and methods shall be installed in a location which provides access for maintenance, testing and repair.
- 5.8. Reduced pressure assemblies shall not be installed in a manner or location subject to flooding.
- 5.9. Provisions shall be made to provide adequate drainage for the discharge of water from reduced pressure assemblies. Such discharge shall be conveyed in a manner which does not impact waters of the state.
- 5.10. All assemblies and methods shall be protected to prevent freezing. Assemblies and methods used for seasonal services may be removed in lieu of being protected from freezing. The assemblies and methods must be reinstalled and tested by a certified cross-connection control technician upon reinstallation.
- 5.11. Where a backflow prevention assembly or method is installed on a water supply system using storage water heating equipment such that thermal expansion causes increase in pressure, an assembly for controlling pressure shall be installed on the downstream side of the backflow assembly.
- 5.12. All backflow prevention assemblies shall be tested at the time of installation and on an annual schedule thereafter as determined by the District. Such tests must be conducted by a Certified Cross-Connection Control Technician. Testing and maintenance requirements are further set forth in Section 7 of this Article V.
- 5.13. In cases where cross connection control is intended to occur by containment by isolation, the District shall require inspection, testing, reporting, maintenance and as

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needed repairs and replacement of all backflow prevention assemblies and methods, and of all required installations within the owner's plumbing system.

- 5.14. All costs for design, installation, maintenance, testing and as needed repair and replacement are to borne by the customer.
- 5.15. No connection shall be exempt from compliance with this Article V on account of the connection existing prior in time to the District's adoption of these backflow rules and regulations and prior versions of the same. In other words, there is no "grandfather clause."
- 5.16. For new buildings, all building plans must be submitted to the District and must be approved prior to the issuance of water service. Building plans must include:
 - 5.16.1. Water service type, size, and location;
 - 5.16.2. Water meter size and location;
 - 5.16.3. Backflow prevention assembly size, type, and location including assemblies for the potable, irrigation, and fire protection systems;
 - 5.16.4. Fire sprinkler system(s) service line, type, and size of backflow prevention assembly.
 - 5.16.5. All other requirements of these Rules and Regulations, the District's Design Standards, and other District requirements.
- 5.17. Special Provisions for Single Family Residential Fire Suppression Systems. In implementing City of Commerce City Ordinances #2480 and #2488 in 2023 and the District's Resolution No. 2024-002, the following provisions are added to supplement these Rules and Regulations.
 - 5.17.1 All single family residences that connect to the District's water system that have fire suppression systems shall have backflow assemblies (such assembly referred to as a "SFRBD").
 - 5.17.2 All SFRBDs shall be controlled by the District in accordance with these Rules and Regulations, except that a SFRBD that is not required by CDPHE to be controlled is not subject to these Rules and Regulations and need not be controlled by the District.
 - 5.17.2.1 Under CDPHE guidance in effect as of April 9, 2025 multi-purpose and passive purge fire suppression systems are not required to be controlled where each branch of the suppression

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system terminates at a regularly used fixture (“MP/PP Systems”). Responsibility for maintaining MP/PP Systems falls to the homeowner.

5.17.2.2 In the event MP/PP systems are later required by CDPHE to be controlled, such system(s) shall be subject under these Rules and Regulations to regulation like all other connections regulated under these Rules and Regulations.

5.17.3 District staff is authorized to delegate inspection and other survey activities regarding SFRBDs to the South Adams County Fire Protection District pursuant to an Intergovernmental Agreement.

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6. ASSEMBLY-SPECIFIC INSTALLATION REQUIREMENTS

6.1 Reduced Pressure Assemblies:

- 6.1.1 Reduced Pressure Backflow Prevention Assemblies must be installed above ground. The unit should be placed at least 12 inches above the finish grade to allow clearance for repair work. A concrete slab at finish grade is recommended. Proper drainage should be provided for the relief valve and may be piped away from the location, provided it is readily visible from above grade and the relief valve is separated from the drain line by a minimum of double the diameter of the supply line. Precautions should be taken to protect above ground installations from freezing temperatures.
- 6.1.2. Reduced pressure assemblies may be installed in a basement provided that an adequate drain with an effective opening of twice the diameter of the assembly is also installed.
- 6.1.3. In instances where it is determined by the District that a reduced pressure assembly cannot be installed, the owner must install approved backflow prevention assemblies or methods at all cross-connections within the owner's plumbing system.

6.2. Irrigation Systems

- 6.2.1. An atmospheric vacuum breaker shall not be installed on irrigation systems but may be installed on individual hose bibs.
- 6.2.2. Pressure vacuum breakers may be installed without regard to downstream valves, making it possible to isolate an entire lawn sprinkler system with a single unit when properly installed. This assembly must not be installed where it will be subjected to back pressures and should be installed at least 12 inches above the highest outlet. The vacuum breaker should be installed where it will be accessible to periodic testing and where, if slight spillage should occur, it would not be objectionable.
- 6.2.3. A reduced pressure assembly or air gap separation shall be required before any piping network in which fertilizers, pesticides and other chemicals or toxic contaminants are injected or siphoned into the irrigation system. A reduced pressure assembly may be installed to serve multiple irrigation circuits in lieu of vacuum breakers on each individual irrigation circuit.

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6.3. Fire Systems

- 6.3.1. All fire sprinkling lines shall have a minimum protection of a double check valve assembly for containment of the system.
- 6.3.2. All glycol (ethylene or propylene), or antifreeze systems shall have a reduced pressure assembly for containment.
- 6.3.3. Dry fire systems shall have a double check valve assembly installed upstream of the air pressure valve.

6.4. Auxiliary Water Supply

- 6.4.1. In the case of premises that have an auxiliary water supply, which may not be safe in bacteriological or chemical quality and which is not certified as acceptable as an additional source by the District's Commercial Programs Supervisor, the public water system shall be protected against backflow from the premises by installing a backflow prevention assembly in the service line appropriate to the degree of hazard.

7. TESTING AND MAINTENANCE; CERTIFIED CROSS-CONNECTION CONTROL TECHNICIAN REQUIREMENTS

- 7.1. By August 31 of each year, it will be the sole responsibility of the customer at any site where a backflow prevention assembly required by CDPHE to be controlled (including main line, fire line, and irrigation) is located to:
 - 7.1.1. Cause all backflow prevention assemblies to be tested by a Certified Cross-Connection Control Technician; and
 - 7.1.2. Cause a test report for each assembly prepared by the Certified Cross-Connection Control Technician to be received by the District.

The deadline of August 31 for inspection and delivery of test reports of all assemblies allows the District time to compile state-mandated reports, analyze data, and follow-up on any issues to ensure compliance with CDPHE compliance deadlines.

- 7.2. Any failed assembly must be reported within 24 hours of the failing test and must be repaired and reported back to the District within thirty (30) business days of the failing test. Any extension of this time limit shall be at the sole discretion of the District; provided, however, that no extension shall exceed sixty (60) calendar days from the failed inspection test. The District shall commence proceedings to suspend or disconnect service effective after the 60th day.

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- 7.3. New assemblies must be tested by a Certified Cross-Control Technician upon installation, and the report must be received by the District within 30 days. Deadlines for installation and testing will be noted on the District's inspection report, a copy of which will be provided to the customer/owner. Any extension of this time limit shall be at the sole discretion of the District; provided, however, that no extension shall exceed (60) calendar days from the failed inspection report.
- 7.4. A testing report shall not be deemed acceptable by the District unless:
- 7.4.1. It is prepared by a Certified Cross-Connection Control Technician;
 - 7.4.2. The Certified Cross-Connection Control Technician has submitted documentation to the District demonstrating that the Technician and the testing gauge used for the test report are in compliance with CDPHE requirements.
 - 7.4.3. All required fields of the test report have been filled in per District standards
- 7.5. Nothing in this part 7 shall limit the District's ability to disconnect or discontinue service on a shorter time frame in the discretion of the District due to an immediate threat to the water system, public health, or safety.

8. USE OF DISTRICT HYDRANTS

- 8.1 No person shall draw water from a District hydrant without prior authorization from the District. Any use of District hydrants shall be in accordance with the District's Hydrant Water Usage Policy which requires a backflow assembly on all hydrant connections.
- 8.2 Hydrant Permit Process: Any person seeking to draw water from a District hydrant shall submit a Water Lease Application on the form prescribed by the District. The District will review the application and will determine if the proposed use will be allowed, and if so, whether it will be allowed under the guidelines of the Water Usage Policies, or if a Temporary Water Lease Agreement will be required.

9. REPORTING AND RECORDKEEPING

- 9.1 Copies of records of tests reports, repairs, and retests, or replacements shall be kept by the customer for a minimum of three years and the District for a minimum of the applicable records retention period.

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- 9.2. Copies of records of test reports, repairs and retests shall be submitted to the District by email (preferred), mail or facsimile by the testing company or testing technician.

Test reports shall be submitted to the District at the following address:

South Adams County Water and Sanitation District
Attention: Commercial Backflow Program
P.O. Box 597
Commerce City, CO 80037-0597
Email: backflowreports@sacwsd.org
Fax: TBD

- 9.3. Test reports shall, at a minimum, include the following information:
- 9.3.1. Assembly or method type;
 - 9.3.2. Specific location of assembly or method;
 - 9.3.3. Assembly make, model and serial number;
 - 9.3.4. Assembly size;
 - 9.3.5. Test date;
 - 9.3.6. Test results including all results that would justify a pass or fail outcome;
 - 9.3.7. Certified cross-connection control technician certification agency;
 - 9.3.8. Technician's certification number;
 - 9.3.9. Technician's certification expiration date;
 - 9.3.10. Test kit manufacture, model and serial number;
 - 9.3.11. Test kit calibration date.
 - 9.3.12. Identification of new and/or replaced assemblies including the previous serial number
 - 9.3.13. Name of tester and testing company
 - 9.3.14. Contact information for both the tester and testing company

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10. RIGHT OF ENTRY

- 10.1. Authorized representative(s) of the District shall have the right to enter upon the property and premises of any and all buildings in which a cross-connection is located or in which records are required to be kept at all times for the purposes of inspection, monitoring, records examination and copying, or in the performance of any of the duties required to implement and enforce the provisions of this Article. This right of entry extends to the purpose of determining, independent of information supplied by the facility owner or occupant, compliance or noncompliance with the Rules and Regulations of the District. The right of entry shall be a condition of provided water service in order to protect the health, safety and welfare of customers throughout the water system.
- 10.2. Where building security is required, the backflow assembly(ies) should be located in an area not subject to security so as to allow access by the District.

11. COMPLIANCE

- 11.1. Customers shall comply with the survey process as well as the installation, inspection, testing, maintenance, and as needed repair and replacement of backflow prevention assemblies or air-gap separations from the District's water supply. For any identified uncontrolled cross-connections, the District shall complete one of the following actions within 120 days of its discovery:
 - 11.1.1. Control the cross-connection;
 - 11.1.2. Remove the cross-connection;
 - 11.1.3. Suspend service to the cross-connection.
- 11.2. The District shall give notice, in writing, to any owner whose plumbing system has been found to present a risk to the District's public water system's distribution system through an uncontrolled cross-connection. The notice and order shall state, at a minimum, that the owner must install a backflow prevention assembly or method at each service connection to the owner's premises. The notice and order will provide a date by which the owner must be in compliance.
- 11.3. Deadlines for installation and testing will be noted on the District's inspection report, a copy of which will be provided to the customer/owner. Any extension of this time limit shall be at the sole discretion of the District; provided, however, that no extension shall exceed sixty (60) calendar days from the failed inspection report. An exceedance of one sixty (60) calendar days shall result in the discontinuation of service

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- 11.4 In instances where a backflow prevention assembly or method cannot be installed at each service connection to the owner's premises, approved backflow prevention assemblies or methods must be installed at all cross-connections within the owner's water supply system. The notice and order will provide a date by which the owner must be in compliance.

12. VIOLATIONS AND PENALTIES

- 12.1. Failure to Timely Submit a Test Report. In the event the District does not receive a customer's test report (either passing or not passing) from a Certified Cross-Connection Control Technician by the annual due date, the District shall assess a penalty in the amount of \$250.00 per connection or as otherwise determined by the District's Board of Directors against the property. Such penalty may be added to the customer's monthly bill and shall be in addition to other District fees, rates, tolls, penalties, or charges.

12.2. Discontinuance of District Service:

- 12.2.1. Failure of a customer to comply with the survey process as well as the installation, maintenance, testing or inspection of backflow prevention assemblies or an air-gap separation from the District's water supply as required by the District's Rules and Regulations shall be grounds for the suspension or other discontinuance of water service to the premises.
- 12.2.2. Water service to any premises may be discontinued pursuant to Article I.8.4 and/or I.8.5, if an unprotected cross-connection is discovered on the premises or if any defect is found in an installed backflow prevention assembly, or if a backflow prevention assembly has been removed or bypassed. Service shall not be restored until such conditions or defects are corrected to the District's satisfaction.
- 12.2.3. Discontinuation of service may be summary, immediate and without written notice or a hearing whenever, in the judgement of the District Manager, Water Systems Manager, Wastewater Systems Manager, or Distribution and Collections Manager, such action is necessary to protect the District's water supply system (including without limitation from a threat to public health or safety).

- 12.3. Criminal Penalties: customer are referred to 25-1-114, C.R.S., which sets forth the penalties for criminal violations of the health laws of the State of Colorado. Violations of such laws may result in criminal prosecution and punishment by a fine up to \$1,000, imprisonment in the county jail for not more than one year, or by both such fine and imprisonment, and liability for any expense incurred by health

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authorities in removing any nuisance, source of filth, or cause of sickness. These criminal penalties are in addition to any civil penalties.

- 12.4. Civil Penalties: customers are referred to 25-1-114, C.R.S, which sets forth available civil remedies for violations of such health laws. In accordance with 25-1-114, C.R.S., any user who fails to comply with any provision of these regulations may be assessed a penalty and charge of \$1,000 for each offense plus interest as provided by statute. Each day on which a violation occurs or continues shall be deemed a separate offense. The penalties provided by such statute are not exclusive of other District rights to also impose fees, rates, tolls, penalties, or charges arising from an uncontrolled cross-connection. The District may also recover reasonable actual damages incurred by the District by appropriate suit at law against the person or entity found to have violated any provision of these regulations. Such damages shall include, but not be limited to, actual damages incurred by the District and costs incurred by the POTW for violation of its NPDES Permit where such permit violation is a direct result of a violation of these regulations.
- 12.5. Fees, rates, tolls, penalties, and charges imposed under these Rules and Regulations shall constitute a lien on the property served by the water system pursuant to Section 32-1-1001(1)(j)(I), C.R.S.

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ARTICLE VI

WATER CONSERVATION PROGRAM

1. GENERAL

1.1 Introduction: In 1991 the General Assembly of the State of Colorado enacted House Bill 91-1154, also known as the Water Conservation Act of 1991. The act sets forth measures to develop water conservation practices in an effort to enhance and preserve the use of water in the State of Colorado. In 1995, the District developed a Water Conservation Program not only to meet the requirements of § 37-60-126, subsections 4 and 5, C.R.S., but also to promote water conservation as a responsible approach to management of a valuable resource.

In 2004, House Bill 04-1365 was adopted amending § 37-60-124 and 126, C.R.S., also known as the Water Conservation Act of 2004 (2004 Act) concerning water planning by retail water providers to:

1.1.1 Encourage wise water use and conservation and drought planning by those privately and publicly owned water agencies, utilities and others with the legal obligation to supply, distribute or otherwise provide water through technical assistance, information dissemination, and financial support where appropriate;

1.1.2 Encourage the state, the Colorado Water Conservation Board, and water providers with knowledge of water conservation and drought mitigation planning to work with other water providers in developing and implementing water conservation and water use efficiencies and managing water supplies during periods of drought;

1.1.3 Encourage smaller water providers to take advantage of state-provided resources to support local planning efforts; and

1.1.4 Encourage and support implementation of a statewide water supply initiative.

1.2 Program Goals: The District spent considerable time and resources identifying potential water supplies for future development. One of the conclusions drawn from those efforts is that water supply projects are scarce, and those that are available are very expensive. Therefore, the District realizes the need to use its existing water supplies and wastewater facilities as efficiently as possible. One way to do this is by implementing a water conservation program to reduce demands in our current service area, and to require water saving practices when future growth occurs.

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1.3 Water Conservation Plan: In 2011, the Board approved and adopted an updated Water Conservation Plan (Plan) to comply with the provisions of the 2004 Act. The Plan was again updated and approved by the Board in April 2024. The Plan includes a profile of the District's existing water system, characterization of water use, forecast demand, proposed future water facilities, conservation measures, and water reduction regulations. The current Plan is available on the District's website at <https://southadamswaterco.gov>.

2. BENEFITS OF WATER CONSERVATION

2.1 General: Water demand management practices provide an efficient alternative to traditional supply-side programs. Water utilities and surrounding communities all benefit from the implementation of a water conservation program.

2.2 Benefits to Water Utility:

- 2.2.1 Lower operation and maintenance costs;
- 2.2.2 Reduced treatment costs;
- 2.2.3 Delayed costs of finding new sources of supply; and
- 2.2.4 Lower infrastructure costs.

2.3 Benefits to Customers/Individuals:

- 2.3.1 Lower water, wastewater, and energy bills; and
- 2.3.2 More water available for future growth.

2.4 Benefits to Water Quality: Reduces stress on groundwater withdrawal, which reduces seepage of potential contaminants in surrounding soils and prolongs water quality.

2.5 Benefits to the Environment: Preservation of a precious commodity for future generations.

3. IMPLEMENTATION OF PROGRAM

3.1 General: To accomplish these goals, several best management practices and programs are being implemented, including leak detection, open space management, plumbing fixture requirements, efficient landscape watering practices, water audits, and public education. Water-saving measures such as water re-use and rebate incentives may also be implemented to accomplish the goals of the District's Water Conservation Plan.

3.2 Implementation of Program: The Water Conservation Plan outlines the implementation of water conservation practices and programs to reduce water

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demands in the District's service area. The District may further implement the Plan and other water conservation policies by the adoption of resolutions, policies, and programs.

- 3.3 Water Shortages/Drought: Additional measures and enforcement procedures for times of severe water shortages or drought conditions are included in the Plan. Additionally, the Board may from time to time find that drought conditions exist and declare the implementation of drought restrictions. The Board may elect, but shall not be required, to classify drought in stages or phases, and it may do so based on its own criteria or based on a declaration made by the City and County of Denver acting by and through its Board of Water Commissioners. The District shall continue to monitor on a month-to-month basis the ongoing effects of weather conditions to determine if adjustments or new measures should be adopted.
- 3.4 Compliance: Customers of the District shall comply with all conservation measures as outlined in the District's Plan, as amended or updated, and in any other Rules, resolutions, or policies to reduce demands including for drought.
- 3.5 Enforcement: Failure to comply with mandatory drought restrictions shall be enforced by one or more of the following: assessment of fees, rates, tolls, penalties, or charges in amounts to be determined by the Board from time to time on a monthly bill or otherwise; installation of flow reducing devices on services lines; suspension of service or permanent revocation or disconnection of service; and/or such other reasonable means as determined by the District.