



May 4, 2023

BCC Agenda Date/Item: _____

Board of County Commissioners
 Acting as the governing body of Water Environment Services
 Clackamas County

Second Reading and Adoption of Ordinance 02-2023 Adopting Rules and Regulations for Water Environment Services. No County General Funds are involved.

Previous Board Action/Review	Policy Session on March 15 (Part 1) & March 29 (Part 2). Public Hearing (first reading) on April 13, 2023.		
Performance Clackamas	<ol style="list-style-type: none"> 1. This project supports the County’s Strategic Plan of building a strong infrastructure that delivers services to customers and honors, utilizes, promotes and invests in our natural resources. 2. This project supports the WES Strategic Plan goal to provide properly functioning infrastructure that supports healthy streams and reduces flooding. 		
Counsel Review	Yes	Procurement Review	No
Contact Person	Greg Geist	Contact Phone	503-742-4560

EXECUTIVE SUMMARY:

Water Environment Services (WES) is an intergovernmental partnership formed by Clackamas County Service District No. 1 (CCSD#1), the Surface Water Management Agency of Clackamas County (SWMACC) and Tri-City Service District (TCSD). Currently, each of the service areas associated with the three underlying service districts is governed by a separate and distinct section of the WES rules. The formation of WES as an intergovernmental entity offers an opportunity to create a new set of rules to clarify WES’ authority, modernize standards, create administrative efficiencies, and update key fiscal and technical policies.

The effort to develop a new set of WES rules began in 2018. WES staff implemented a comprehensive outreach and engagement process to form the foundation of the revised rules and regulations. This process included listening sessions with stakeholders who use the rules frequently, including development engineers and planners; workshops with representatives from Clackamas County Department of Transportation and Development, Happy Valley, and consulting engineers to discuss key technical and financial policies; formation of a task force of developers, engineers, and partner cities who regularly use the rules; community briefings to interest groups, neighborhood associations, business community members, and informational forums; and a

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broad public review process that included the publication of public review drafts, and multiple presentations to the WES Advisory Committee. Ultimately, 12 key policy updates were identified through this process.

WES staff then put together an updated set of rules incorporating the 12 key policy updates, in addition to other revisions intended to modernize and streamline the rules and their administration.

On March 16, 2022, the WES Advisory Committee voted to recommend the Board adopt the revised draft of the WES Rules and Regulations.

Key policy updates were presented to the Board for consideration at two separate policy sessions on March 15th and March 29th.

The first reading occurred at a public hearing on April 13, 2023 and the Board voted to bring the ordinance forward to a second reading at a public hearing on May 4, 2023.

RECOMMENDATION: Staff recommends that the Board of County Commissioners of Clackamas County, acting as the governing body of Water Environment Services, approve Ordinance 02-2023 Adopting Rules and Regulations for Water Environment Services after reading it by title only at a public hearing.

Respectfully submitted,



Greg Geist
Director, WES

Attachments: Ordinance 02-2023, Exhibit A – WES Rules and Regulations

An Ordinance Adopting Rules and Regulations for Water Environment Services

WHEREAS, this matter comes before the Board of County Commissioners of Clackamas County, Oregon, acting as the governing body of Water Environment Services (“Board”), an intergovernmental entity formed pursuant to Oregon Revised Statutes Chapter 190 (“District”); and

WHEREAS, the current District rules and regulations consist of a consolidated set of previously existing rules from Clackamas County Service District No. 1, Tri-City Service District, and the Surface Water Management Agency of Clackamas County;

WHEREAS, an updated set of rules and regulations is necessary to create a consistent and comprehensive set of requirements for the entire District service area, streamline the development review process, improve regional alignment with cities and Clackamas County, address new regulatory requirements, and update policies to reflect new technologies;

WHEREAS, notice of this ordinance has been included in the published agenda of the adopting meeting and published in a newspaper of general circulation within Clackamas County on April 4, 2023, and on April 25, 2023 in compliance with ORS 198.540;

WHEREAS, pursuant to Oregon Revised Statutes, Chapter 198, this ordinance was read at two regular meetings of the District’s Board on April 13th, 2023 and May 4th, 2023 prior to adoption by a majority of members of the District Board;

Now, therefore, the Board of Commissioners of Clackamas County, acting as the governing body of Water Environment Services, ordains as follows:

1. The District Rules and Regulations as shown in Exhibit A (“Rules and Regulations”), attached hereto and incorporated by reference, are hereby approved and adopted as an ordinance of the District, and shall go into effect on July 1, 2023.
2. Any existing rules and regulations previously adopted by the District or its predecessor agencies are hereby repealed, and any portion of any previous resolutions or orders are hereby repealed to the extent that such portion is inconsistent with these Rules and Regulations and any subsequent regulation or order.
3. The Rules and Regulations are on file at the District’s offices where they may be examined and will be published online promptly after adoption.
4. The Recording Secretary of the District is instructed to cause this ordinance to be filed in the records of the District and a certified copy filed with the Clackamas County Clerk.

ADOPTED this _____ day of _____, 2023.

WATER ENVIRONMENT SERVICES

Chair

Recording Secretary

Water Environment Services Rules and Regulations

April 2023



CLACKAMAS

WATER
ENVIRONMENT
SERVICES



Rules and Regulations

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Rules and Regulations

1. Definitions

1.1 Words and Terms

The following words and terms apply to the entirety of these Rules and Regulations and any adopted standards referenced or authorized herein. If the terms are used by a local planning agency, plumbing authority, or building official, then those terms apply in determining authority and permit/code applicability for those agencies. The terms used within WES Rules and Regulations apply when WES has authority and/or manages applicability. Unless the context specifically indicates otherwise, the following words and terms, as used in these Rules and Regulations, shall have the meanings hereinafter designated:

Applicant. The person or entity applying to the District for a permit.

Best Management Practices (BMPs). Schedules of activities, controls, prohibitions of practices, maintenance procedures, and other management practices designed to prevent or reduce pollution in stormwater and sanitary systems. BMPs include facilities, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage (40 Code of Federal Regulations (CFR) 122.2). BMPs also include facilities, treatment requirements, operating procedures, and practices to control stormwater runoff.

Biochemical Oxygen Demand (BOD). The quantity of oxygen used in the biochemical oxidation of organic matter under a standard laboratory procedure in five (5) days at a temperature of 20° C, expressed in milligrams per liter or parts per million. Laboratory determinations shall be made in accordance with the applicable techniques prescribed in 40 CFR Part 136.

Biosolids. Domestic wastewater treatment facility solids that have undergone adequate treatment to permit land application, recycling, or other beneficial use.

Board (BCC). The Board of County Commissioners of Clackamas County acting as the governing body of the District.

Bond. As required by the District, a surety bond, cash deposit or escrow account, assignment of savings, irrevocable letter of credit, or other means acceptable to and required by the District to guarantee that work is completed in compliance with all requirements of the District Rules and Regulations and/or for a warranty period specified in the standards.

Buffer/Undisturbed Buffer. The zone contiguous with a sensitive area that is required for the continued maintenance, function, and structural stability of the sensitive area. The critical functions of a riparian buffer (those associated with an aquatic system) include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, interception of fine sediments, overflow during high water events, protection from disturbance by humans and domestic animals, maintenance of wildlife habitat, and room for variation of aquatic system boundaries over time due to hydrologic or climatic effects. The critical functions of terrestrial buffers include protection of slope stability, attenuation of surface water and stormwater flows from surface water and stormwater runoff and precipitation, and erosion control.

Building Drain. The pipes that receive discharges from building drainpipes and convey the discharges to the Building Sewer, which starts five (5) feet outside the building wall.

Building Sewer. Private pipe(s) that connect the Building Drain to the Service Connection. The Building Sewer starts five (5) feet outside of the building wall.

Bypass. The intentional diversion of waste streams from any portion of an Industrial User's treatment facility.

Capital Improvement(s). Facilities or assets used for the purpose of providing sanitary sewerage, stormwater, or surface water collection, transmission, treatment, and/or disposal.

Capital Improvement Plan. The Capital Improvement Plan adopted by the District and any updates to the Plan.

Categorical Pretreatment Standards. National Pretreatment Standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into a public sewer system by specific industrial categories. These standards are promulgated pursuant to Section 307(b) and (c) of the Clean Water Act (CWA).

Cesspool. A lined pit which receives domestic sewage, allows separation of solids and liquids, retains the solids, and allows liquids to seep into the surrounding soil through perforations in the lining.

Chemical Toilet. A non-flushing, non-recirculating toilet facility wherein domestic sewage is deposited directly into a chamber containing a solution of water and toilet facility chemical.

Civil Penalty. A monetary sanction for violation of these Rules and Regulations, whereby the District may impose a fine or penalty for violation of these Rules and Regulations, as well as recover all costs incurred, which are attributable to, or associated with the violations, including but not limited to the costs of administration, investigation, sampling and monitoring, legal and enforcement activities, damages to the public storm sewer system, and contracts or health studies necessitated by the violation.

Clean Water Act (CWA). The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

Compliance. Meeting the requirements of the District's statutes, rules, permits, or orders.

Composite Sample. A series of samples mixed together to approximate the average strength of discharge to the sewer. A composite sample is collected over a period of time greater than 15 minutes, formed by an appropriate number of discrete samples which are (a) collected at equal intervals and combined in proportion to wastewater flow; (b) equal volumes taken at varying time intervals in proportion to the wastewater flow; or (c) equal volumes taken at equal time intervals.

County. Clackamas County, Oregon.

Cut or Excavation. Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated.

Conveyance System. All methods of transporting wastewater, stormwater or surface water from the point of collection to the point of treatment or discharge. Conveyance systems can be publicly or privately owned and operated.

- A **Sanitary Conveyance System** includes gravity mains, force mains, pipes, sewers, pumping or lift facilities, and related access and maintenance facilities and structures.
- A **Stormwater Conveyance System** includes drainageways, culverts, pipes, sewers, and stormwater management facilities that are designed to accept flow and discharge it, such as swales.

Day. A continuous 24-hour period from 12:01 a.m. to 12:00 p.m.

Detention. The release of surface water runoff from a site at a slower rate than it is collected by the drainage system, the difference being held in temporary storage.

Developer. Any individual or organized group of partnerships, corporations, etc., proposing to develop land within the District.

Development. Any anthropogenic change to improved or unimproved real estate, including but not limited to buildings or other structures, utility infrastructure, impervious surfaces, other structures or facilities, mining, dredging, paving, filling, or excavation or any surface type that changes or impedes the natural flow of stormwater runoff. Development also includes partitions, subdivisions and land divisions redevelopment or modifications to the existing impervious surface footprint on a property. Development does not include the following:

- Stream enhancement or restoration projects approved by the District.
- Farm structures and private roads outside of the Urban Growth Boundary.
- Lot Line adjustments.
- Measures to replace within the existing footprint, a structure(s) lost due to a catastrophic event such as fire, provided that such measures are consistent with District/City/County regulations.
- Linear utility projects that replace existing impervious surface with equivalent material.
- Non-pollution generating, linear projects (ex. pathways) that shed runoff onto green space.
- Modular/temporary structures.

Developing Party. The person, private entity or public entity that funds the construction of a project that is eligible to apply for a Reimbursement District.

Director. The Water Environment Services (WES) Director, or designated representative.

Discharge. Any addition of treated or untreated water, stormwater, groundwater, wastewater, process water, or any pollutant or combination of pollutants to waters of the state, directly or indirectly, by actions of dumping, spilling, disposing, or physically connecting to the public system.

Discharger. Any person or entity who causes or allows any discharge to enter directly or indirectly into the public system.

District. Water Environment Services, an Oregon Revised Statutes (ORS) Chapter 190 intergovernmental entity.

District Employee or District Personnel. An individual employed by Water Environment Services.

Domestic Sewage. Sewage derived from the ordinary living processes free from industrial wastes and of such character as to permit satisfactory disposal without special treatment into the Public Sanitary Sewer System.

Drainageway. A natural or manmade channel formed by existing or manmade topography which directs and/or carries surface or stormwater runoff.

Dwelling. A building which is occupied in whole or in part as a home or residence, either permanently or temporarily by one or more families, but excluding hotels, motels, and motor hotels.

Dwelling Unit. A living unit with kitchen with cook stove facilities including, but not limited to, those in multiple dwellings, apartments, hotels, motels, mobile homes, accessory dwelling unit (ADU), and recreational vehicles (RVs) or camper trailers.

Easement. The legal right to use a described piece of land for a particular purpose. It does not include fee ownership but may restrict the owner's use of the land. Easements granted must be legally recorded with the Recording Division of the Clackamas County Clerk.

- A **Public Sanitary Sewer Easement** is any easement in which the District has the right to construct and maintain its public sanitary system.
- A **Public Stormwater Easement** is any easement in which the District has the right to construct and maintain its public stormwater system.

Enforcement. Any documented action taken to address a violation.

Engineer. A registered professional licensed to practice in the State of Oregon by the Oregon Board of Engineering Examiners. This person is also referred to as the project engineer or the engineer of record.

EPSC Manual. Erosion Prevention and Sediment Control Planning and Design Manual.

Equivalent Dwelling Unit (EDU). A unit of measurement of sewer usage that is assumed to be equivalent to the usage of an average dwelling unit. EDU has the following definition for the purposes listed below:

- A. **User Charge.** A unit, based on water consumption and strength of sewage of a single dwelling unit, by which all users of the sanitary sewers may be measured. Where unit equivalency must be computed it shall be equivalent to (a) 1,000 cubic feet of water consumption per month; (b) 0.449 pounds of BOD per day; and (c) 0.449 pounds of suspended solids per day.
- B. **System Development Charge (SDC).** A unit, based upon a single dwelling unit or its equivalent, for connecting to the District public conveyance system.

Equivalent Service Unit (ESU). A configuration of development resulting in impervious surfaces on a parcel, estimated to contribute an amount of runoff to the stormwater system that is approximately equal to that created by the average single-family residential parcel. One ESU is equal to 2,500 square feet of impervious surface area.

Erosion. The visual or measurable movement of soil particles resulting from the flow of, or pressure from, water, wind or earth movement.

Fats, Oils, and Grease (FOG). Any substance such as a vegetable or animal product that is used in, or is a byproduct of, the cooking or food preparation or cleanup process, and that turns or may turn viscous or solidify with a change in temperature or other conditions.

Fill. Placement of any soil, sand, gravel, clay, mud, debris, refuse, or any other material, organic or inorganic which has the effect of raising the level of the ground surface, whether such surface is above, at, or below the water table, or to replace surface waters with dry land.

Food Service Establishment (FSE). Any restaurant, cafeteria, deli, saloon, tavern, bar, lounge, or other similar facility where food is prepared and/or cooked, whether consumption is on or off the premises, but does not include a private home where food is prepared or served for individual family consumption.

Grab Sample. An individual sample collected over a period of time not to exceed 15 minutes. From Environmental Protection Agency (EPA), June 2011, *Introduction to the National Pretreatment Program*, "A sample that is taken from a waste stream on a one-time basis with no regard to the flow of the waste stream. A single grab sample should be taken over a period not to exceed 15 minutes."

Hauled Waste. Any waste hauled or transported by any method which may include, but not be limited to, drop tanks, holding tanks, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

Hazardous Materials. Materials described as hazardous under state and federal law, including, but not limited to, any toxic chemicals listed as toxic under Section 307(a) of the CWA or Section 313 of Title III of the Superfund Amendments and Reauthorization Act (SARA).

Hearings Officer. Officer, appointed by the Director, for hearings of appeals of administrative actions.

Holding Tank. A watertight receptacle designed to receive and store domestic sewage generated on-site to facilitate disposal at another location, such as a chemical toilet, camper, trailer, septic tank, and pumping facility used to pump domestic sewage up to an available gravity sewer line.

Illicit Discharge. Any discharge to the public or natural stormwater conveyance system that is not composed entirely of stormwater, except discharges governed by and in compliance with a National Pollutant Discharge Elimination System (NPDES) permit.

Intentional. Consciously and voluntarily acting or omitting an action, when knowing the probable consequences of acting or omitting to act.

Impervious Surface. Any manmade surface that changes, alters, prevents, or retards the existing surface or the natural hydrological cycle and/or prevents the entry of water into the soil and/or causes water to run off the surface in greater rate or quantity than natural conditions. Impervious surfaces may include, but are not limited to, rooftops, concrete or asphalt paving, sidewalk or paved walkways, patios, driveways, parking lots, oiled macadam, gravel, artificial turf, manmade impervious surfaces, or other surfaces which similarly resist infiltration or absorption of moisture or changes, alters, or retards the existing surface or the natural hydrological cycle.

Improvement Fee. A fee for costs associated with capital improvements.

Indirect Discharge. The discharge or introduction of pollutants or industrial waste into the public sanitary sewer system from any non-domestic source regulated under §307(b), (c), or (d) of the CWA.

Industrial User. Any source of indirect discharge to the public sanitary sewer system (40 CFR 403.3(j)).

Industrial Waste. Any liquid, gaseous, radioactive, or solid waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade, or business, or from the development or recovery of any natural resources, or as defined by the Oregon Department of Environmental Quality (DEQ) or EPA, exclusive of domestic sewage.

Inspector. A person designated by the District to inspect construction sites, construction activities, stormwater systems, activities that affect surface water, building sewers, service connections, and other installations to be connected to the District sewerage, stormwater and/or surface water systems.

Interference. A discharge which, alone or in conjunction with a discharge from other sources, inhibits or disrupts the public sanitary sewer system, treatment processes or operations, or its biosolids processes, biosolids use or disposal, or which contributes to a violation of any requirement of the District's NPDES Permit or other permit issued to the District.

Intermittent Stream. A stream with no visible surface flows for a period of 30 or more continuous days per year.

Local Limit. Specific discharge limits developed and enforced by the District upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

May. The word “may” is permissive.

Modification. A change or alteration made to the Rules and Regulations to improve something or make it more suitable. A modification shall meet the intent of the standards.

Mulch. Application of plant residue, straw, netting, plastic sheeting, or other suitable materials to the land surface to conserve moisture, hold soil in place, and aid in establishing plant cover.

New Development. Land disturbing activities that are conversions from natural vegetation/landscape to other uses; structural development, including construction or installation of a building or other structure; creation of hard surfaces; and subdivision, partition, and binding site plans. Projects meeting the definition of redevelopment shall not be considered new development. New connections to the public storm system, or public sanitary sewer system, are considered new development.

New Source. Any building, structure, facility, or installation from which there is (or may be) a discharge of wastewater pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the CWA that will be applicable to such source if such Pretreatment Standards are thereafter promulgated in accordance with that section, provided that:

- A. The building, structure, facility, or installation is constructed at a site at which no other wastewater source is located; or
- B. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of wastewater pollutants at an existing source; or
- C. 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.

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 Part B or C above but otherwise alters, replaces, or adds to existing process or production equipment.

Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

- A. Begun, or caused to begin, as part of a continuous onsite construction program (i) any placement, assembly, or installation of facilities or equipment; or (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new wastewater source facilities or equipment; or
- B. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Non-Contact Cooling Water. The water discharged from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

Non-Significant Categorical Industrial User. An industrial sanitary sewer user that never discharges more than 100 gpd of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater) and all the following conditions are met:

- A. The Industrial User has consistently complied with all applicable Categorical Pretreatment Standards and all applicable permit requirements.
- B. The Industrial User annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement.
- C. The Industrial User never discharges any untreated concentrated wastewater.

Non-Stormwater Discharge. Any discharge to the District's MS4 that is not entirely composed of stormwater.

NPDES Permit. A permit issued pursuant to Section 402 of the CWS (40 CFR 122, 123, 124, and 504).

Operator in Charge. The designated personnel on duty at a POTW responsible for supervising and directing any discharge of septic tank wastes hauled to the plant.

Ordinary Mean High-Water Line. The ordinary line on any river or stream established by the annual fluctuations of water generally indicated by physical characteristics such as a line on the bank, changes in soil conditions, or vegetation line.

Owner. The owner(s) of record title or the purchaser(s) under a recorded sale agreement and other persons having an interest of record in the described real property.

Parcel. A lot, parcel, block, or other tract of land that is occupied or may be occupied by a structure or structures or other use and includes yards and other undeveloped areas required under the zoning, subdivision, or other development ordinances.

Pass Through. A discharge that exits the POTW into waters of the state in quantities or concentration, which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the District's NPDES permit (including an increase in the magnitude or duration of the violation) or any other permit issued to the District.

Perennial Stream. A stream that flows year-round during years of normal precipitation.

Permit. An official document, permit, or certificate issued by the District that authorizes performance of a specified activity

Permittee. The person to whom a building permit, development permit, waste discharge permit or any other permit described in these Rules and Regulations is either applied for or issued.

Person. Any individual, firm, company, or corporation, partnership or association, entity, public corporation, political subdivision, governmental agency, municipality, industry, or any department or agency thereof.

Pollutant. Any of the following, including but not limited to: oil, grease, soil, mining waste, spoil, solid waste, incinerator residue, sewage, garbage, sewage biosolids, munitions, chemical wastes, pesticides, insecticides, fertilizer, biological materials, radioactive materials, heat, heavy metals, asbestos, wrecked or discharged equipment, rock, sand, cellar dirt and untreated industrial, municipal and agricultural waste discharged into water.

Pre-Developed. For new development, pre-developed condition is defined as the condition of land at the time of development. For redevelopment projects, pre-developed condition is defined

as the condition of the land before urban development. For the purpose of hydrological evaluations, the pre-developed conditions will be prescribed in the adopted Stormwater Standards.

Pretreatment Requirement. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

Pretreatment Standards. Pretreatment Standards shall mean prohibited wastewater or sanitary discharge standards, standards applied to categories of industrial use (see Categorical Pretreatment Standards), and Local Limits.

Private Stormwater System. A privately-owned and maintained stormwater system.

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

Public Mainline. The common sewer that collects and conveys flows from more than one property that is controlled, maintained, repaired, replaced, and operated by the District and located within a public easement or Public Right-of-Way. Public Mainlines do not include the Service Connections that serve a single property, which are the responsibility of the property owner(s).

Publicly Owned Treatment Works (POTW). A treatment works as defined by Section 212 of the CWA (33 United States Code (USC). 1292), which is owned by a governmental entity. This definition includes any public sewers that convey wastewater to the POTW treatment plant but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purposes of these Rules and Regulations, POTW shall also include any sewers that convey wastewaters to the POTW from persons outside the District who are, by contract or agreement with the District, users of the District's POTW.

Public Right-of-Way. Any public space dedicated to a public transportation agency for ownership and maintenance, such as a county or city owned highway, road, street, avenue, or alleyway. All land or interest therein which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to the use of the general public for roadway purposes, within which the District shall have the right to install and maintain public utilities, including sanitary sewers, stormwater, and surface water systems (ORS 758.010).

Public Sanitary System. All or any part of the facilities for collection, pumping, treating, and disposing of sewage as acquired, constructed, owned, or maintained by the District, excluding Service Connections. See **Conveyance System** definition.

Public Stormwater System. All and any part of the facilities for collecting, treating, and disposing of stormwater as acquired, constructed, owned, or maintained by the District, excluding Service Connections. See **Conveyance System** definition.

Qualified Project. A public improvement or some combination of improvements that is eligible for reimbursement, including the following:

- A. Extension of a sanitary sewer or storm sewer pipeline improvement project, or a portion of a sanitary sewer or storm sewer improvement project, that makes service available to properties, and any subsequent subdivisions thereof, which are off-site and downstream of the Developing Party's own property.
- B. Construction of a storm and surface water treatment project larger or with greater capacity than necessary to meet the stormwater quality and/or quantity management requirements of the property of the Developing Party in order to provide future stormwater quality and/or quantity management to other properties which would otherwise need to construct additional

stormwater quality and/or quantity management facilities to provide service to the same area.

Qualified Public Improvement. A Qualified Public Improvement is: (a) required as a condition of development approval; (b) identified in the District's adopted Capital Improvement Plan pursuant to ORS 223; and (c) either not located on or contiguous to a parcel of land that is the subject of a development approval, or located in whole or in part on, or contiguous to property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

Rate Zone. An area served by the District public sanitary sewer system and/or surface water management within the District Service Area boundaries or a defined geographic area that will become part of the District following annexation.

Reasonable Times. During normal operating or business hours.

Receiving Waters. Any body of water into which effluent from a POTW or from a surface water outfall is discharged either directly or indirectly.

Redevelopment. Any proposed Development (see definition of Development above) on a previously developed site, excluding ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional nonpoint source pollution. New, existing, and modified connections to the public storm system are considered redevelopment if they increase the discharge of stormwater runoff from new or existing impervious surfaces that were previously not connected.

Reimbursement District. The area that is determined by the Board to derive a benefit from the construction of public improvements, financed in whole or in part by a Developing Party.

Replacement. Any actions that result in expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the design or useful life, whichever is longer, of the treatment works or other facilities to maintain the capacity and performance for which such works were designed and constructed.

Replaced Impervious Surface. The removal of an impervious surface that exposes soil, or native subgrade, followed by the placement of an impervious surface is considered Redevelopment of an impervious surface area. Replacement does not include repair or maintenance activities on structures or facilities taken to prevent decline, lapse or cessation in the use of the existing facility or surface, provided the repair or maintenance activity does not expand the coverage of the existing impervious area. If a proposed development disturbs native subgrade, then Stormwater Standards are triggered.

Representative Sample. A sample from a waste stream that is identical or nearly identical in composition to that in the larger volume of wastewater being discharged.

Respondent. The person to whom an enforcement action is issued.

Sampling Manhole. Specialized manholes designed for measurement of wastewater and pre-treatment flows, water quality sampling, and parameter monitoring. Sampling manholes are most commonly used by industrial dischargers as part of the District's process for the release of permitted discharges to the sanitary sewer system. They are also used by the District to measure in-system flows and where flows are sent to another agency's system for treatment.

Sanitary Sewer. A conduit intended to carry sewage liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

Sediment. Any material that is in suspension, is being transported, or has been moved from its site of origin by water, wind, or gravity as a product of erosion.

Sensitive Area. An area that contains one or any combination of the following features:

- A. Existing or created wetlands, including all mitigated wetlands. Limits defined by wetlands reports approved by the Oregon Division of State Lands (DSL), the District, the Army Corps of Engineers (USACE), or the local jurisdiction.
- B. Rivers, streams, sloughs, swamps, creeks, drainageways and open conveyances. Limits defined by the top of the bank or first break in slope measured upland from the mean high-water line.
- C. Impoundments (lakes and ponds). Limits defined by the top of the bank or first break in slope measured upland from the mean high-water line.

Sensitive areas shall not include stormwater management facilities including constructed wetlands, rain gardens, detention ponds, vegetative buffers adjacent to sensitive areas, or water features, such as lakes, constructed during an earlier phase of a development for specific purposes such as recreation.

Septic Tank. A watertight receptacle, which receives domestic sewage from an on-site sanitary drainage system, and is designed to separate solids from liquids, digest organic matter during a period of detention, and allows the liquid to discharge to a second treatment unit or to a soil absorption facility.

Septic Tank Wastes. Includes and limited to wastes supplied from the sanitary facilities of residences, hotels, motels, and domestic wastes from the sanitary facilities of commercial and industrial property whether collected from septic tanks, cesspools, holding tanks, drop tanks, or chemical toilets. Process wastes from commercial and industrial property are excluded. Septic tank wastes may also be referred to as “septage” in District documents and regulations.

Service Area. The geographic area where the District provides sanitary and/or surface water services as defined by distinct Rate Zones.

Service Connection. The part of the conveyance or piping system that is located within a Public Right-of-Way or public easement. The Service Connection is a pipe that extends from a property’s Building Sewer and carries discharge from the property to the Public Mainline.

Sewage. The water-carried human, animal, or vegetable wastes from residences, business buildings, institutions, and industrial establishments, together with groundwater infiltration and surface water as may be present. The admixture with sewage of industrial wastes or water shall be considered “sewage” within the meaning of this definition.

Sewer. A closed conduit or pipe that conveys wastewater, stormwater, or surface water.

Sewer User. Any person using any part of the public sewer system. In the case of tenants, the property owner shall also be considered the sewer user for that property.

Shall. The word “shall” means mandatory.

Significant Industrial User. Any and all Industrial Users that:

- A. Are subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter 1, subchapter N.
- B. Discharge an average of 25,000 gallons per day (gpd) or more of Process Wastewater to the public sewerage system (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process waste stream that makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the District’s treatment plant; or is designated as such by the District on the basis that the Industrial User has a reasonable

potential for adversely affecting the treatment plant's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

Slug Discharge or Slug Loading. Any discharge of a nonroutine, episodic nature, including an accidental spill or a noncustomary batch discharge that 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.

Specially Benefitting Properties. For the purpose of establishing a Reimbursement District, all properties or parcels which are either:

- A. Off-site of the Developing Party's own property and capable of receiving gravity sewer service through connection to a Qualified Project. Properties which are adjacent to and upstream of the Developing Party's property and which will be required to further extend sanitary sewer or storm sewer are not Specially Benefitted; or
- B. Off-site of the Developing Party's own property and capable of receiving benefit from a Qualified Project such that the property would not be required to build additional conveyance or stormwater or surface water management improvements to provide service to the same area served by the Qualified Project.

Stop Work Order. An order issued by the District for violation of District Sanitary Standards. All work contributing to the violation must cease when a Stop Work Order is issued, and the Stop Work Order will stay in place until such time as removed by the District in writing.

Storm Drainage. See Storm Sewer.

Storm Sewer. A conduit intended to carry stormwater, surface runoff, or drainage.

Stormwater. Waters on the surface of the ground resulting from precipitation.

Stormwater Management Facility (SMF). Any facility that is designed, constructed, and maintained to collect, treat, filter, retain, or detain surface water runoff during and after a storm event for the purpose of controlling flows and/or reducing pollutants in stormwater runoff. SMFs include, but are not limited to constructed wetlands, rain gardens, water quality swales, stormwater planters, infiltration facilities, and ponds. SMFs can be privately or publicly owned and maintained.

Stream. A body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet, or river. A stream flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.

Surface Water Management System. All natural and human-made facilities used to regulate the direction, quantity, and quality of surface water, including, but not limited to, drainage easements, culverts, storm drains, catch basins, manholes, stream corridors, ditches, open channels, rivers, ponds, wetlands, and impoundments. Not all surface water management system facilities are owned and operated by the District.

Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtering in accordance with the applicable procedures prescribed in 40 CFR Part 136.

System Development Charge (SDC). A reimbursement fee, an improvement fee, or a combination thereof assessed or collected as specified in Section 5.4 as a condition of connection to the sanitary sewer system or stormwater system. An SDC does not include the portion of a sanitary sewer connection charge or stormwater mitigation charge that is needed to reimburse the District for its average cost of inspecting or hooking up connections to the sanitary sewer system. An SDC does not include (a) any fees assessed or collected as part of a

local improvement district; (b) a charge in lieu of a local improvement district or assessment; or (c) the cost of complying with requirements or conditions imposed upon a land use decision.

Total Living Area. The gross area (including wall framing) of a dwelling unit conforming to applicable building codes including unfinished areas built for future use. The gross area typically does not include decks, porch covers, garages, attic and basement areas with substandard ceiling height or substandard egress.

Underground Injection Control (UIC). Underground injection controls include facilities such as drywells and perforated pipes that are used to discharge stormwater runoff underground, as authorized by DEQ. UICs do not include facilities such as swales or rain gardens where stormwater runoff is discharged to the surface of the facility for infiltration through the surface into the ground.

Undue Hardship. Special or specified circumstances that partially or fully exempt a person from performance of these Sanitary Standards, so as to avoid an unreasonable or disproportionate burden or obstacle.

Useful Life. The period during which a treatment works, conveyance system, or other specific facility operates.

User. Any person or entity in whose name service is rendered as evidenced by the signature on the application or contract for that service, or, in the absence of a signed instrument, the receipt and payment of utility bills regularly issued in their name. A user, under this system and structure of rates, is either single family or non-single family.

User Charge. The periodic charges levied on all users of the public sewerage system or public stormwater system for the cost of operation, maintenance, and replacement; including but not limited to, expenditures during the useful life of the treatment works or conveyance system for materials, labor, utilities, administrative costs, debt service, debt service coverage, capital improvements, regulatory compliance, and other items which are necessary for managing and maintaining the conveyance system.

Variance. A discretionary decision to permit modification of the terms of any part of these Rules and Regulations based on a demonstration of unusual hardship or exceptional circumstance unique to a specific property.

Violation. An offense of any statute, rule, order, license, permit, or any part thereof and includes both acts and omissions.

Waters of the State. Those waters defined in ORS 468B.005 or as amended which include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

Wetland. Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands are those areas identified and delineated by a qualified wetlands specialist as set forth in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, January 1987, or by a DSL/USACE 404 permit. Wetlands may also consist of:

- A. **Constructed Wetlands.** Wetlands developed as a water quality or quantity facility, subject to maintenance as such. These areas must be clearly defined separated from naturally occurring or created wetlands.

- B. **Created Wetlands.** Created wetlands are wetlands developed in an area previously identified as a non-wetland to replace, or mitigate, wetland destruction or displacement. A created wetland shall be regulated and managed the same as an existing wetland.
- C. **Existing Wetlands.** Existing Wetlands are those identified and delineated as set forth in the Federal Manual for Identifying the Delineating Jurisdictional Wetlands, January 1987, or as amended, by a qualified wetlands specialist.

1.2 Abbreviations

Unless the text specifically indicates otherwise, the following abbreviations are used in these Rules and Regulations to refer to the following:

Abbreviation	Definition
ADU	Accessory Dwelling Unit
BMP	Best Management Practice
BCC	Board of County Commissioners of Clackamas County
BOD	Biochemical Oxygen Demand
C	Celsius
CCSD1	Clackamas County Service District No. 1
cf	cubic feet
CFR	Code of Federal Regulations
CIP	Capital Improvement Plan
CWA	Clean Water Act
DEQ	Oregon Department of Environmental Quality
DSL	Oregon Division of State Lands
EDU	Equivalent Dwelling Unit
EPA	Environmental Protection Agency
EPSC	Erosion Prevention and Sediment Control
ESU	Equivalent Service Unit
F	Fahrenheit
FOG	Fats, Oils, and Grease
FSE	Food Service Establishment
gpd	gallons per day
GRD	Grease Removal Device
mg/L	milligrams per liter
MS4	Municipal Separate Storm Sewer System
NPDES	National Pollution Discharge Elimination System
OAR	Oregon Administrative Rules
ODFW	Oregon Department of Fish and Wildlife
ORS	Oregon Revised Statutes (all statutory references are as amended)
POTW	Publicly Owned Treatment Works
RV	Recreational Vehicle
SARA	Superfund Amendments and Reauthorization Act

Abbreviation	Definition
SDC	System Development Charge
sf	square feet
S.U.	Standard Unit
SMF	Stormwater Management Facility
SMI	State Medium Income
SWMACC	Surface Water Management Agency of Clackamas County
TCSD	Tri-City Service District
TRC	Technical Review Criteria
TSS	Total Suspended Solids
TTOs	Total Toxic Organics
UGB	Urban Growth Boundary
UGMA	Urban Growth Management Area
UIC	Underground Injection Control
U.S.	United States
USC	United States Code
USACE	U.S. Army Corps of Engineers
WES	Water Environment Services
WPCF	Water Pollution Control Facility
WQRA	Water Quality Resource Area
WRRF	Water Resource Recovery Facility



Rules and Regulations

2. Authority

2.1 Purpose and Objectives

Water Environment Services (District) is an intergovernmental entity within Clackamas County, Oregon. The District was organized in accordance with ORS Chapter 190 for the purpose of uniting and simplifying services provided through partner organizations. This management structure provides for a regional, consistent, and efficient way to plan for and provide current and future wastewater and surface water needs in a way that protects public health and the environment while supporting economic development.

It is intended that these Rules and Regulations shall be understood to affect the general purposes described in this document, and that each and every part of the rules is separate, distinct, and severable from all other parts. Omission from, and additional materials set forth in, these Rules and Regulations shall not be interpreted as an alteration, waiver, or deviation from any grant of power, duty, or responsibility or limitation or restriction imposed or conferred upon the Board by virtue of the statutes as now existing or as may hereafter be amended.

Nothing contained in this document shall be so construed as to prejudice, limit, or affect the right of the District to secure the full benefit and protection of any laws which are now or hereafter may be enacted by the Oregon State Legislature. Any reference in these Rules and Regulations to a specific statutory provision shall include that provision and any comparable provision(s) of future legislation amending, modifying, supplementing, or superseding the referenced provision.

These District Rules and Regulations (Rules and Regulations) are established to serve a public use and promote the health, safety, prosperity, security, orderly and uniform administration of the District affairs, and general welfare of the inhabitants using the District's sanitary and stormwater systems.

The objectives of these Rules and Regulations are to:

- Advance public health and welfare.
- Protect watershed health and stream habitats.
- Protect District Employees who may come into contact with sewage, sludge, effluent, spills, or illicit discharges in the course of their employment.
- Comply with state and federal requirements, such as NPDES Permits.
- Support long-term operations and maintenance of public sanitary and storm systems.
- Prevent and minimize the introduction of pollutants to stormwater, the public sanitary and storm system, biosolids, the atmosphere, groundwater, and to surface waters.
- Establish policies and standards that prevent and minimize future pollution through implementation of best management practices (BMPs) and structural controls.
- Ensure that development is planned, designed, constructed, and maintained.
- Provide for fair distribution of costs to current and future users of public sanitary and stormwater systems.

2.2 Adoption of Rules and Regulations

The Board of County Commissioners of Clackamas County (Board) is the governing body of the District. The business and affairs of the District shall be managed by the Board in accordance with ORS Chapter 190. All powers, privileges, and duties of the District by law shall be exercised and performed by and through the Board, whether set forth specifically or implied in these Rules and Regulations, unless otherwise delegated. The Board may delegate to officers and employees of the District any or all executive, administrative, and managerial powers it deems appropriate.

Any existing rules and regulations previously adopted by the District or its predecessor agencies are hereby repealed, and any portion of any previous resolutions or orders are hereby repealed to the extent that such portion is inconsistent with these Rules and Regulations and any subsequent regulation or order.

The Board, acting as the governing body of the District, may amend these Rules and Regulations or put forth new rules in accordance with applicable Oregon law.

2.3 Applicability

Unless otherwise exempted by the provisions of these Rules and Regulations, the provisions related to sanitary sewers apply to all areas within the District's Service Area where the District provides sanitary sewer service (Rate Zones 1 and 2), and the provisions related to surface water services apply to all areas within the District's Service Area where the District provides surface water services (Rate Zones 2 and 3). These Rules and Regulations do not apply in areas where another municipality's jurisdiction supersedes the District's authority.

The District has several non-contiguous areas that are categorized by Rate Zone (see **Table 1**). These Rate Zones may grow or shrink over time as properties annex themselves into nearby incorporated areas.

Table 1. WES Rate Zones

Rate Zone	Geographic areas	Sanitary Service Provided?	Surface Water Service Provided?
1	West Linn, Oregon City, Gladstone, unincorporated areas	Yes	No
2	Happy Valley, incorporated urban areas and unincorporated areas of Boring, Fischer's Forest Park, and Hoodland	Yes	Yes
3	Rivergrove, unincorporated areas that drain to the Tualatin River.	No	Yes

2.3.1 Rate Zone #1

Rate Zone #1 includes the Service Area formerly served by the Tri-City Service District (TCSD), which includes the Cities of West Linn, Oregon City, Gladstone, and certain unincorporated areas. Rate Zone #1 includes sanitary sewer service.

2.3.2 Rate Zone #2

Rate Zone #2 includes the Service Area formerly served by Clackamas County Service District No. 1 (CCSD1), which includes the City of Happy Valley, certain unincorporated

areas within the urbanized portion of the County, and certain unincorporated areas within Boring, Fischer's Forest Park, and Hoodland. Rate Zone #2 includes sanitary sewer and surface water management services.

2.3.3 Rate Zone #3

Rate Zone #3 includes the Service Area formerly served by the Surface Water Agency of Clackamas County (SWMACC), which includes the City of Rivergrove and unincorporated areas of Clackamas County within the Tualatin River Drainage Basin. Rate Zone #3 includes surface water management services.

2.4 Annexation

The purpose of this section is to establish procedures relating to the annexation of territory into the District. It is the intent of the District to promote orderly annexation of municipal and unincorporated land where it is determined in best interests of the District and adjoining cities to plan and provide for orderly development.

- A. Annexation to the District must satisfy the requirements as set forth in Oregon Revised Statutes (ORS) Chapter 198.
- B. Annexation to the District shall be required prior to a building on a property connecting to and/or benefiting from District-owned, operated or maintained sanitary and/or stormwater infrastructure.
- C. Property owners seeking to annex territory into the District must first seek annexation into the applicable City in accordance with local and state ordinances, the Metro Code Chapter 3.07 Urban Growth Management Functional Plan, and/or an Urban Growth Management Area (UGMA) Agreement.
- D. The District will not annex lands outside of the Urban Growth Boundary (UGB), or annex lands within the UGB that are included in an UGMA or a comprehensive land use plan that designates the lands to be incorporated into a City, without a property first annexing into a City or a City consents to District annexation.
- E. In the event a City is not willing to annex properties, and the subject properties are contiguous with the current District boundary, then the District reserves the right at its sole discretion to annex the land and provide services, excluding lands as noted in Section 2.4.D of these Rules and Regulations.
- F. The District may annex property and/or provide extra-territorial service at its sole discretion to a property in order to abate a health hazard in accordance with Section 6.3.2

Rules and Regulations

3. Administration

3.1 Purpose and Objectives

This section describes the administration of the Rules and Regulations including, but not limited to, compliance, authority, enforcement, and appeals.

3.2 Compliance with Laws

Conformance with these Rules and Regulations shall in no way be a substitute for, or eliminate the necessity of, conforming to any and all federal, state, and local laws, ordinances, rules, and regulations which are now, or may in the future, be in effect.

3.2.1 Regulations and Rules as Contract

The terms and conditions contained in these Rules and Regulations; the rules, regulations, and ordinances of the District; and all successive resolutions and orders, shall constitute a contract between the District and all users, contractors, and connectors to the system. The users and connectors will be able to use and connect to the public sewerage system, public stormwater system, and surface water system and their programs.

Nothing contained in these Rules and Regulations shall require the District to provide service or access to the system to any user or connector when any federal, state, or local agency having jurisdiction over the District has imposed limitations upon such service or access, or when the District, in its discretion, has determined that the public interest requires any such limitation.

3.2.2 No Property Interest Acquired

A user or connector to the public sanitary or surface water system does not acquire a vested property interest in continued use or connection to the system. Such use or connection is conditioned always upon the user or connector complying with all applicable terms and conditions contained in these Rules and Regulations, and all successive regulations and orders, and, further, upon compliance with all federal, state, or local requirements which are, or may hereafter, be imposed upon such user or connector.

3.2.3 Conflicts With Existing and Future Regulatory Requirements of Other Agencies

Any provisions or limitations of these Rules and Regulations and any successive regulation or order are suspended and supplemented by any applicable federal, state, or local requirements existing or adopted subsequent to this document that are more stringent than the provisions and limitations contained herein; however, any provision of these Rules and Regulations (and successors) that are more stringent than any applicable federal, state, or local requirement shall prevail and shall be the standard for compliance by the users of any connectors to the District sanitary or surface water

systems. Any specific statutory references within these Rules and Regulations are as amended, intending to capture future changes in substance or reference as applicable.

3.3 Delegation of Authority

The Board delegates to the Director of the District (Director) the authority to implement these rules, including:

3.3.1 Easements

The Director shall have the authority to accept, reject or release easements for the purposes as set forth below; and as the Board may further determine by resolution and order.

- A. The Board grants the Director authority to govern easements for the District in support of:
 - Assessment districts
 - Local improvement districts
 - Capital Improvement Projects
 - Existing easements recorded by instrument or plat
 - Proposed easements to be recorded by instrument or plat
 - Quit claims of existing easements
- B. All documents accepted pursuant to this section and submitted for recording shall show evidence of approval by the District's legal counsel and the signature and title of the person accepting the document on behalf of the District.
- C. The Director, in instances when the Director is not present, shall have the power to delegate the authority under this section by a written statement to his or her designee declaring the delegation, individual designated, and duration of the designation.
- D. The authority granted in this section shall be in addition to other authority that may be provided to District officers and employees to acquire interests in real property on behalf of the District. Nothing in this section shall be deemed to grant any employee or individual the authority to acquire or accept an interest in real property on behalf of the District except as specifically provided herein, or upon the direction or approval by the Board.

3.3.2 Standards

The Director shall have the authority to promulgate such technical standards and requirements necessary to implement the purpose and intent of these Rules and Regulations, including, but not limited to, pipe type, size, connection requirements, elevation, grade, materials, and any other good and necessary item. Such standards shall be contained in one or more documents that are publicly available, and the District shall provide thirty (30) days of public notice on its website of any potential change to such standards or requirements. The Director is authorized to adopt and amend, as needed, the following standards documents as necessary to implement the requirements of these Rules and Regulations:

- A. Erosion Prevention and Sediment Control Planning and Design Manual to establish standards and guidelines for implementing BMPs to provide erosion prevention and sediment control from construction sites.

- B. Stormwater Standards to establish standards and guidelines for implementing Best Management Practices and construction Stormwater Management Facilities to reduce pollutants from new development and redevelopment and for the design, construction, and acceptance of public stormwater systems. All construction and material specifications for any stormwater system construction shall be in conformance with the District's Stormwater Standards.
- C. Buffer Standards to establish standards and guidelines for providing vegetated buffers to protect District Water Quality Resource Areas (WQRA), which include perennial and intermittent streams and wetlands
- D. Sanitary Sewer Standards to establish the standards and guidelines governing the design, construction, and acceptance of public sanitary sewers, including upgrades to public facilities necessary for collecting, pumping, treating, and disposing of sanitary sewage. All construction and material specifications for any public system construction shall be in conformance with the District's Sanitary Sewer Standards. Private sanitary discharge to public systems will be regulated to protect public health and the performance of the public sanitary system.
- E. Exceptions. The Director may approve, in their sole discretion, exceptions to the minimum requirements when the exception, as mitigated, will not increase risks in the vicinity and downstream of the site to public health, safety, and welfare or to water quality, quantity, or public and private property.
- F. Interpretation. The Director shall have broad discretion to interpret these Rules and Regulations.

3.4 Administration in Other Jurisdictions

The District, through its Director or other authorized designee or representative, shall have the authority to do all things necessary to administer the provision of these Rules and Regulations and any subsequent rules as needed in other jurisdictions.

3.5 Enforcement of Rules and Regulations

In the event the District must take an enforcement action to ensure compliance with these Rules and Regulations, any actions taken by the District shall be performed in accordance with the subsequent sections within these Rules and Regulations.

3.6 Severability

If any provision, clause, or paragraph of these Rules and Regulations, or any subsequent rules, shall be found to be unconstitutional, illegal, or unenforceable by any court of competent jurisdiction, the offending provision shall be stricken and such judgment shall not affect the validity of the remaining portions of these Rules and Regulations, or other such rules. The court or other authorized body finding such provision unconstitutional, illegal, or unenforceable shall construe the Rules and Regulations, and any other related rules, without such provision to give effect to the District's intentions to the maximum extent practicable.

3.7 Interpretation

Any person aggrieved by a ruling or interpretation of the provisions of these Rules and Regulations may submit a written appeal to the Director. The appeal must be in writing and submitted within fourteen (14) days after the decision was made. The appeal shall set forth the events and circumstances leading to the appeal, nature of the ruling or interpretation from which relief is sought, and nature of the impact of the ruling on appellant's property or business,

together with any other reasons for the appeal. This section shall not apply to cases arising under Section 10. where a violation of these Rules and Regulations has occurred. Any requests for variances to technical standards will follow the process laid out in the adopted standard.

3.7.1 Decision of District

The Director or authorized designee shall review records of the District and shall make a written decision within thirty (30) days of written notification of appeal.

3.7.2 Appeal of District Decision

If the appellant considers that their grievance has not been handled to their satisfaction, they may send a written request to the District for an independent review by a Hearings Officer of their case within thirty (30) days from the date of the written decision.

Through the adoption of these Rules and Regulations, the Board delegates decision making authority to a Hearings Officer for all matters arising under Section 3.7.3. The Board further delegates to the Director the responsibility for selecting a Hearings Officer from those under contract with the County. If no hearings officer is available under the County contracts, the Director will work with County Counsel to identify a suitable alternative.

3.7.3 Hearings Officer

The Hearings Officer shall set a de novo hearing on the matter at which they will take testimony and hear arguments. The Director or authorized designee shall give notice of the time and place for the hearing to the appellant. For appeals related to development review or land use, notice shall be given to the appellant and all property owners within 250 feet of the subject property. The notice called for in this section shall be given by First Class mail, postage prepaid, at least fourteen (14) days in advance of the time scheduled for the hearing. Only persons who have been aggrieved by the Director's decision shall have standing to participate in the hearing. The Hearings Officer may use the procedures set forth in Section 10.12 of these Rules and Regulations, as applicable. The Hearings Officer shall issue written findings and a decision on the appeal within thirty (30) days after the de novo hearing, with copies to the Board, all persons who participated in the hearing, and those persons who have requested a copy.

3.7.4 Decision of Hearings Officer

The Hearings Officer shall have all the decision-making authority of the Board for all matters brought before them arising under these Rules and Regulations. The decision of the Hearings Officer shall be final when issued. The appellant may file a request for correction of misstated facts, which is to be received by the District or Hearings Officer within ten (10) days after the decision of the Hearings Officer was sent to the appellant. The Hearings Officer shall be limited to review of the accuracy of the facts used in the decision. If the facts are corrected, the Hearings Officer may revise conclusions and findings of the order or decision. The Hearings Officer shall review the request and issue a corrected order or a notice of decision to decline correction within thirty (30) days of receipt of request from the appellant. The correction process shall not change the time to file a writ of review if the order is not corrected. A revised order is final when issued.

3.7.5 Circuit Court Review

Decisions of the Hearings Officer shall be reviewable by the Circuit Court of the State of Oregon for Clackamas County, solely and exclusively under the provisions of

ORS 34.010 to 34.100, or any successor statutes. If a writ of review has not been filed by the time limits described by ORS 34, the decision is enforceable by the District.

Rules and Regulations

4. Connection Rules

4.1 Purpose and Objectives

All connections and specifications shall be in accordance with the requirements of these Rules and Regulations, the District Sanitary Sewer Standards, the District Stormwater Standards, the Plumbing Code of the State of Oregon, and any other federal or state requirement.

4.2 General Requirements

A. Unauthorized Connections

No person shall uncover, make any connection to, make any opening into, use, alter, or disturb any portion of the Districts System without first making an application to and obtaining the authority and/or permit from the District therefor.

B. Permit Applications

The installer of work covered by this section shall make application to the District for connection. The application shall be supplemented by any plans, specifications or other information considered necessary by the District.

C. Payment of Charges

All system development charges (SDCs), and other fees or charges, except user charges, established by the District, shall be paid prior to the issuance of a permit to connect, except charges which have been deferred pursuant to the provisions of Chapter 5.

D. To Whom Permit Issued

The permit shall be issued to the property owner or installer.

E. Indemnification of District

The owner and installer shall indemnify the District, its officers and agents from any loss or damage that may directly or indirectly be occasioned by the installation of the Service Connection, Building Sewer, or Building Drain.

F. Direct Sanitary Connection Required

All building sanitary sewers connected to the District sanitary sewer system shall be directly connected thereto without any intervening private sewage disposal system.

G. Connection Permit Required

A permit is required to connect to the District system, including, but not limited to a Service Connection, pipes, pollution reduction manholes, and detention facilities, whether constructed or natural. Before connecting to the District system, a permit authorizing such connection shall first be secured in writing from the District and all applicable fees paid.

H. Separate Service Connection

No Service Connection shall be used to provide service to more than one property, except as specified below. Each separate Service Connection to the Public Mainline shall pay the

minimum applicable EDU charges, fees and monthly service fees based on the District Rules.

Existing Service Connections that share a party line shall be modified and separated where practicable, in the District's sole discretion, when repairs or replacements of existing sewers are proposed.

A separate and independent Service Connection and Building Sewer shall be provided by the owner at their expense for each tax lot or lot of record, except:

- a. That court apartments, motels, mobile home parks and similar properties held under a single ownership, or condominiums represented by a homeowner association, may be permitted in the sole discretion of the Director to use a single Service Connection as long as such single ownership shall continue. Each single connection shall be of a size and type adequate to service the connecting buildings; or
 - b. In the sole discretion of the Director or their designee, to avoid unnecessary undue hardship, more than one user may share a Service Connection if all of the following criteria are met:
 - i. All parties to the shared Service Connection have entered into a written agreement recorded in the Clackamas County Real Property Records regarding use and maintenance of the Service Connection and reciting it is for the benefit of District;
 - ii. Said agreement shall further provide that it is a covenant running with the land and inures to the benefit of and binds all the parties' heirs, successors, and assigns;
 - iii. Said agreement contains a clause holding the District harmless from any and all liability arising out of the use, damage, or destruction of the private Service Connection, and that the District shall be indemnified for any and all claims or costs, including legal fees, for which the District may be held liable;
 - iv. The District and its employees shall have the right to enter upon the private property, if necessary, to protect, maintain, repair, and replace any portion of the Service Connection at the property owner's expense;
 - v. The District may terminate sewer service to all users of the private Service Connection if one of the users violates these Rules and Regulations and termination of service is a remedy, and may do so without liability to any user of the Service Connection; and
 - vi. The agreement shall be approved by the District prior to recording and no building permit will be issued until the District has so approved.
 - c. Each user shall pay all charges in accord with the District Regulations as if a separate connection to the District's sewerage system had been accomplished. Each single connection under an agreement so approved shall be of a size and type adequate to service the connecting buildings.
- I. Condition of Service Connection, Building Sewer, and Building Drain

The Service Connection, Building Drain, Building Sewer pipe that is located within the right of way, public easement, and on private property, throughout its entire length, must be kept in good repair at the expense of the owner, who shall be responsible for all damages resulting from leaks or breaks in the service pipe. The District may require a property owner to repair a pipe that is discharging any substance prohibited by these Rules.

J. Right of Entry

Agents of the District may have free access at reasonable hours of the day to all parts of the premises from which sewer may be delivered to the District's Public Mainline, for the purpose of inspecting the condition of the pipes and fixtures and the manner in which the sewer is used.

K. Ground Water Infiltration

Service Connections and Building Sewers shall be maintained by the owner of said structure in such a manner as to prevent infiltration of ground water into the sanitary sewer system.

L. Service Connection, Building Drain, and Building Sewer Disrepair

When a Service Connection, Building Drain, Building Sewer pipe falls into disrepair, or contains ground water as determined by the District, the property owner shall have sixty (60) days to repair or replace the pipe upon written notification by the District. After the notification period has ended, if the repairs are not completed, then the District may fine the property owner, or may repair and/or replace the pipe and assess a fee equal to the cost to complete the work to the property owner. The fee for repairing or replacing the Service Connection, Building Drain, or Building Sewer pipe shall be levied and collected in accordance with the District rules.

M. Restricted Connections

No person shall connect any roof, surface, foundation, footing, drainage, or area drain to any sanitary sewer Service Connection, sanitary building sewer, or building drain that is connected to the District sanitary sewer system.

N. Existing Service Connections, Building Drains, and Building Sewers

Whenever a sanitary or storm Building Sewer or Service Connection has been installed that does not conform to District Rules and Standards, then the portions nonconforming shall be replaced in accordance with such regulations.

O. Abandoned Service Connections, Building Sewers, and Building Drains

Any Service Connection that is abandoned shall be capped or plugged by the property owner at their sole cost and expense. All materials to plug or cap the Service Connection shall be approved and inspected by the District and/or city prior to backfilling. When Service Connections, Building Sewers, and Building Drains are temporally abandoned, they shall be properly plugged or capped at the property line by the property owner at the time they are abandoned. If the Service Connection will be permanently abandoned, then the Service connection will be disconnected at the mainline with a watertight fitting and applicable grout to permanently seal the connection. District inspection and approval of the plugged or capped Service Connections, Building Sewers, or Building Drains is required prior to backfilling the exposed sewer to be abandoned. An abandoned Service Connection, Building Sewer, or Building Drain found not properly plugged or capped at the property line shall be properly plugged or capped by the property owner when notified to do so by the District. If the property owner fails to properly abandon the Service Connection, Building Sewer, or Building Drain after twenty (20) days of being notified to do so, the District may have the work done at the property owner's expense.

P. User Requiring Pumping Facilities

The District requires gravity sanitary sewer service, however, if the building is below the available gravity sewer line, and the District, in its sole discretion, allows the property to connect, the owner or user shall install pumping facilities in accordance with the Uniform Plumbing Code.

4.3 Hold Harmless

All users of the system, all contractors who may perform work on the system in any manner, and all other persons or entities whose actions may affect the system shall indemnify and hold harmless the District, the city, their officers, employees, and representatives from and against all suits, actions, or claims of any character or nature brought because of any injuries or damages received or sustained by any person, or property, or alleged to have been so received or sustained on account of the actions, or failure to act, of such users, contractors, or other persons, their subcontractors, employees, or representatives. Such indemnification shall include the cost of defense of such claims, including attorney's fees.

4.4 Public System Construction

All public sanitary sewer or stormwater system construction shall conform to all standards of the District, City in which the construction takes place, and DEQ, including, but not limited to, OAR 340-52, or as may be amended and specifically incorporated by reference in this document.

4.4.1 Sewer Extensions

The extension of the Public Sewer System by a property owner to service adjacent properties will only be allowed in the District's sole discretion. Sewer construction shall be performed by a contractor duly licensed by the State of Oregon and any other licensing entity having jurisdiction over the work. A developing party who chooses, or is required as a condition of development, to finance or cause construction of public sewer such that other properties will be Specially Benefited ay request that the District establish a Reimbursement District in accordance with Section 5.6.

4.4.2 Certification

Prior to the acceptance of a sanitary sewer or stormwater system by the District, the engineer shall certify in writing to the District that all workmanship and materials have been tested by methods approved by the District, that all workmanship and materials conform to the applicable plans and specifications approved by the District, and for the purpose of enabling the District to maintain adequate records relating to the construction costs of the Public Sanitary Sewer or Stormwater System, the engineer shall certify in writing on forms provided by the District the total construction costs of the sewer construction.

4.4.3 Continuous Inspection

Any sewer construction must be constructed under the continuous inspection of the Project Engineer, or designee, in accordance with the approved plans.

4.4.4 Acceptance by District

The acceptance process will be initiated when the project engineer submits the certification of completion. The engineer shall notify the District to perform an inspection of the sewer or system construction. Following completion of the inspection and confirmation in writing that the construction is in conformance with the approved plans and the District's Sanitary or Stormwater Standards, the District shall accept the public sanitary or stormwater system for ownership.

4.5 Maintenance

Sewer and stormwater system maintenance obligations are based on the ownership of the system, unless otherwise specified in a written agreement with the District.

All public and sanitary and stormwater facilities and infrastructure shall be designed and constructed to provide adequate access, area, and surface to conduct operation, maintenance, repair, and replacement of the improvements.

4.5.1 Publicly Maintained

Any sewer, stormwater facility, or District infrastructure that has been constructed by the District or has been accepted by the District will be maintained by the District. District owned and maintained facilities and infrastructure shall have adequate defined area to operate, maintain, repair, and replace the public improvements in accordance with Standards. Privately owned but publicly maintained stormwater facilities and the associated maintenance access area will be encompassed in a tract of land with a public easement dedicated to the District. Access to the infrastructure shall be provided in accordance with the applicable Stormwater Standards, which outline the minimum design criteria that must be provided for maintenance access.

Publicly maintained stormwater facilities shall be located in a location and manner so the facility can be safely and efficiently maintained. Egress and ingress access routes shall be clear of any obstacles and constructed of a sufficient surface to safely convey the size and weight of vehicles and equipment necessary to maintain, repair, and replace the stormwater facility. The access surface shall be maintained to accommodate scheduled maintenance in accordance with the Stormwater Standards.

4.5.2 Privately Maintained

Any sewer or stormwater system that has not been accepted by the District remains the maintenance responsibility of the property owner. Privately maintained facilities and infrastructure shall have adequately defined area to operate, maintain, repair, and replace the privately owned and operated improvements, including Service Connections.

Property owners or users having ownership or control of onsite stormwater management facilities and infrastructure shall maintain such facilities in compliance with these District Rules and Regulations and Stormwater Standards and provide documentation of the annual inspection and any maintenance performed. If a stormwater facility or infrastructure is not maintained in accordance with District Rules and Regulations and Stormwater Standards, then, upon written notification to the property owner or site manager, the owner or manager shall take corrective action. Failure to comply shall result in enforcement action as per Section 10. of these Rules and Regulations.

Rules and Regulations

5. Rates, Charges, and Billings

5.1 Purpose And Objectives

This section includes information related to rates, charges, and billings associated with using and connecting to the Public Sanitary Sewer and Public Stormwater System and includes, but is not limited to, information related to Rate Zones, SDCs, user charges, Reimbursement Districts, and collection policies.

5.2 Rate Zones

The following Rate Zones may be used for the purpose of determining SDCs, user charges, fees, and other charges and billings. As a general principal, it is intended that rates shall be first calculated based on the service received, then adjusted by Rate Zone to implement all operative clauses of the Partnership Agreement.

5.2.1 Rate Zone 1

Rate Zone 1 is coterminous with the former boundaries of Tri-City Service District (TCSD). The boundaries of Rate Zone 1 may be adjusted through annexation.

5.2.2 Rate Zone 2

Rate Zone 2 is coterminous with the former boundaries of Clackamas County Service District No. 1 (CCSD1). The boundaries of Rate Zone 2 may be adjusted through annexation.

The cities of Milwaukie and Johnson City have separate wholesale contractual agreements with the District for the purpose of providing sanitary service, including all facilities necessary for collecting, pumping, treating, and disposing of sanitary sewerage.

Rate Zone 2A is coterminous with the city boundaries of Milwaukie and Johnson City, and for purposes of calculating SDCs, user charges, fees, and other charges and billings shall be considered fully part of Rate Zone 2.

5.2.3 Rate Zone 3

Rate Zone 3 is coterminous with the former boundaries of Surface Water Management Agency of Clackamas County (SWMACC). The boundaries of Rate Zone 3 may be adjusted through annexation.

5.3 Permit and Review Fees

Permit and review fees are set through the annual budget adoption process and authorized by the Board. The District may set fees to recover full costs for reviews and inspections, including all applicable overhead. All fees must be paid prior to receiving a permit and commencing work.

5.4 System Development Charges

This section provides authorization for SDCs for capital improvements pursuant to ORS 223.297 through 223.314, for the purpose of creating a source of funds to pay for existing system

capacity constructed for the benefit of and/or the installation, construction, and extension of capital improvements to accommodate new connections to the system.

As a condition of connection to the sanitary sewer or stormwater system, the applicant shall pay all applicable SDCs to the District and the city, if applicable. Except as allowed in the text below, the SDC is payable at the earliest of either the:

- A. Prior to the issuance of a building permit, or
- B. Increased usage of the system or systems provided by the District.

SDC payments shall apply at the rates in effect on the date when a complete building permit application is submitted to the applicable Building Code Division. The Director, or their designee, shall not issue such permit or allow connection or increased usage of the system(s) until the charge has been paid in full, unless provision for installment payments has been made or unless an exemption is granted per Section 5.4.6 of these Rules and Regulations.

5.4.1 Sanitary Sewer System Development Charge Imposed

Unless otherwise exempted by the provisions of these Rules and Regulations or other local or state law, a SDC is hereby imposed on all development within WES's boundaries that increases usage of the sanitary sewer facilities owned, managed, or maintained by WES.

The sewer SDC shall be calculated based on the equivalent dwelling unit (EDU) ratios defined in **Table 2**. SDCs shall be established and may be revised by resolution or order of the Board.

A consumption-based monthly sewer user charge is based on the equivalent cubic feet of metered water consumption. For terms that are not defined in these Rules and Regulations, the District has discretion in determining how a classification is applied, including referencing definitions from the codes of the County or the city in which the project is taking place.

Table 2. Assignment of Equivalent Dwelling Units to Classes of Service

Class #	Class of Service	EDU	Monthly Sewer User Charge
Residential			
1	Single-family (detached and attached; includes houses, townhomes, row houses)		
1(a)	Total Living Area < 800 square feet (sf)	70% of 1 EDU	1 EDU
1(b)	Total Living Area 800 - 1,799 sf	90% of 1 EDU	1 EDU
1(c)	Total Living Area 1,800 - 2,999 sf	100% of 1 EDU	1 EDU
1(d)	Total Living Area 3,000 - 3,799 sf	110% of 1 EDU	1 EDU
1(e)	Total Living Area ≥ 3,800 sf	120% of 1 EDU	1 EDU
2	Multi-Family (duplex, triplex, condominium, apartment units)	80% of 1 EDU	1 EDU
3	Accessory Dwelling Unit (ADU)	60% of 1 EDU	1 EDU
Non-Residential			
4	General Commercial (not fitting in a class of service)	1 EDU per 3,800 sf of building floor area	Per 1,000 cubic feet (cf) of water consumption per month
5	Assisted Living / Care Facilities	1 EDU per 2 beds	Per 1,000 cf of water consumption per month
6	Car Wash - tunnel	16 EDUs per tunnel	Per 1,000 cf of water consumption per month
7	Car Wash - wand	1.2 EDUs per stall	Per 1,000 cf of water consumption per month
8	Churches	1 EDU per 7,600 sf of building floor area	Per 1,000 cf of water consumption per month
9	Hospitals / Medical Care Units	1 EDU per bed	Per 1,000 cf of water consumption per month
10	Hotel / Motel	1 EDU per 2 units	Per 1,000 cf of water consumption per month
11	Laundromats	1 EDU per machine	Per 1,000 cf of water consumption per month
12	Mini Storage	1 EDU per connection	Per 1,000 cf of water consumption per month
13	Restrooms - Stand Alone	1 EDU	Per 1,000 cf of water consumption per month

Class #	Class of Service	EDU	Monthly Sewer User Charge
14	RV Parks	0.8 EDUs per RV space	Per 1,000 cf of water consumption per month
15	Spas / Health / Athletic Clubs with showers	1 EDU per 1,900 sf of building floor area	Per 1,000 cf of water consumption per month
Food			
16	Food Service Establishment	1 EDU per 450 sf	Per 1,000 cf of water consumption per month
17	Drinking-Only Establishment	1 EDU per 800 sf	Per 1,000 cf of water consumption per month
18	Food Carts	1 EDU per 2 food carts	Per 1,000 cf of water consumption per month
Institutions			
19	Preschool and Elementary Schools	1 EDU per 65 students	Per 1,000 cf of water consumption per month
20	Junior High, High Schools, and Colleges	1 EDU per 29 students	Per 1,000 cf of water consumption per month
Industrial			
21	Light Industrial/warehouse	1 EDU per 15,000 sf of building floor area	Per 1,000 cf of water consumption per month
22	Heavy Industrial >10,000-gals/day of discharge	Minimum 1 EDU per 1,000 cf of sewer discharge, or based on the actual cost to the District, but not less than Light Industrial Class	Per 1,000 cf of water consumption per month
All Other			
23	Other classifications, not fitting above categories	1 EDU per 3,800 sf, or 1 EDU per connection, whichever is greater	Per 1,000 cf of water consumption per month

5.4.2 Surface Water System Development Charge Imposed

Unless otherwise exempted by the provisions of these Rules and Regulations or other local or state law, a SDC is hereby imposed on all development within WES's boundaries that increases usage of the storm system or surface water facilities owned, managed, or maintained by WES.

The surface water SDC shall be calculated based on the equivalent service unit (ESU) ratios defined in **Table 3**.

SDCs shall be established and may be revised by resolution or order of the Board.

Table 3. Assignment of Equivalent Service Units To Classes Of Service

Class #	Class of Service	ESU	Monthly Stormwater User Charge
Residential			
1	Detached single-family (houses) and Accessory Dwelling Unit (ADU)	1 ESU	1 ESU
2	Attached single-family (townhomes and row houses) and multi-family (duplex, triplex, condominium, apartment units)	1 ESU per 2,500 sf of impervious surface area	1 ESU per 2,500 sf of impervious surface area
Non-Residential			
3	Non-residential	1 ESU per 2,500 sf of impervious surface area	1 ESU per 2,500 sf of impervious surface area

5.4.3 Methodology

The methodology used to establish reimbursement fees shall:

- A. Consider the cost of the existing facilities, prior contributions by then-existing system users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by the Board.
- B. Promote the objective that future system users shall contribute not more than an equitable share of the cost of then-existing facilities.
 - a. The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related, as identified in the Capital Improvement Plan (CIP) adopted pursuant to Section 5.4.5. The methodology shall be calculated to obtain the cost of capital improvements for the projected need for system capacity for future system users.
 - b. The methodology used to establish the SDC shall be adopted by resolution or order of the Board. The District shall maintain a list of persons who have made a request for notification prior to adoption or amendment of the SDC methodology. These persons shall be so notified of any such proposed changes, as follows:
 - i. The District shall provide written notice to persons who have requested notice of any adoption or modification of SDC methodology at least ninety (90) days before the hearing.
 - ii. The revised methodology shall be available to the public at least thirty (30) days before the first public hearing of the adoption or amendment of the methodology.
 - c. A change in the amount of a reimbursement fee or an improvement fee is not a modification of the SDC methodology if the change is based on a change in project costs, including cost of materials, labor, and real property, or on a

provision for a periodic adjustment included in the methodology or adopted by separate ordinance or resolution, consistent with state law.

- d. A change in the amount of an improvement fee is not a modification of the SDC methodology if the change is the result of a change in the CIP adopted in accordance with Section 5.4.5.

Any challenge to the SDC methodology shall be filed not later than sixty (60) days following final adoption by the Board and only pursuant to the provisions of ORS 34.010 through 34.100.

5.4.4 Authorized Expenditure

All moneys collected through SDCs shall be retained in a separate fund and segregated by type of SDC and by reimbursement versus improvement fees.

Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.

Improvement fees shall be spent only on capacity increasing capital improvements, including expenditures relating to repayment of debt for such improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the improvements funded by improvement fees must be related to demands created by current or projected development.

A capital improvement being funded wholly or in part from the revenues derived from the improvement fee shall be included in the CIP adopted by the Board.

SDC revenues may be expended on the direct costs of complying with the provisions of these Rules and Regulations, including the costs of developing SDC methodologies and providing an annual accounting of SDC funds.

5.4.5 Capital Improvement Plan

The Board shall adopt by resolution or order a CIP. The CIP shall:

- A. List the planned capital improvements that may be funded with improvement fee or reimbursement fee revenues.
- B. List the estimated cost and time of construction of each improvement.
- C. In adopting a SDC project plan, the Board may incorporate by reference all or a portion of any Public Facilities Plan, Master Plan, CIP, or similar plan that contains the information required by this section. The Board may modify the projects listed in that Plan at any time through the adoption of an appropriate resolution.
- D. The Board may modify such plan and list at any time. If a SDC will be increased by a proposed modification to the list to include a capacity increasing public improvement, the Board will:
- E. At least thirty (30) days prior to the adoption of the proposed modification, provide written notice to persons who have requested notice pursuant to Section 5.4.3 of this ordinance
- F. Hold a public hearing if a written request for a hearing is received within seven (7) days of the date of the proposed modification

5.4.6 Exemptions

SDCs shall not be collected in the following situations:

- A. Sanitary Sewer SDC and Surface Water SDC will not apply for pre-existing structures and uses of the sewer or storm system or stormwater management facility. Additional Sanitary Sewer SDCs and Surface Water SDCs may apply, if there is any alteration, and/or increase of use of the system(s), which would increase the EDU and/or ESU unit assignment in accordance with the Rules above the SDC charges previously collected.
- B. Surface Water SDC for properties within Rate Zone 3, unless a CIP for that area is adopted pursuant to Section 5.4.5 above.
- C. Surface Water SDC for properties within certain unincorporated areas of Hoodland, Boring and Fischer Forest Park portions of Rate Zone 2, unless a CIP for that area is adopted pursuant to Section 5.4.5 above.
- D. Sanitary Sewer SDC within Rate Zone 2–Boring area, no SDC shall be assessed for those properties within the original boundaries of Assessment District 84 unless a CIP for that area is adopted pursuant to Section 5.4.5 above.
- E. Sanitary Sewer SDC within Rate Zone 2–Hoodland area, no SDC shall be assessed for those properties within the original boundaries of Assessment District 1-80 unless a CIP for that area is adopted pursuant to Section 5.4.5 above.

5.4.7 Credits

The District may grant a credit against the SDC otherwise assessed a new development for constructing a Qualified Public Improvement.

For a Qualified Public Improvement located on, or contiguous to, the site of the development, only the over-capacity portion of Qualified Public Improvement is eligible for a SDC credit. There is a rebuttable presumption that the over-capacity portion of such a Qualified Public Improvement is limited to the portion constructed larger, or of greater capacity, than the District's minimum standard facility capacity or size needed to serve the particular development.

Credit shall be only for the improvement fee charged for the type of improvement being constructed. When the construction of a Qualified Public Improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project.

All credit requests must be in writing and filed with the District before the issuance of a building permit. The amount of any credit shall be determined by the District and based upon the subject improvement construction contract documents, or other appropriate information, provided by the applicant for the credit. Upon a finding by the District that the contract amounts exceed the prevailing market rate for a similar project, the credit shall be based upon market rates. The credit shall state the actual dollar amount that may be applied against the improvement fee of the SDC imposed against the subject property. The applicant has the burden of demonstrating qualification for a credit.

Any credits are assignable; however, they shall apply only to that property subject to the original condition for land use approval upon which the credit is based or any partitioned or subdivided parcel or lots of such property to which the credit has been apportioned. Credits are limited to the amount of the fee attributable to the development of the

specific lot or parcel for which the credit is sought. Credits shall not be a basis for any refund.

Credits shall be used by the applicant within ten (10) years of their issuance by the District.

5.4.8 Change in Equivalent Dwelling Unit or Equivalent Service Unit

Whenever a parcel of property annexes to the District, or connects to the city or District's Public Conveyance System shall be subject to an EDU or ESU assignment in accordance with **Table 2** and

Table 3, and the following shall occur:

- A. If the change results in the assignment of a greater number of EDUs or ESUs, an additional SDC as determined by the District may be levied at the time of such change. The additional charge shall be equal to the net increase of EDUs or ESUs times the current SDC.
- B. If the change results in the assignment of a lesser number of EDUs or ESUs, there shall be no additional unit assignment. However, the full number of EDUs or ESUs originally assigned to the property shall be used as a basis for determining any future SDCs in the event of any further change of use resulting in the assignment of additional EDUs or ESUs.

5.4.9 Annual Accounting

The District shall prepare for public inspection an annual accounting for SDCs showing the total amount of SDCs collected for each Rate Zone.

Any citizen or interested person may challenge expenditure of SDC revenues according to Section 2. Notwithstanding Section 2. , the initial appeal of that Section with respect to an expenditure of SDC revenues shall be filed within the applicable time limitations under Oregon law. Thereafter, all time limits of Section 2. shall apply including Circuit Court review pursuant to ORS 34.010 through 34.100.

5.4.10 System Development Charge Installment Payments

The District may approve an application to pay the SDC in installments and may lien the property for the amount financed. The District reserves the absolute right to reject any application for installment payments.

Installment payments for SDCs shall be limited to single family residential and multi-family residential developments that have been assigned ten (10) or fewer EDUs. The amount financed shall be for that portion of a SDC, and/or a connection charge imposed per Section 5.5.

The District shall provide application forms, and prepare an agreement for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors. The application fee for this option shall be set by resolution and included in the District's adopted Fee Table. The applicant shall provide with the application all supporting documentation, as requested.

A person submitting application for installment payments shall have the burden of demonstrating the person's authority to assent to the imposition of a lien on the property and that the interest of the person is adequate to secure payment of the lien.

If approved by the District, the applicant shall execute an installment promissory note, payable to the District in the form prescribed by the District for payment in installments not to exceed twenty (20) equal semi-annual installments due January 1 and July 1 of each year, to include interest on the unpaid balance in accordance with ORS 223.205 through 223.295. The applicable interest rate shall be the current US Federal prime rate plus 2.0 percentage points.

The promissory note shall be secured by a mortgage or trust deed covering the property to be connected thereto. The cost of recording, preparation of security documents, supporting documentation for the application, and filing fees shall be borne by the applicant in addition to the SDC. The applicant, by electing to pay in installments, agrees that as an additional remedy to recovery upon the promissory note and foreclosure of the mortgage or remedy in lieu thereof, the District may after ten (10) days' notice of delinquent installments cause termination of service to the defaulting property.

The District Director or designee shall cause the lien to be entered in the lien docket kept in the Office of the County Clerk in accordance with ORS 451.520. From that time, the District shall have a lien upon the described parcel for the amount of the reimbursement charge, together with interest on the unpaid balance at the rate in the last published Oregon State Treasurer's bond indices. The lien shall be enforceable in the manner provided in ORS 223.205 through 223.295 and shall be superior to all other liens pursuant to ORS 223.230.

5.5 Connection Charges

Any property that desires to connect to the public sanitary sewer and/or stormwater conveyance systems may be required to pay a connection charge. The connection charge is a one-time charge to recover the District's costs of constructing the Conveyance Systems and Service Connections. Additional District fees and charges may apply, including assignment of SDCs. Property owners seeking to connect to District-financed infrastructure shall pay connection charges for the mainline, and if provided, the service connections as specified in the District Fee Table, prior to the District approving the connection to the infrastructure and prior to the property owner connecting to said infrastructure. Generally, there are two distinct elements to consider when assigning the connection charge:

- A. The cost of constructing the mainline
- B. The cost of constructing the service connection

Because not every situation can be outlined within this section, the District has some discretion in the interpretation and application of assigning a connection charge. Below are the general guidelines in the application of assigning a Connection Charge to a property that is requesting to connect to the public conveyance system.

5.5.1 Public Conveyance Systems Financed by the District

The District shall recuperate a share of the construction cost from the person who is requesting to connect to the public conveyance system that was financed by the District. In this situation a connection charge shall be assigned to the property for the benefit of connecting to the public conveyance system, whether it is for the benefit of connecting drains from a structure or extending the public conveyance system. Below are the three general types of public conveyance system projects that will be assigned a connection charge. The minimum connection charge will be the amount specified in the District Fee Table; however, the charge may be increased as specified in provisions of Section 5. .

- A. Public Conveyance Systems Financed by Assessment District

Assessment district projects financed the construction of the public conveyance systems, although not all properties that benefit from the construction of the public conveyance system were fully assigned a full proportional share of the cost to construct the public conveyance system. Also, some properties that benefited from the public conveyance system may have been excluded from participating in the assessment district.

All properties that directly benefit from a public conveyance system that was constructed as part of an assessment district will be assigned a connection charge in accordance with the adopted Final Assessment District Report. Properties that benefited from the public conveyance system financed by an assessment district, and were not included within the assessment district boundary, are generally referred to in the assessment district reports as “district participation.” Most of these properties were assigned a connection charge as specified in the adopted Final Assessment District Report. For properties that were not specified in the adopted Final Assessment District Report, then the connection charge will be assigned based on Section 5.5.1.

B. Public Conveyance Systems Financed by District

A connection charge shall be assigned to any property that benefits from public conveyance systems where the construction was financed by the District. Any property that is requesting to connect to the public conveyance system that was financed by the District, shall pay a connection charge, excluding properties that were previously assigned a connection charge as specified above. These properties will be assigned a connection charge for each connection to the public conveyance system in accordance with the applicable charge(s) as specified in the most recently adopted District Fee Table.

5.5.2 Public Conveyance Systems Financed by a Public Improvement Contract

The District may partner with a developer to construct additional public improvements. In these instances, where the District agrees to make additional improvements to the public conveyance system, the District needs to be able to directly contract with the developer in order to realize the benefits of resources already being available and mobilized on the nearby property. In order to recoup the construction cost financed by the District, a connection charge shall be assigned to each of the properties that benefited from the construction of the public conveyance system. Under this situation the District may partner with a developer to extend the mainline, install service connection, or both. The connection charge will be assigned based on the District’s financial obligation to fund the project.

Connection charges may be assigned separately for each element of the conveyance system, including the mainline and the service connection. In some circumstances, additional charges may apply if the Developer elected to apply for a Reimbursement District.

5.5.3 Public Conveyance Systems Financed by Reimbursement District

Reimbursement Districts are a means for a private developer to get reimbursed for the cost of constructing qualified public conveyance system improvements. Reimbursement Districts are formed in accordance with the District Rules. Reimbursement Districts created for the construction of public conveyance systems are generally financed by private development.

A connection charge shall be assigned and collected in accordance with the Reimbursement District resolution that was adopted by the Board. Additional District fees and charges may apply, including assignment of SDCs.

5.5.4 Connection Charge Exemptions

Properties that are served by public conveyance systems that were solely financed by an assessment district or public conveyance systems that were donated to the District shall be exempt from paying a connection charge for the benefit of connecting to the public conveyance system. Below is a description of the two general types of the public conveyance system that will be exempt from a connection charge.

A. Public Conveyance Systems Donated to the District

The District will not assign a connection charge for any portion of the public conveyance system that is fully donated to the public. These type of public conveyance systems are solely financed by private development, and the District did not finance any portion of the cost to construct the public conveyance system. Since the District did not finance any portion of the public conveyance system, the public can connect to public conveyance systems that were donated to the public without any obligation to pay a connection charge.

Additional District fees and charges may apply, including assignment of SDCs.

B. Assessment Districts Properties

The District will not assign a connection charge to a property that has already been fully assessed through an assessment district project for the full proportionate cost of constructing the public conveyance system. Properties that were included within an adopted assessment district that were fully charged a proportionate share of constructing the public conveyance system, will not be charged for any additional benefits derived from future connections to the public conveyance system, including future land divisions. If the property was not fully charged for the full proportionate cost of constructing the public conveyance system, then it will be assigned a connection charge in accordance with Section 5.5.3, which is intended to represent a full proportional share of the cost to construct the public conveyance system.

5.5.5 Sewer Tap-In Charge

Whenever any property connects to the District sanitary sewer system and there has not been provided a Service Connection to serve such property, the owner shall provide a Service Connection at their own expense and prior to the connection shall pay a tap-in charge and any other applicable fees.

5.5.6 Special Facility Charges

Whenever sanitary sewer service to a property requires special facilities to be provided by the District, the property owner shall be charged the actual cost incurred by the District in providing the special facilities. Special facilities shall include, but are not limited to, manhole connections, public sewer extensions, or public sewer modifications.

5.5.7 Surcharge

If the District or city verifies that any customer has discharged waste on a sustained, periodic, or accidental basis, and those wastewater characteristics result in additional costs above the normal costs associated with treating, operating, maintaining, or

complying with regulatory requirements, then that customer may be billed for the additional costs resulting from that discharge, including labor.

5.5.8 Inspection Charge

Each person making an application for connection shall pay the minimum inspection charge as specified in the District Fee Table, or if the District determines the cost of conducting the inspection will exceed the minimum cost, then the applicant shall pay an estimated inspection charge, to be determined by the District based on an estimated cost of the service, which may be adjusted as follows:

- A. If the actual inspection costs exceed the estimated costs, an additional charge equal to the costs in excess of those estimated shall be levied. The charge shall be immediately due and payable.
- B. If the actual inspection costs are less than the estimated inspection costs, the balance of the inspection charges in excess of actual costs shall be refunded.

5.5.9 Timing of Charges and Fees Payment

All charges and fees shall be due and payable prior to the District approving the applicable permit, or prior to providing the service, unless otherwise specifically provided by these Rules and Regulations.

5.6 Reimbursement Districts

A Developing Party who is not otherwise eligible for SDC credits for Qualified Public Improvements and who chooses or is required as a condition of development to finance or cause construction of public sanitary, storm sewer, stormwater or surface water management improvement, or some combination of improvements such that other properties will be Specially Benefited may request that the District establish a Reimbursement District.

5.6.1 Establishing A Reimbursement District

A. Application

A Developing Party who chooses or is required as a condition of development to finance or cause construction of a Qualified Project such that other properties are or will be Specially Benefited may submit an application to the District to establish a Reimbursement District.

The application must be submitted to the District after the Developing Party installs the improvements, but not later than one hundred and twenty (120) days after the Developing Party completes and District accepts the improvements.

A request to establish a Reimbursement District shall be in writing, in a form acceptable to the District, and shall consist of the following:

- a. Detailed or as-built plans or drawings showing the actual location, nature, and extent of all improvements for which reimbursement is sought
- b. A map showing the boundaries of the proposed Reimbursement District and the boundaries with tax lot numbers of the parcels of property Specially Benefited by the improvements and from which a reimbursement is sought
- c. The ownership of Specially Benefited parcels, according to the current County records and the mailing address of such property owners

- d. The actual or estimated detailed direct and indirect costs to construct the Qualified Project, consistent with Section 5.6.
- e. A nonrefundable application fee to cover the District's costs in providing notice of public hearing and the District's examination and report

B. Cost Determination

The applicant shall have the burden of establishing the cost of improvements and shall certify the accuracy of the costs that are submitted to the District.

The applicant shall provide the actual detailed direct and indirect costs to construct the Qualified Project as evidenced by bids, projections, or invoices or other evidence satisfactory to the District. Direct and indirect costs may include, but are not limited to, labor, materials, supplies, equipment, equipment rental, property acquisition, permits, engineering, and financing devoted exclusively to the improvements for which a Reimbursement District is sought to be established. Costs shall not include any amount of profit or overhead of the person making the application. The Director or their designee has the authority to do an independent audit of costs at any time in their sole discretion.

Should the District determine the contract amounts exceed prevailing market rates for a similar project, the District shall readjust the reimbursement charge.

C. Application Processing Fee

A non-refundable application processing fee shall be charged upon submittal of an application to cover the District's costs in forming a Reimbursement District, including providing notice of public hearing and the District's examination and report. The application fee for this option shall be set by resolution and included in the District's Fee Table.

D. District Review

The District shall review each application to establish a Reimbursement District and prepare a report and recommendation to the Board on whether a Reimbursement District should be established.

The recommendation shall address the following factors:

- a. Whether the applicant has paid for some or all the costs of a Qualified Project, which includes improvements for which the applicant desires to be reimbursed.
- b. The properties or parcels that are Specially Benefited by the Qualified Project, and whether such parcels would, as a condition of future Development be required to construct some or a portion of the same improvements for which a Reimbursement District and reimbursement charge is sought to be established.
- c. That portion of the cost of the Qualified Project within the area of the proposed Reimbursement District that is appropriate for reimbursement by the owners of Specially Benefitted properties.
- d. A rational formula for apportioning the cost of the Qualified Project among properties within the proposed Reimbursement District and the proposed reimbursement charge for each property.
- e. The interest rate, if any, to be applied to the proposed reimbursement charge over the following ten (10) years, which represents the estimated annual return on investment of the reimbursable costs.
- f. Whether the applicant has complied with the requirements of this section.

E. Reimbursement District Approval

The Board shall hold a public hearing on the proposed Reimbursement District at which time any person may comment on the proposal. It shall be conducted as set forth below.

After the District's report is complete, the District shall provide notice of the hearing on the application to establish a Reimbursement District by publication, not less than five (5) calendar days nor more than thirty (30) days prior to the hearing, in a newspaper of general circulation within the District and by mailing copies of the notice by regular mail not less than fourteen (14) calendar days prior to the hearing to the owners of any lots or parcels that are proposed to be subject to the reimbursement charge.

a. The notice shall contain at least the following information:

- i. That an application for a Reimbursement District has been submitted to the District and the name of the applicant.
- ii. That the District has prepared a report concerning the application that is available for public inspection by contacting the District.
- iii. A general description of the Qualified Project and the costs for which a reimbursement charge is sought.
- iv. A methodology for spreading the cost among Specially Benefitted Properties within the Reimbursement District and, where appropriate, defining a unit for applying the reimbursement charge to Specially Benefitted Properties which may undergo future development.
- v. The amount to be charged by the District as an administrative fee for processing reimbursements.
- vi. That the Board will hold a hearing on the proposed Reimbursement District and reimbursement charge on a specified date at which time objections and comments will be heard by the Board.
- vii. The failure of the owner of the property subject to the proposed reimbursement charge to object before the Board either orally or in writing will be treated and relied upon by the Board as a waiver of objection to the Reimbursement District and reimbursement charge established by the Board.
- viii. For purposes of mailing notice to parcel owners under this section, any mistake, error, omission, or failure with respect to such mailing shall not be jurisdictional or invalidate the proceedings with respect to the establishment of the Reimbursement District and reimbursement charge.

b. The Board shall conduct a hearing where it shall consider the application, the District's report, and any testimony or evidence presented concerning the application. The Board has the sole discretion after the public hearing to decide whether to adopt an order approving and forming the Reimbursement District.

After the hearing, in lieu of not approving the formation, the Board may modify the proposed Reimbursement District or reimbursement charge or both by adjusting the area or particular properties from which the reimbursement charges will be collected, adjusting the amount of reimbursable costs, adjusting the formula used in apportioning reimbursable costs, or adjusting the amount of the applicable interest rate by which the reimbursement charge will be increased.

- c. If the Board determines that a Reimbursement District and reimbursement charge should be established, it shall do so by adopting an order that specifies the properties within the Reimbursement District, method of apportioning improvement costs among properties within the Reimbursement District, reimbursement charge, administration fee, and applicable interest rate.

The District Director, Clerk to the Board, or a designee will ensure a copy of the Reimbursement District order is recorded in the real property records of Clackamas County to provide public notice of the reimbursement charge applicable to Specially Benefited Properties described in the order.

A copy of the order shall be sent by regular mail to the owners of property subject to the reimbursement charge and to any other persons who have requested a copy. Failure of the District to send the order to a person or property owner, or failure of a person or property owner to receive such order, shall not invalidate any proceeding to establish the Reimbursement District and reimbursement charge.

Nothing in this Section 5.6 shall be deemed to create a lien against property, except where such lien arises by operation of law following a court judgment or is granted by a property owner as a condition of making installment payments of the reimbursement charge.

5.6.2 Payments

If within ten (10) years from the date on which a Reimbursement District and reimbursement charge is established by the District, the Specially Benefited Property owner receives approval from the District and utilizes such approval for connection, direct connection to, or use of a Qualified Project for which a reimbursement charge has been established, then the owner shall pay to the District, in addition to any other applicable fees and charges, the reimbursement charge established by the Board and adjusted to reflect the applicable interest rate.

The reimbursement charge is immediately due and payable by owners of Specially Benefited Property upon Development or permitted use of a Qualified Project as provided by these Rules and Regulations. If connection is made or construction commenced without required permits, then the reimbursement charge is immediately due and payable upon the earliest date that any such permit was required.

A. Installment Payments

The owner of owner-occupied residential property who is charged a reimbursement charge may apply for payment in a maximum of twenty (20) semi-annual installments over a ten (10) year period, to include interest on the unpaid balance in accordance with ORS 223.205 through 223.295. The applicable interest rate shall be the current United States Federal prime rate plus 2.0 percentage points.

The District shall provide application forms, and prepare an agreement for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors. The application fee for this option shall be set by resolution and included in the District's Fee Table. The applicant shall provide with the application all supporting documentation, as requested.

A person submitting application for installment payments shall have the burden of demonstrating the person's authority to assent to the imposition of a lien on the

property and that the interest of the person is adequate to secure payment of the lien.

The District Director or designee shall cause the lien to be entered in the lien docket kept in the Office of the County Clerk in accordance with ORS 451.520. From that time, the District shall have a lien upon the described parcel for the amount of the reimbursement charge, together with interest on the unpaid balance at the rate in the last published Oregon State Treasurer's bond indices. The lien shall be enforceable in the manner provided in ORS 223.205 through 223.295 and shall be superior to all other liens pursuant to ORS 223.230.

B. Exceptions

When the Developing Party is a public entity, the Board has discretion to determine whether the reimbursement charge is subject to the ten-year expiration date or an extended period of time.

No person shall be required to pay the reimbursement charge for Development of property for which the reimbursement charges have been previously paid.

The owner of a Specially Benefited Property may choose to pay the reimbursement charge prior to Development without penalty.

C. District Procedures

Except as otherwise expressly provided, neither the District nor any officer or employee of the District, acting in his or her official capacity, shall be liable for payment of any reimbursement charge, accrued interest, or portion of either. Only those payments that the District has received from or on behalf of Specially Benefited Properties within the particular Reimbursement District shall be payable to the applicant for the Reimbursement District. The District's funds or other revenue sources shall not be liable or subject to payment of outstanding and unpaid reimbursement charges imposed on private property, notwithstanding the District's allowance of installment payments under Section 5.6.

The right to reimbursement is assignable and transferable after written notice is given by the applicant or the applicant's assignee to the District, advising the District to whom future payments are to be made.

Upon receipt of a reimbursement charge or portion thereof, the District will remit such funds to the Developing Party, less an administrative fee, for the cost of administering the program.

The owner of Specially Benefited Property subject to a reimbursement charge may apply for apportionment of the reimbursement charge in accordance with District procedures to apportion special assessments upon payment of a non-refundable fee in an amount established by Board resolution.

The District shall not issue a site development or connection permit or allow sanitary or storm sewer connection until the reimbursement charge has been paid in full, until provision for installment payments has been made and approved, or until the Developing Party provides an unconditional waiver allowing the District to issue such permits without collecting the reimbursement charge.

D. Delinquency, Collection, Interest, and Penalties

It is unlawful and a violation of these Rules and Regulations for any person to use, discharge to, or maintain connection to, the District sanitary or stormwater and

surface water management systems without paying the appropriate charges and fees established through a Reimbursement District.

Delinquent charges may be recovered by the District Director or designee, with the assistance of District legal counsel, without further action or authorization by the Board. Recovery of delinquent charges may occur in any manner provided by law, including an action in the small claims or circuit court of Clackamas County. In addition to the remedies provided above to collect a debt, the District may seek a temporary or permanent injunction prohibiting continued occupancy of the premises, requiring disconnection of the premises from the public sanitary or storm and surface water management system, and terminating sanitary sewer service to the user's premises.

The Board may prescribe a schedule of interest and penalty charges to be imposed upon delinquent charges in the District Fee Table, or, if no applicable charges are included in the District Fee Table, through the adoption of a resolution.

In a collection action under this section the prevailing party shall be entitled to its recoverable costs, except for attorney fees, including at trial and on appeal.

E. Judicial Review

Final decision of the Board, District Director, District, or its designated review authority, under this section shall be reviewable solely and exclusively under the provisions of ORS 34.010 through 34.100. Judicial review of a determination by the District Director or designee made according to Section 5.6 may be started only by a property owner who has properly followed the District's administrative appeal process. Failure to do so shall constitute a failure to exhaust administrative remedies.

5.7 Segregation Of Special Assessments

Pursuant to ORS 307, special assessments may be segregated when requested by an owner, mortgagee, or lien holder of property that was partitioned, or divided subsequent to the original assessment.

Whenever an application has been made under the provisions of ORS 223 and the application has been accepted and payment of the assessment has in fact been financed by such procedure, the lien of such assessment may be segregated upon the following terms and conditions:

- A. The property for which the segregation is to be made shall have been assessed as a unit and entered accordingly in the bond lien docket.
- B. There shall be no delinquent installments of principal or interest on the assessment of the entire parcel.
- C. Written application shall be made to the District.
- D. The written application shall be accompanied by any fees established by the Board to defray the costs of investigation, preparing legal documents, calculating an equitable division of the assessment, and making the lien docket entries. Such fees shall not be refundable if the application is disapproved or if the applicant withdraws the application.
- E. If the District determines that the lien may be segregated and divided without prejudice to the overall security of the entire balance owed, then an equitable division of the assessment shall be made based upon the original assessment formula and the preservation of the security interest. Such segregation shall describe the various parcels

of the entire tract and the amount of the assessment to be apportioned to each parcel. The District may require that the portion of the assessment segregated and apportioned to a particular parcel be paid in full or whether the remaining parcel shall be relieved of liability for payment of that portion of the lien.

- F. After the apportionment application, as developed by the District, is received, fees paid, and investigation made, the District shall forward the application to the Board for approval pursuant to ORS 307.
- G. If the application is approved by the Board and the fees provided herein are paid, the District shall certify the fact on the bond lien docket and appropriate entries shall be made therein segregating the total assessment. When such entries are made, the lien shall be only in the amount and as to the parcels approved by the Board.

5.8 User Charges – Sanitary

The following sanitary rates are hereby established for all sanitary customers within the District's Service Areas.

5.8.1 Sanitary Rate Zones

Except as specifically provided below, a monthly sanitary charge shall be paid to the District by users of the District's system in Rate Zones 1, 2, and 2a.

5.8.2 Sanitary Monthly User Charges

Except as specifically provided below, a monthly sewer user charge for each residential dwelling unit is assigned each residential class of service listed in the District Fee Table adopted by the Board and shall be paid by the property owner or user commencing on the third month following the date of connection to the District's sewer system. The charges contained in the District Fee Table will be updated annually as necessary by the Board through adoption of a resolution updating fees and charges.

Except as specifically provided below, the first year of a monthly sewer user charge for non-residential users shall be based on the EDU calculation, as determined by **Table 2**. All non-residential users shall pay from the date of connection to the system. After the first year from the date of connection, monthly charges will be based on EDUs calculated from water usage. EDUs will be rounded to the nearest whole unit with a half value, or more, being rounded up. The resulting figure is multiplied by the monthly base customer charge applied to single-family customers. The Board may set sanitary user charges by order or resolution.

5.8.3 Low Income Monthly User Charges

The monthly user charge for service provided to the principal residence of a household having a maximum income under the qualifying limits shall be 50 percent (50%) of the monthly sewer user charge. On July 1 of each year, the qualifying limits shall be set at sixty percent (60%) of the most recently published Oregon State Median Income (SMI) estimates developed by the United States Census Bureau or successor statistic and shall remain in effect until the next July 1.

The qualifying income limits shall be incrementally based on household size.

In order to be eligible for the reduced user charge, the qualified person must be a residential customer of the District, must be the person to whom the monthly user charge is billed, and must have completed and filed with the District an application for the reduced rate on a form supplied by the District.

5.8.4 Industrial Waste User Charge

An industrial waste user charge will be applied to each class of Industrial User as defined in **Table 2**. The user charge shall be composed of rates for the customer's proportionate contribution of flow, TSS, and BOD that are in excess of domestic sewage contributions.

Rates for industrial flows shall be based on the EDU calculation, as determined by metered water consumption. Rates for TSS and BOD removal shall be based on the actual treatment cost per pound incurred by the District, including administrative overhead, operation, maintenance, and other expenses as established by the District. The user charge shall be based on simultaneous monitoring of flow, TSS, and BOD concentrations measured at the customer's property and the POTW periodically during the preceding 3-month period. Quarterly adjustments may be made to reconcile differences in projected versus actual conditions.

Such user charges shall be payable from the date of connection to the District or city sanitary sewer system or from the date on which the property owner is required to connect to the District or city sanitary sewer system, whichever occurs first.

5.8.5 Deduct Water Meters

Owners of nonresidential properties may install a separate public water meter for water not discharged to the public sanitary sewer system to exclude the water usage from billing for sanitary sewer purposes.

5.8.6 Billing for User Charges

Owners of property may be billed by the District and the jurisdiction that provides collection sewer services according to the schedule set by that entity. No single point of connection to the sewage system shall have a user charge less than the amount specified in **Table 2** as amended periodically.

Users whose charges may be based upon metered water consumption may have temporary charges computed based on the number of dwelling units assigned such use.

In conjunction with a regular bill, the city or District will provide an annual notification to each user of that portion of the monthly user rate that is attributable to wastewater treatment services.

5.9 User Charges – Surface Water

The following surface water rates are hereby established for all surface water customers within the District's Service Area.

5.9.1 Surface Water Rate Zones

Except as specifically provided below, a monthly surface water service fee shall be paid to the District by each applicable property owner within applicable portions of Rate Zones 2 and 3.

5.9.2 Surface Water Monthly User Charges

A monthly customer charge shall be paid by each user within the District's surface water Rate Zones. The Board may set user charges by order or resolution.

The surface water rates shall fund the administration, planning, design, construction, water quality and quantity programming, operation, maintenance, and repair of stormwater facilities and surface water facilities.

All non-single-family customers shall pay for the total number of ESUs attributable to their sites in accordance with **Table 3**. The number of ESUs attributable to a user's area is calculated in whole units, with the minimum user's charge set at 1 ESU. For non-single-family users with more than 1 ESU, the charge will be rounded to the nearest whole unit with a half value, or more, being rounded up. The resulting figure is multiplied by the monthly base customer charge applied to single-family customers.

All rural residential, farm and forested zoned parcels with a residential residence shall be charged as single-family, if the parcels are used primarily for single-family residence purposes, regardless of secondary activities conducted on the parcels.

5.9.3 Mitigation Reduction Factor

The Districts may provide ESU credit(s) against stormwater charges to recognize the benefit of stormwater mitigation facilities that provide on-site retention and/or water quality treatment mitigation in excess of the Districts' minimum Stormwater Standards. It is the customer's responsible for providing all of the necessary information as specified by the District to determine the applicable credit(s), which may include but not limited to a stormwater management plan, documentation, and reports prepared by a licensed professional engineer.

5.10 Collection Policy

The District requires that the property owner is responsible for all fees and charges at the service location.

5.10.1 Account Setup

All applications for service shall be on forms provided by the District. All new accounts shall be set up in the property owner's name as verified in county tax records. The District shall work with existing account holders who are not the property owner to transition the account into the property owner's name. The account holder shall be considered the user of the service.

5.10.2 Notices

In cases where the property owner does not occupy a property, the District will make all reasonable efforts to provide the property owner and tenant with copies of all invoices, notices, and other information relating to fees and charges. This policy is intended to comply with ORS 91.255 and provide notices to enable the property owner and tenant a reasonable opportunity within the time set by the District to avoid delinquent charges and/or discontinuance of service.

5.10.3 Collection of Charges

All fees and charges shall be sent to the user at the address set forth on the District's records. If the District's records reveal that the user is not the owner, then the District may take all reasonable steps to provide the owner with copies of all invoices, bills, and notices pursuant to ORS 91.255.

For accounts set up in the tenant's name prior to the effective date of these Rules and Regulations, if the owner has executed such an agreement to be bound or if the rental

agreement provides, then the property owner and the tenant shall be jointly liable and, following notices to each in accordance with the District's or city's procedures, collection practices may ensue, or service may be terminated. The District may look to either or both parties for payment in addition to the remedies outlined in these Rules and Regulations, ORS 91.255, ORS 454.225, and any other remedy available to the District.

The District may enter a payment plan in its sole discretion to avoid hardship to the user and leave the ultimate resolution between property owner and tenant.

The District may deny or terminate service to the delinquent user at a new service location within the District based upon the outstanding fees and charges at the previous service location.

The Director may enter into such agreements regarding payment of delinquent fees and charges as are reasonable and necessary in the judgment of the Director to obtain payment to the District and avoid hardship and inequities.

5.10.4 Delinquent Charges

All user charges by the District shall be due by the 20th day of the month following the service period covered by the billing within twenty (20) days of billing. Thereafter, a charge shall be considered delinquent.

If the user is different than the owner, the District may take all reasonable efforts to provide notice of delinquent status on billings by First Class mail to the last address of the owner or owner's agent that is on file with the District not later than thirty (30) days from the time payment is due on the account. Thereafter, the District may terminate or deny service to the property regardless of who is occupying the property, including any subsequent tenant, based upon the unpaid fees and charges incurred by the previous tenant following provision of the notices set forth above. In the case of a subsequent tenant, the District will provide not less than ten (10) days' written notice to that subsequent tenant prior to termination of services.

The Board may prescribe a schedule of interest and penalty charges to be imposed upon delinquent charges in the District Fee Table, or, if no applicable charges are included in the District Fee Table, through the adoption of a resolution. Failure to make payment when due shall give the District the right to undertake such collection action as it deems appropriate under the circumstances including, but not limited to, letters, telephone calls (reasonable as to time and place), legal proceedings, or certification to the Clackamas County Assessor (Assessor).

For surface water customers, upon ten (10) days' written notice, if feasible, the District may undertake those steps to construct on-site mitigation facilities or obtain cessation of customer's impact upon the District's or public's stormwater and surface water system, and the charges therefore shall be owed by customer to the District. Any costs incurred by the District to cease or mitigate the customer's impact on the surface water system, shall be charged at the District's usual labor and material rates.

5.10.5 Certification to Tax Assessor

Pursuant to ORS 454.225, the District may certify all delinquent charges to the Assessor for inclusion in the real property tax statement and collected in accordance therewith. In such case, those charges shall become a lien upon the property from the date of the certification to the Assessor and any such collection of the debt and foreclosure of said lien shall be in accordance with Oregon law.

5.10.6 Discontinuance of Service

The District also reserves the right, at any time after any charges or fees hereunder become delinquent, to remove or close connections and enter upon any delinquent owner's property for such purpose. In addition, when any property owner fails to cease discharging into the District sanitary sewer or stormwater system prohibited substances after being notified by the District to do so, service may be similarly discontinued. The expense of such discontinuance as well as the expense of restoring service shall be a debt due to the District and may be recovered in the same manner as other delinquent charges.

5.10.7 Restoration of Service

Service that has been discontinued by the District shall not be restored until all accrued charges, including the expenses of discontinuance and restoration, shall have been paid and the cause for discontinuance corrected.

5.10.8 Fees and Cost

By resolution, the District shall set fees and charges in the District Fee Table for collection efforts, including fees and charges necessary to recover all costs related to insufficient funds check or the cost of processing lien searches and the like based upon labor rates or other items deemed reasonable by the Board or the Director of Water Environment Services as its designee.

Rules and Regulations

6. Sanitary Rules

6.1 Purpose and Objectives

This section presents the rules related to the District's sanitary sewer facilities including, but not limited to, those related to discharges, pretreatment, connections, construction, and septic tank wastes.

The purpose of this rule is to enhance the public use of the District sewer facilities. The rule establishes quantity and/or quality standards for all wastewater and/or waste discharges that may cause or contribute to the occurrence of sanitary sewer overflows, affect water pollution control facility operations, and/or increase POTW costs.

The objectives of this rule are:

- To prevent the introduction of pollutants into the public sewerage system that will interfere with operating the systems or contaminate the resulting biosolids;
- To prevent the introduction of pollutants into the public sewerage system that will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- To improve the opportunity to recycle or reclaim wastewaters and biosolids from the system;
- And to provide for equitable distribution of the cost of the public sewerage system.

6.2 Applicability

These Rules and Regulations apply to any property that discharges or requests to discharge, via connection request, development permit, or change in use, to the District's public sanitary sewer system. These Sanitary Rules apply in Rate Zones 1 and 2.

6.3 Use of Public Sanitary Sewers Required

The owner of any building situated within the District and proximate to any street or sewer easement in which there is a public sanitary sewer of the District or city may request permission, at owner's expense, to connect said building directly to the public sanitary sewer in accordance with the provisions of these Rules and Regulations. Before connecting to the public sewerage system, a permit authorizing such connection shall first be secured in writing from the District and fees paid.

6.3.1 Disconnection

A property owner may request disconnection from the District's system provided all applicable statutes, rules, and ordinances are complied with. The property owner shall pay a disconnection inspection fee at the time disconnection is requested. The inspection fee is based upon staff time, materials, mileage, other expenses, and a reasonable allocation of general overhead expenses.

6.3.2 Health Hazards

The District can authorize a building(s) to connect to the Public Sanitary Sewer System to abate a health hazard caused by a subsurface disposal system in accordance with the conditions set forth in this section.

A health hazard will be determined pursuant to criteria in OAR 340-71 when a building on a property with a permitted subsurface disposal system exposes the public to suffering or illness due to the presence of inadequately treated sewage, and the subsurface disposal system cannot be adequately abated by the repair or maintenance of existing sewer systems or on-site systems or by the installation of new on-site systems as defined in OAR 340-071-0100.

If the subsurface disposal system cannot be adequately abated as described above, then the property owner may make a request to connect the building(s) to the Public Sanitary Sewer System in accordance with the following conditions:

- A. The property is located adjacent to an existing Public Sanitary Sewer System.
- B. If the property is currently not within the boundaries of the District, then the property owner must first seek annexation in accordance with Section 2.4 of these rules.
- C. If annexation into the District and/or City is not feasible, then the District at their sole discretion may elect to serve the property by providing extraterritorial service in order to abate the health hazard. If the property is served by extraterritorial service, then no future development of the property will be permitted that changes or increases the Equivalent Dwelling Unit assignment to the property at the time the building(s) were connected.
- D. If a connection is authorized, then the property owner shall consent to any conditions the District deems applicable in order to provide service, and pay all applicable fees as determined by the District prior to connecting to the Public Sanitary Sewer System.

6.4 Discharge Regulations

No persons shall discharge or cause to be discharged, directly or indirectly, into the public sewerage system any pollutant, substances, stormwater, groundwater, or wastewater that will interfere with the operation or performance of the public sewerage system; cause a pass through; have an adverse effect on the receiving stream, endanger life, limb, or public property; or constitute a nuisance in the public sewerage systems. Prohibited substances, shall include, but not be restricted to, the following:

- A. Any 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 way to persons, property, or the public sewerage system. Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140° Fahrenheit (°F) (60° Celsius [°C]) using the test methods of 40 CFR 261.21. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than 5 percent nor any single reading be over 10 percent of the lower explosive limit of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, fuel oils, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
- B. Any sewage containing pollutants in sufficient quantity either at a flow rate or pollutant concentration, singularly or by interaction with other pollutants, to injure or interfere with any

sewage treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters, or exceed the limitations set forth in federal Categorical Pretreatment Standards.

- C. Any sewage having a pH lower than 5.5 standard units (S.U.) or higher than 11.5 S.U. or having any corrosive property capable of causing damage or hazard to structures, equipment, or persons. Facilities with continuous monitoring of pH shall not be outside of the pH range of 5.5 S.U. to 11.5 S.U. for more than a total of 15 minutes on any single day (cumulative duration of all excursions) provided that, at no time shall any discharge of a pH be lower than 5.0 S.U. or at/or above 12.5 S.U. pH shall be determined using one of the applicable procedures prescribed in 40 CFR Part 136.
- D. Any solid or viscous substances in quantities or size capable of causing obstruction to the flow of sewers or other interference with the proper operation of the POTW such as, but not limited to, flushable wipes, ashes, cinders, sand, mud, straw, insoluble shavings, metal, glass, rags, feathers, tar, creosote, plastics, wood, animal paunch contents, offal, blood, bones, meat trimmings and wastes, fish or fowl heads, entrails, trimmings and wastes, lard, tallow, baking dough, chemical residues, paint residues, cannery waste, bulk solids, hair and fleshings, or plastic or paper dishes, cups, or food or beverage containers, whether whole or ground.
- E. Any pollutant having a temperature higher than 140°F (60°C) or having temperatures sufficient to cause the influent to the treatment plant to exceed 104°F (40°C). If, in the opinion of the District, lower temperatures of such wastes could harm either the sewers, sewage treatment process, or equipment, or could have an adverse effect on the receiving streams or otherwise endanger life, health or property, or constitute a nuisance, the District may prohibit such discharges.
- F. Any sewage containing food waste garbage that has not been properly shredded to ½-inch or less in any dimension.
- G. Fats, wax, grease, or oils (whether emulsified or not), in excess of 100 milligrams per liter (mg/L) for sources of petroleum origin (“non-polar”), or in excess of 300 mg/L for sources composed of fatty matter from animal and vegetable sources (“polar”) or containing substances that may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65°C). If a sample is not fractionated to determine non-polar and polar concentrations, then fats, wax, grease, or oils (whether emulsified or not) in excess of 100 mg/L are prohibited as determined by methods in 40 CFR 136.
- H. Strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not, unless the Discharger has a valid Industrial Wastewater Discharge Permit that allows otherwise.
- I. Pollutants in excess of the concentrations in Section 6.5.3 of these Rules and Regulations, measured as a total of both soluble and insoluble concentrations for a composite representing the process day or at any time as shown by a grab sample, unless the Discharger has a valid Industrial Wastewater Discharge Permit with a different limitation, defined over a different time period, for the specific pollutant as set forth in Section 6.5.3.
- J. Any sewage containing unusual concentrations of inert suspended solids (such as, but not limited to, Fuller’s earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate), which may interfere with the operation of the public sewerage system.
- K. Any sewage with objectionable color not removed in the treatment process (such as, but not limited to, dye and printing wastes and vegetable tanning solutions).

- L. Any slug discharge, which means any pollutant, including biochemical oxygen demanding pollutants, released in a single discharge episode of such volume or strength as to cause interference to the public sewerage system.
- M. Any noxious or malodorous liquids, gases, or solids that either singly or by interaction with other wastes are sufficient to create a public nuisance, hazard to life, or are sufficient to prevent entry into sewers for maintenance and repair.
- N. Any hauled wastes or pollutants, except such wastes received at the District's POTW under a District permit or at a District-approved dump station pursuant to Section 6.6 of these Rules and Regulations.
- O. Any substance which may cause the District's POTW to violate its NPDES Permit or the receiving water quality standards or any other permit issued to the District or city.
- P. Any wastewater which causes or may cause a hazard to human life or creates a public nuisance.
- Q. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as to exceed limits established by state or federal regulations.
- R. Any substance that may cause the District's POTW effluent or any other product of the District's sewage treatment process (e.g., residues, biosolids, scums, etc.) to be unsuitable for reclamation and reuse or that may interfere with the reclamation process. In no case, shall a substance discharged to the public sewerage system cause the District to be in noncompliance with biosolids use or disposal criteria, guidelines, or regulations developed under Section 405 of the CWA; any criteria, guidelines, or regulations affecting biosolids use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used, or any related amendments.
- S. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- T. Pollutants that result in the presence of toxic gases, vapors, or fumes in the POTW that may cause acute worker health and safety problems.
- U. Storm water, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the District.
- V. Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act.

6.4.1 Tenant Responsibility

Any occupant of the premises as a tenant under any rental or lease agreement shall be jointly and severally responsible for compliance with the provisions of these Rules and Regulations in the same manner as the property owner.

6.4.2 Accidental Discharges

- A. Each Discharger shall provide protection from accidental discharge of prohibited substances or other substances regulated by these Rules and Regulations. Where necessary, facilities to prevent accidental discharge of prohibited substances shall be provided and maintained at the Discharger's own cost and expense.
- B. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the District for review and shall be approved by the District

- before construction of the facility. Each existing Discharger shall complete their plan and submit it to the District upon request.
- C. No Discharger shall be permitted to introduce pollutants into the public sewerage system until the accidental discharge protection procedures have been approved by the District. Review and approval of such plans and operating procedures by the District will not relieve the Discharger from the responsibility to modify its facility as necessary to meet the requirements of these Rules and Regulations.
- D. Dischargers shall notify the District immediately upon the occurrence of an accidental discharge of substances, or slug loadings, prohibited by these Rules and Regulations. The notification shall include location of discharge, date, and time thereof, type of waste, concentration and volume, corrective actions taken.
- a. **Written Notice**
- Within five (5) days following an accidental discharge, the Discharger shall submit to the District a detailed written report describing the cause of the discharge and the measures to be taken by the Discharger to prevent similar future occurrences. Such notification shall not relieve the Discharger of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, harm to aquatic life, or any other damage to person or property; nor shall such notification relieve the discharger of any fines, civil penalties, or other liability which may be imposed by this subsection or other applicable law.
- b. **Notice to Employees**
- A notice shall be permanently posted on the Discharger's bulletin board or other prominent place advising employees whom to call in the event of an accidental discharge. Employers shall insure that all employees who may cause or discover such a discharge are advised of the emergency notification procedure.

6.5 Pretreatment Requirements

This section sets forth uniform requirements for discharges related to fats, oils, and grease and discharges of industrial wastes into the public sewerage system and enables the District to comply with all applicable state and federal laws required by the CWA and the General Pretreatment Regulations (40 CFR, Part 403). The District shall be empowered to enforce Section 307(b) and (c) and 402(b)(8) of the CWA and any implementing regulations pursuant to these Rules and Regulations. Enforcement may occur in any form available to the District, which may include injunctive or any other form of relief in federal and state courts or through administrative hearings.

This section provides for the regulation of wastes to the public sewerage system through the issuance of permits for industrial wastes, to certain non-domestic users, and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

6.5.1 Grease, Oil, Sand, and Scum Trap BMPs

All restaurants, fast food locations, delicatessens, taverns, and other food preparation facilities that prepare food onsite, service stations, automotive repair facilities, or any other facility as prescribed by uniform plumbing code with the potential to discharge fats, oils, and grease (FOG) to the sanitary sewer system shall install grease, oil, sand, and

scum trap separators (also known as Grease Removal Devices (GRDs)) to remove FOG and scum. All GRDs shall be installed in accordance with the appropriate Oregon Plumbing Specialty Code.

No person shall dispose of waste cooking oil into any drainage pipe. All waste cooking oils shall be collected and stored properly in receptacles such as barrels or drums for recycling or other acceptable methods of disposal. Discharge of waste (including FOG and solid materials removed from a GRD), passively or actively (also known as “jetting”), to the public sewerage system is prohibited.

A. Prohibitions

- a. No Food Service Establishment (FSE) owner/operator shall use any additives (including, but not limited to, enzymes, bacteria, solvents, surfactants, caustics, acids, or emulsifiers) for the purpose of emulsifying FOG or passing FOG through a GRD.
- b. FOG-laden washwater from any cleanup process at an FSE/property is prohibited from being discharged to the storm sewer. The washwater must be discharged to a GRD and then into the public sanitary sewer.
- c. Owner/operators of mobile restaurants, food stands, and coffee kiosks are prohibited from discharging any cooking process or cleanup wastewater to the storm system. This wastewater must be discharged into a GRD at the restaurateur’s commissary.

B. Maintenance

- a. All GRDs shall be maintained in efficient and proper working operation at all times to prevent discharge of FOG by the owner at their expense and shall include removal of floatable solids, oil, and settleable solids collected in the GRD along with cleaning the walls and baffles of the device. The maintenance frequency shall be established such that FOG or food solids do not leave the GRD and enter the sanitary sewer collection system.
- b. Frequency of cleaning shall be determined by property owners on an individual basis and may partially be based on an appropriate accommodation of the volume of material collected to prevent discharge of FOG to the public sewerage system.
- c. No FOG or solids that have accumulated in the GRD shall be allowed to pass into any sewer lateral, sewer system, storm drain, or Public Right-of-Way during maintenance activities. The property owner shall be responsible for the proper removal and disposal, by appropriate and legal means, of the captured material.
- d. It is the property owner’s responsibility for performing routine self-inspection and repair, as needed, of GRDs on their premises.

C. Documentation and Reporting

Establishments with an installed GRD are required to maintain annual maintenance records and records of proper material disposal during maintenance activities. Records shall be retained for the most recent three (3) year period. Records of maintenance and disposal shall be provided to the District upon request.

D. Right of Access for Inspection

The District shall have the authority to enter premises drained by any side sewer, at all Reasonable Times, to ascertain whether this provision of limiting the introduction of FOG and scums to the system has been complied with.

It is the property owner's responsibility to open all GRD access points to allow for District inspection activities. If the District is refused access to the facility, the District may pursue all legally available options to gain access including, but not limited to, obtaining search warrants for inspection and sampling purposes. No person shall interfere with, delay, or refuse entrance to such personnel attempting to inspect or enforce upon any facility involved directly or indirectly with the discharge of wastewater to the District sewer system.

The District is authorized to inspect and collect samples of any waste stream, including the discharge from the facility and any GRD. Failure to grant access shall result in an additional inspection fee and may result in suspension of sewer services provided by the District.

6.5.2 Non-Significant Industrial Users

The District may determine that an Industrial User is a Non-Significant Industrial User. Upon finding that an Industrial User meeting the Significant Industrial User criteria has no reasonable potential for adversely affecting the District's operations or for violating any Pretreatment Standard or requirement, the District may at any time and in its sole discretion, on its own initiative or in response to a petition received from the Industrial User, determine that such Industrial User is a Non-Significant Industrial User.

6.5.3 Discharge Limitations

A. Control of Discharge

It shall be the responsibility of every Industrial User to control the discharge of industrial wastewater into the public sewerage system, or any private or side sewer which drains into the public sewerage system, so as to comply with these Rules and Regulations and the requirements of any applicable wastewater discharge permit issued pursuant to the provisions of these Rules and Regulations.

B. National Categorical Pretreatment Standards

Categorical Pretreatment Standards, as promulgated by the EPA pursuant to the CWA, if more stringent than limitations imposed under these Rules and Regulations, shall be met by all Industrial Users who are subject to such standards.

C. District Requirements (Local Limits)

- a. No Industrial User shall discharge wastewater containing concentrations in excess of the Local Limit concentrations in this section. The following pollutant limits are established in accordance with 40 CFR 403.5(c) to protect against pass through and interference. No person shall discharge wastewater containing pollutant levels in excess of the following daily maximum allowable discharge limits:
 - i. 0.16 mg/L arsenic
 - ii. 0.24 mg/L cadmium
 - iii. 2.77 mg/L chromium
 - iv. 3.38 mg/L copper
 - v. 1.2 mg/L cyanide, total
 - vi. 0.81 mg/L lead
 - vii. 0.0035 mg/L mercury

- viii. 2.45 mg/L nickel
- ix. 0.43 mg/L silver
- x. 2.61 mg/L zinc
- xi. 2.13 mg/L total toxic organics (TTOs)
- xii. 100 mg/L oil and grease (non-polar)
- xiii. 300 mg/L oil and grease (polar)
- xiv. 100 mg/L oil and grease (total)

The above limits apply at the point where the wastewater is discharged to the POTW (end of the pipe). All concentrations for metallic substances are for “total” metal unless indicated otherwise. Total Toxic Organics is defined as the sum of the masses or concentrations of specific toxic organic compounds found in the Industrial User’s discharges at >0.01 mg/l. Specific TTO compounds to report are identified in the applicable Categorical Pretreatment Standard or in the Industrial Wastewater Discharge Permit. Where a user is subject to a Categorical Pretreatment Standard and a local limit for a given pollutant, the more stringent limit or applicable Pretreatment Standard shall apply.

- b. The District may issue mass limitations for dischargers in addition to or in place of concentration-based limits in Section 6.5 above as per 40 CFR 403.6(c)(5), (7), (8) and (9).
- c. The District may convert the mass-based limits of the Categorical Pretreatment Standards at 40 CFR Part 414, 419, and 455 to concentration limits as per 40 CFR 403.6(c)(6), and (8) and (9).
- d. The District may require BMPs in individual wastewater discharge permits for Industrial Users to manage the discharge of pollutants. These BMPs will be required in addition to any local limits specified in Section 6.5. Documentation of compliance with BMP requirements shall be recorded in accordance with 40 CFR 403.12(o).

D. Dilution

No Industrial User shall increase the use of potable or processed water in any way for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in 40 CFR 404.6(d) and these Rules and Regulations.

E. Notification of Hazardous Waste Discharges

All Industrial Users shall notify the District in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR, Part 261, as set forth in 40 CFR 403.12(p). Any Industrial User who commences discharging shall provide notification in accordance with 40 CFR 403.12(p) no later than thirty (30) days after the discharge of any listed or characteristic hazardous waste(s).

6.5.4 Industrial Wastewater Discharge Permits

All users discharging or proposing to discharge industrial wastes into any sewer outlet within the jurisdiction of the District, or which flow to the public sewerage system, shall obtain an Industrial Wastewater Discharge Permit from the District if it meets one or more of the following conditions:

- A. The discharge is subject to promulgated national Categorical Pretreatment Standards.
- B. The discharge, as determined by the District under 40 CFR Part 403, contains pollutants in concentrations or quantities that interfere or have the potential to interfere with the operation of the public sewerage system; has a significant impact or potential for a significant adverse impact on the public sewerage system, either singly or in combination with other contributing industries; or increases the cost of operation of the public sewerage system.
- C. The discharge requires pretreatment in order to comply with the discharge limitations described in this section.
- D. The discharge contains either suspended solids or biochemical oxygen demanding pollutants in excess of 350 mg/L, or in excess of 30 pounds in any single day.
- E. The discharge contains wastes requiring unusual quantities of chlorine (more than 20 mg/L) for treatment at the treatment plant.
- F. The discharge exceeds an average flow of 10,000 gallons or more in any single day, excluding sanitary, non-contact cooling water and boiler blowdown wastewater, or contributes a maximum instantaneous flow which exceeds 10 percent of the capacity of the available lateral or appropriate trunk sewer.
- G. Contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW.
- H. The discharge is a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR, Part 261.

The Industrial Wastewater Discharge Permit types are listed below:

- a. Significant Industrial User Permit. All Significant Industrial Users proposing to connect to or discharge wastewater to the public sewerage system shall obtain an industrial waste discharge permit before connecting to or discharging to the public sewerage system.
 - b. Non-Significant Categorical Industrial Permit. The Director may issue a Non-Significant Categorical Industrial Waste Discharge Permit for users meeting the definition of a Non-Significant Categorical User when such level of control is deemed protective of the public sanitary sewer system. A permit may include, but not be limited to, self-monitoring, sampling, reporting, notification, and record-keeping requirements.
 - c. Non-Significant Industrial User Permit. The Director may issue a Non-Significant Industrial Waste Discharge Permit for users that meet the definition of a Non-Significant Industrial User. A permit may include but not be limited to self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements may include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.
- I. Permit Applications

Industrial Wastewater Discharge Permits shall specify, where applicable, the following:

- a. Application for an Industrial Wastewater Discharge Permit shall be made to the District on forms provided by the District. The application shall not be considered as complete until all information identified on the form is provided unless specific

exemptions are granted by the District. Completed applications shall be made within thirty (30) days of the date requested by the District or, for New Sources, at least ninety (90) days prior to the date that discharge to the public sewerage system is to begin.

- b. All applications, reports, or information submitted to the District shall be signed and certified in accordance with 40 CFR 403.12(I).
 - c. After full evaluation and acceptance of the data furnished by the applicant, the District may approve the basis for a permit and issue an Industrial Wastewater Discharge Permit subject to the terms and conditions provided herein. No permit shall be issued or effective until payment of the applicable initial or renewal fees as the Board may prescribe by order. All fees charged by the District may be amended at any time.
 - d. The permittee shall reapply with the District for reissuance of its permit at least ninety (90) days prior to the permit expiration date. Reapplication shall be on the form provided by the District.
- J. Change in Permitted Discharge

It shall be the responsibility of every Industrial User to immediately report to the District any changes (permanent or temporary) to the Discharger's premises or operations that change the quality or quantity of the wastewater discharged. Changes in the discharge involving the introduction of new wastestream(s), or hazardous waste as set forth in 40 CFR, Part 261, not included in or covered by the Discharger's Industrial Wastewater Discharge Permit Application itself shall be considered a new discharge, requiring the completion of an application for a permit modification. Any such reporting shall not be deemed to absolve the Discharger from liability for violations of these Rules and Regulations.

Any Industrial User operating under equivalent mass or concentration limits calculated from a production-based standard shall notify the District within two (2) business days after the Industrial User has a reasonable basis to know that the production level will significantly change within the next calendar month. An Industrial User that does not notify the District of such anticipated change will be required to meet the mass or concentration limits that were based on the original estimate of the long-term average production rate.

K. Industrial Waste Inspection

After the submitted discharge permit application has been received and reviewed, the District may schedule with the applicant an industrial waste inspection. The industrial waste inspection may consist of an interview with applicant personnel and a plant tour. At the interview, the applicant's application, waste generating process, water consumption, wastewater composition, and quantities of wastewater flow may be discussed. As part of the plant tour, one or more industrial waste sampling point(s), or Point(s) of Compliance, will be identified. The Points of Compliance, if appropriate and acceptable to the District, will be used for both permittee self-monitoring and monitoring by District personnel for water quality and quantity monitoring and permit enforcement, unless otherwise specified in the permit. The investigator's report of the inspection, together with the completed permit application from the industry, form the basis for establishing the discharge permit conditions and any other relevant documents.

L. Permit Conditions

Industrial Wastewater Discharge Permits shall specify, where applicable, the following:

- a. Fees and charges to be paid upon initial permit issuance.
- b. Effluent limits based on applicable Pretreatment Standards, local limits, and state and local law.
- c. Requirements for installation and maintenance of inspection and sampling facilities compatible with facilities of the District at the permittee's expense.
- d. Special conditions as the District may reasonably require under particular circumstances of a given discharge, including, but not limited to, self-monitoring requirements, access to sampling locations, frequency of sampling, identification of pollutants to be monitored, sample types, standards for testing, and a reporting schedule based on federal, state and local laws. Reporting requirements shall include the provisions in 40 CFR 403.12(g) to demonstrate continued compliance through monitoring and analysis.
- e. Requirements for installation and maintenance of BMPs.
- f. Compliance schedules, as necessary, for installation of additional pretreatment and or operations and maintenance to meet a Pretreatment Standard. The shortest possible schedule for achieving compliance with Standard is required.
- g. Requirements for submission of special technical reports or discharge reports that differ from those prescribed by these Rules and Regulations.
- h. An effective date and expiration date of the permit (in no case more than five (5) years).
- i. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the District, DEQ, and EPA, and affording District access for purposes of inspection and copying.
- j. Requirements for inspection and surveillance by District personnel and access to the Industrial User's parcel.
- k. Requirements for immediate notification to the District of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents, including listed or characteristic hazardous wastes, being introduced into the public sewerage system or any significant change in the production where the permit incorporates equivalent mass or concentration limits calculated from a production-based standard.
- l. Requirements to develop a written plan for slug control and notification to the District of slug discharges and changes at the Industrial User's facility affecting the potential for a slug discharge.
- m. Other conditions as deemed appropriate by the District to ensure compliance with these Rules and Regulations and federal and state statutes, and Administrative Rules.
- n. Statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by federal, state, or local law.

- o. Duty to reapply and obtain a new permit should the permittee wish to continue the activity regulated by the discharge permit following the expiration date of the discharge permit.
- p. Requirements that samples and measurements taken for purposes of monitoring be representative of the monitored activity, including, but not limited to, the volume and nature of the discharge.
- q. Statement of non-transferability without prior notification to the District in accordance with Section 6.5.4 of these Rules and Regulations and provision of a copy of the existing permit to the new owner or operator.
- r. Requirements that all sampling data reported to the District include complete and accurate chain-of-custody forms.

M. Permit Appeals or Modifications

An Industrial Wastewater Discharge Permit may be appealed or modified for good and valid cause at the written request of the Permittee and/or at the discretion of the District. Any new or increased discharge shall require the Discharger to apply for permit modification. The District at all times has the right to deny or condition new or increased contributions or changes in the nature of pollutants to meet applicable local, state, or federal Pretreatment Standards or requirements or to prevent violation of its NPDES permit or any permit issued to the District. Permittee modification requests shall be submitted to the District and shall contain a detailed description of all proposed changes in the discharge. The District may request any additional information needed to adequately prepare the modification or assess its impact.

The District may deny a request for modification if, as determined by the District in its sole and absolute discretion, the change will result in violations of District, state, or federal laws or regulations; will overload or cause damage to any portion of the public sewerage system; or will create an imminent or potential hazard to personnel.

If a permit modification is made at the discretion of the District, the permittee shall be notified in writing of the proposed modification at least thirty (30) days prior to its effective date and shall be informed of the reasons for the changes. Any request for reconsideration shall be made before the effective date of the changes. If no responses by the permittees are received after the 30-day period, then the modification is effective immediately.

N. Permit Duration/No Property Interest Acquired

All Industrial Wastewater Discharge Permits shall be issued for a specified period, not to exceed five (5) years, as determined by the District and subject to amendment, revocation, suspension, or termination as provided in these Rules and Regulations. No Discharger acquires any property interest by virtue of permit approval, and continued approval is expressly contingent upon compliance with all applicable federal, state, and local requirements, including these Rules and Regulations.

O. Limitations on Permit Transfer

Industrial Wastewater Discharge Permits are issued to a specific Discharger for a specific operation and are not assignable to another Discharger or transferable to any other location without the prior written approval of the District and provision of a copy of the existing permit to the new owner or operator.

P. Permit Revocation

Industrial Wastewater Discharge Permits may be revoked for the following reasons:

- a. Failure to notify the District of significant changes to the wastewater prior to the changed discharge.
- b. Falsifying self-monitoring reports.
- c. Tampering with monitoring equipment.
- d. Refusing to allow the District timely access to the facility premises and records.
- e. Failure to meet effluent limitations.
- f. Failure to pay fines.
- g. Failure to pay user charges.
- h. Failure to meet compliance schedules.
- i. Failure to provide advance notice of the transfer of a permitted facility.
- j. Violation of any applicable Pretreatment Standard or requirement or any terms of the permit or these Rules and Regulations.

Permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership.

All previous Industrial Wastewater Discharge Permits are void upon the issuance of a new Industrial Wastewater Discharge Permit.

Q. Permit Reissuance

An Industrial User who is required to have a wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application, in accordance with Section 6.5.4 of these Rules and Regulations, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who has submitted its re-application in the time period specified herein shall be deemed to have an effective wastewater discharge permit until the District issues or denies the new wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who failed to submit its re-application in the period specified herein will be deemed to be discharging without a wastewater discharge permit.

6.5.5 Pretreatment Facilities

If the District determines that treatment facilities, operation changes, or process modifications at an Industrial User's facility are needed to comply with any requirements under these Rules and Regulations or are necessary to meet any applicable local, state, or federal Pretreatment Standards or requirements, the District may require that such facilities be constructed or modifications or changes be made within the shortest reasonable time, taking into consideration construction time, impact of the untreated waste on the public sewerage system, economic impact on the facility, and any other factor deemed appropriate by the District.

Requirements for treatment facilities or other BMPs may be incorporated as part of an Industrial Wastewater Discharge Permit and made a condition of issuance of such permit or made a condition of the acceptance of the waste from such facility.

Existing sources and New Sources shall meet the deadlines for installation and startup of equipment and compliance with Categorical Pretreatment Standards established according to 40 CFR 403.6(b).

A. Plans, Specifications, and Construction

Plans, specifications, and other information relating to the construction or installation of pretreatment facilities required by the District shall be submitted to the District. No construction or installation shall commence until written approval of plans and specifications by the District is obtained. Plans must be reviewed and signed by an authorized representative of the Discharger and certified by a qualified and licensed Professional Engineer. No person, by virtue of such approval, shall be relieved of compliance with other laws of the city, county, or state relating to construction and permits. Every facility for the pretreatment or handling of wastes shall be constructed in accordance with the approved plans and installed and maintained at the expense of the Discharger.

B. Sampling and Monitoring Facility

Any Industrial User constructing a pretreatment facility required by the District shall also install and maintain, at the Industrial User's own expense, a sampling manhole, materials and fittings, or other suitable monitoring access for inspecting, sampling, and investigating the discharge from the pretreatment facility to the public sewerage system. The sampling manhole or monitoring access shall be placed in a location designated by the District and in accordance with specifications approved by the District. A sampling manhole shall be constructed in accordance with a typical Public Sanitary Sewer manhole detail (see the Sanitary Standards). All equipment used for sampling and analysis must be routinely calibrated, inspected, and maintained to ensure its accuracy. Monitoring points shall not be changed without notifying the District and obtaining approval.

C. Operational Upset

Any Industrial User who experiences an upset in operations that places the Industrial User in a temporary state of noncompliance with these Rules and Regulations, and/or any related rule or permit, shall inform the District as soon as practicable, but not later than 24 hours after first awareness of commencement of the upset. Where such information is given orally, a written follow-up report shall be filed by the Industrial User with the District within five (5) days.

An upset shall constitute an affirmative defense to an action brought for noncompliance if the Industrial User demonstrates, through properly signed, contemporaneous operating logs or other relevant evidence (a) a description and cause(s) of the upset and the upset's impact on the Industrial User's compliant status; (b) the duration of noncompliance, including exact dates and times or, if not corrected, the anticipated time that noncompliance is expected to continue; (c) all steps taken, or to be taken, to reduce, eliminate, and prevent recurrence of such upset or other conditions of noncompliance; and, that these steps have been, or will be taken in a workmanlike manner and in compliance with applicable operational maintenance procedures.

A documented, verified, and bona fide operation upset, including good faith and reasonable remedial efforts to rectify the upset, shall be an affirmative defense to any enforcement action brought by the District against an Industrial User for any noncompliance with these Rules and Regulations or any rule adopted, or permit issued in accordance with this document, that arises out of violations alleged to occur during the period of the upset. In an enforcement proceeding, the Industrial User seeking to establish the occurrence of an upset shall have the burden of proof.

The Industrial User shall control all discharge production to the extent necessary to maintain compliance with these Rules and Regulations, or any rule adopted or permit issued in accordance with this document, 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 a situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

D. Bypass

Bypass is prohibited, and the District may take enforcement action against an Industrial User for a bypass, unless (a) the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage as defined in 40 CFR 403.17(A)(2), as may be amended from time to time; (b) there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime (this condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of down time or preventative maintenance); and (c) the Industrial User submitted notices as set forth below.

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. The District may approve an anticipated bypass after considering its adverse effects, if the District determines that it will meet the three conditions set forth above.

An Industrial User shall submit oral 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) a description of the bypass and its cause; (b) 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 (c) steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. The District may waive the written report on a case-by-case basis if the oral report has been received.

An Industrial User may allow any bypass to occur that does not cause a violation of Pretreatment Standards or requirements, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of the paragraphs of this section.

E. Affirmative Defense

Any Industrial User shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions covered in 40 CFR 403.5(a)(1) and the specific prohibitions covered in 40 CFR 403.5(b)(3), (b)(4), (b)(5), (b)(6), and (b)(7), in addition to those covered in these Rules and Regulations. The Industrial User in its demonstration shall be limited to provisions of 40 CFR 403.5(a)(2)(i) and (ii).

6.5.6 Reporting Requirements

A. Initial Compliance Report

Within one hundred and eighty days (180) days after the effective date of a Categorical Pretreatment Standard issued by the EPA or within ninety (90) days after

receiving notification from the District that such a standard has been issued, whichever is sooner, existing Industrial Waste Dischargers subject to such standard shall submit to the District a baseline monitoring report, as required by the EPA pretreatment regulations, which includes the following information:

- a. The name and address of the facility and the name of the owner and operator.
- b. A list of any environmental control permits on the facility.
- c. A description of the operation(s).
- d. The measured average and maximum daily flow from regulated process streams and other streams as necessary to allow use of the combined waste stream formula.
- e. Measurement of the particular pollutants that are regulated in the applicable Pretreatment Standard and results of sampling as required in the permit.
- f. A statement reviewed by an authorized representative and certified by a qualified professional as to whether the applicable standards are being consistently met and, if not, what additional measures are necessary to meet them.
- g. If additional pretreatment and/or operation and maintenance will be required to meet the Pretreatment Standards, a report on the shortest schedule by which the needed pretreatment and/or operation and maintenance can be provided. The compliance date for users covered by Categorical Pretreatment Standards should not be later than the compliance date established for the particular standard. The report shall be reviewed and signed by an authorized representative of the Discharger and certified by a qualified and licensed Professional Engineer.

New Sources subject to an effective Categorical Pretreatment Standard issued by the EPA shall submit to the District, ninety (90) days prior to commencement of their discharge into the public sewerage system, a report which contains the information listed in items (1) through (7) above, along with information on the method of pretreatment that will be applied to the New Source to meet applicable Pretreatment Standards.

These reports shall be completed in compliance with the specific requirements of Section 403.12(b) of the General Pretreatment Regulations for Existing and New Sources (40 CFR Part 403) promulgated by the EPA on January 28, 1981, or any subsequent revision, including the signatory requirements 403.12(l) for such reports.

If the information required by these reports has already been provided to the District and that information is still accurate, the Discharger may reference this information instead of submitting it again.

B. Report on Compliance

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards or, in the case of a New Source, within sixty (60) days following commencement of the introduction of wastewater into the public sewerage system, any Discharger subject to applicable local, state, or federal Pretreatment Standards and requirements shall submit to the District a report indicating the nature and concentration of all pollutants in the waste stream from the regulated process and the average and maximum daily flow for these process units, and long-term production data, or actual production data, when requested. This

report shall also include an estimation of these factors for the ensuing 12 months. The report shall state whether the applicable Pretreatment Standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the Discharger into compliance with the applicable Pretreatment Standards or requirements. This statement shall be signed by an authorized representative of the Discharger and certified by a qualified and licensed Professional Engineer. A New Source is required to achieve compliance within ninety (90) days after commencement of discharge.

If the Industrial User is required to install additional pretreatment or provide additional operation and maintenance, a schedule needs to be submitted. The schedule shall contain increments of progress in the form of dates for commencement and completion of major events leading to the construction and operation of additional pretreatment or operation and maintenance (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, etc.) No increment of progress shall exceed 9 months. The Industrial User shall submit a progress report to the District including, at a minimum, whether it complied with the increment of progress to be met on such a 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. This progress report shall be submitted not later than fourteen (14) days following each date in the schedule and the final date of compliance. In no event shall more than 9 months elapse between such progress reports to the District.

C. Periodic Reports on Compliance

Any Discharger that is required to have an Industrial Wastewater Discharge Permit pursuant to these Rules and Regulations shall submit reports to the District during the months of June and December, unless required on other dates and/or more frequently by the District, a report indicating the nature of its effluent over the previous 6-month period. The report shall include, but is not limited to, a record of the nature and concentrations (and mass if limited in the permit) for all samples of the limited pollutants that were measured, a record of all flow measurements that were taken or estimated average and daily maximum flows, and long-term production data, or actual production data, when requested. Sampling included as part of a periodic compliance report will be conducted in accordance with the requirements outlined in Section 6.5.6. Reports including sampling data are required to include complete and accurate chain-of-custody forms describing the custody of the sample from collection to analysis.

The frequency of the monitoring shall be determined by the District and specified in the Industrial Wastewater Discharge Permit. If there is an applicable effective Categorical Pretreatment Standard, the frequency shall be not less than that prescribed in the standard. If a Discharger monitors any pollutant more frequently than required by the District at its point of compliance, all monitoring results must be included in the periodic compliance reports.

Flows shall be reported on the basis of actual measurement; where cost or feasibility considerations justify, the District may, in its sole discretion, accept reports of average and maximum flows estimated by verifiable techniques.

The District may require reporting by Industrial Users that are not required to have an Industrial Wastewater Discharge Permit if information and/or data is needed to

establish a sewer charge, determine the treatability of the effluent, or determine any other factor which is related to the operation and maintenance of the sewer system.

The District if requested by the Discharger, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this subsection of the Rules and Regulations. If the District agrees to perform such periodic compliance monitoring, the District will charge the Discharger for the monitoring based upon the costs incurred by the District for the sampling and analyses.

D. Violations

The Industrial User shall notify the District within 24 hours of first possessing or becoming aware of monitoring data that indicates a violation of the permit. The Industrial User shall repeat the sampling and analysis and submit the results to the District as soon as possible, but in no event later than thirty (30) days after becoming aware of the violation.

E. Total Toxic Organics Reporting

Those industries that are required by the EPA to eliminate and/or reduce the levels of TTOs discharged into the public sewerage system must follow the Categorical Pretreatment Standards for that industry.

F. Signatory Requirements

Industrial Waste Discharge Permit Applications, Baseline Reports, Report on Compliance reports (90-Day Compliance Reports), Periodic Reports on Compliance, and other required reports shall:

a. Contain the following certification statement:

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

b. Be signed by a responsible corporate officer, by a general partner or proprietor, or by a duly authorized representative of the Industrial User, as defined under 40 CFR 403.12(l).

c. If an Industrial User plans to submit Periodic Reports on Compliance by a duly authorized representative or designee, a signatory authorization form approved by the District shall be submitted to the District authorizing the representative or designee prior to or together with any reports on behalf of the responsible corporate officer in pursuant to 40 CFR 403.12(l)(1-3).

6.5.7 Inspection and Sampling

A. Inspection

Authorized District representatives may inspect the monitoring facilities of any Industrial User to determine compliance with the requirements of these Rules and Regulations. The Industrial User shall allow the District to enter the premises at all

reasonable hours, for the purpose of inspection (including photographs), sampling, or records examination and copying. The District shall also have the right to set up on the Industrial User's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations. The right of entry is to the Industrial User's entire premises, and includes, but is not limited to, access to manufacturing, production, and chemical storage areas; those portions of the premises that contain facilities for sampling, measuring, treating, transporting, or otherwise handling wastes; and areas for storing records, reports, or documents relating to the pretreatment, sampling, or discharge of the wastes. The following conditions for entry shall apply:

- a. The authorized District representative shall present appropriate District credentials at the time of entry.
- b. The purpose of the entry shall be for inspection, observation, measurement, sampling, testing, or record examination and copying in accordance with the provisions of these Rules and Regulations.
- c. The entry shall be made at Reasonable Times unless an emergency situation exists as determined by the District.
- d. All regular safety and sanitary requirements of the facility to be inspected shall be complied with by the District representative(s) entering the premises.

B. Sampling

Samples of wastewater being discharged into the public sewage system shall be representative of the discharge and shall be taken after treatment, if any. For Industrial Users subject to Categorical Pretreatment Standards, and for sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil grease, sulfides, and volatile organics for Industrial Users for which historical data does not exist; for Industrial Users for which historical sampling data are available, the District may authorize a lower minimum. For all other pollutants, the sampling method shall be obtaining 24-hour composite samples through flow proportional composite sampling techniques where feasible. The District may waive flow proportional composite sampling for any Industrial User that demonstrates that flow proportional composite sampling is infeasible. In such cases, the samples may be obtained through time proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. Additional grab samples may be required to show compliance with instantaneous limits. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

Samples that are taken by the District for the purposes of determining compliance with the requirements of these Rules and Regulations shall be split with the Industrial User (or a duplicate sample provided in the instance of fats, oils, and grease) if requested before or at the time of sampling.

All sample analyses shall be performed in accordance with techniques prescribed in 40 CFR Part 136 and any subsequent amendments. Where 40 CFR Part 136 does not include a sampling or analytical technique for the pollutant in question, or where the District determines that the 40 CFR Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or any other sampling and analytical

procedures including procedures suggested by the District or other parties, that have been approved by the Administrator of the EPA.

C. Sampling Waiver

Industrial Users subject to a Categorical Pretreatment Standard may apply for and obtain a waiver to forego sampling of a pollutant regulated by a Categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

- a. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable Categorical Pretreatment Standard and otherwise includes no Process Wastewater.
- b. The monitoring waiver is valid only for the effective period of the Industrial Waste Discharge Permit, but in no case longer than five (5) years. The Industrial User shall submit a new request for the waiver before the waiver can be granted for each subsequent Industrial Waste Discharge Permit.
- c. In making a demonstration that a pollutant is not present, the Industrial User shall provide data from at least one sampling of the facility's Process Wastewater prior to any treatment present at the facility that is representative of all wastewaters from all processes.
- d. The request for a monitoring waiver shall be signed by a responsible corporate officer, by a general partner or proprietor, or by a duly authorized representative of the Industrial User, as defined under 40 CFR 403. 12(l). The request shall include the following certification statement:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the applicable Categorical Pretreatment Standards, I certify that, to the best of my knowledge and belief, there has been no increase in the level of the pollutant(s) that have been approved for the monitoring waiver in the wastewaters due to the activities at the facility since filing of the last periodic report."
- e. Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA-approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
- f. Any grant of the monitoring waiver by the Director shall be included as a condition in the Industrial User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver shall be maintained by the District for three (3) years after expiration of the waiver.
- g. Upon approval of the monitoring waiver and revision of the Industrial User's permit by the Director, the Industrial User shall certify on each report with the statement in Section 6.5.7(C) (d) that there has been no increase in the pollutant in its waste stream due to activities of the Industrial User.
- h. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the Industrial User's operations, the User shall immediately 1) comply with the inspection and sampling requirements

of Section 6.4.2, or other more frequent monitoring requirements imposed by the Director and 2) notify the Director.

- i. This provision does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standard.

D. Monitoring Facilities

- a. Any person discharging industrial waste into the public sewerage system that requires an Industrial Wastewater Discharge Permit shall, at their own expense, construct and maintain an approved control manhole, together with such flow measurement, flow sampling, and sample storage facilities as may be required by the District. The facilities required shall be such as are reasonably necessary to provide adequate information to the District to monitor the discharge and/or to determine the proper Industrial User charge.
- b. Such monitoring facilities shall be located on the Discharger's premises except when, under circumstances approved by the District, it must be located in a public street or Right-of-Way, provided it will not be obstructed by landscaping or parked vehicles.
- c. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measurement equipment shall be maintained at all times in a safe and proper operating condition at the expense of the Discharger.
- d. Whether constructed on private or public property, the sampling and monitoring facilities shall be provided in accordance with the District's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the District.
- e. Dischargers shall allow the District and city and their representatives, access to monitoring facilities on their premises at all Reasonable Times. The District and city shall have the right to set up such supplementary monitoring equipment as it may require.
- f. The District may, in lieu of or in addition to requiring measurement sampling and monitoring facilities, procure and test, at the user's expense, sufficient composite samples on which to base and compute the user charge. In the event that measurement sampling and monitoring facilities are not required, the user charge shall be computed using the metered water flow to the premises as a basis for waste flow and the laboratory analysis of samples procured as the basis for computing BOD and suspended solids content. Metered water flow shall include all water delivered to or used on the premises. In the event that private water supplies are used, they shall be metered at the user's expense. Non-contact cooling waters or other waters not discharged into the public sewerage system may be separately metered at the user's expense in a manner approved by the District, and all or portions of these waters deducted from the total metered water flow to the premises are subject to District approval.

6.5.8 Significant Non-Compliance

At least annually, the District shall publish in a newspaper of general circulation in the District, a list of the Industrial Users who were in significant noncompliance of applicable Pretreatment Standards or requirements for the preceding 12 months, in accordance with and as defined in 40 CFR 403.8(f)(2)(viii). For the purposes of this provision, an

Industrial User is in significant non-compliance if its violation meets one or more of the following criteria:

- A. Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all the measurements taken during a 6-month period exceeded (by any magnitude) a numeric Pretreatment Standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l), or any successor statutes.
- B. Technical Review Criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a 6-month period equal or exceed 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, total suspended solids [TSS], fats, oils, and grease [FOG], and 1.2 for all other pollutants except pH).
- C. Any other violation of a pretreatment effluent limit (daily maximum or longer-termed average) that the District determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of District or city personnel or the general public).
- D. Any discharge of a pollutant that has caused imminent endangerment to human health or welfare or to the environment or has resulted in the District's exercise of its emergency authority to halt or prevent such a discharge.
- E. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a permit or order for starting construction, completing construction, or attaining final compliance.
- F. Failure to provide within forty-five (45) days after the due date, required reports, initial compliance reports, periodic compliance reports, and reports on compliance with compliance schedules.
- G. Failure to accurately report noncompliance.
- H. Any other violation or group of violations, including violation of BMPs, which the District determines will adversely affect the operation or implementation of the pretreatment program.

6.5.9 Records

All Dischargers subject to these Rules and Regulations shall retain and preserve for not less than three (3) years all records, books, documents, memoranda, reports, correspondence, and any and all related summaries, relating to monitoring, sampling, and chemical analyses made by or on behalf of a Discharger in connection with its discharge. All such records shall be subject to review by the District. All records that pertain to matters subject to appeals or other proceedings before the Director or the Board, or any other enforcement or litigation activities brought by the District, state, or EPA shall be retained and preserved until such time as all enforcement or other activities have concluded and all periods of limitation with respect to any appeals have expired.

A. Public Records

Information and data furnished to the District regarding frequency and nature of discharges into the public sewerage system or other information submitted in the regular course of reporting and compliance with the requirements of these Rules and Regulations or the Industrial User's Permit, shall be available to the public or other governmental agencies without restriction unless the Industrial User claims, when submitting the data, and satisfies the District as to the validity of the claim, that

release of the information would divulge information, processes, or methods of production entitled to protection as “trade secrets” under federal laws or ORS 192.501(2). Such portions of an Industrial User’s report that qualify as trade secrets shall not be made public, unless the public interest in that case requires disclosure.

The EPA and DEQ shall have access to all records at all times. Effluent data, as defined and set forth in 40 CFR Part 2 and included here by reference, shall be available to the public.

B. Confidential Information Procedure

- a. An Industrial User submitting information to the District may assert a “trade secret” or “business confidentiality” claim covering the information by placing on or attaching to the information a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “business confidential.” Confidential information needs to be marked with specificity, and the justification for confidentiality needs to be expressly spelled out by the Industrial User in accordance with ORS 192, as amended. This shall be done at the time of submission. Post-submittal claims of confidentiality will not be considered unless good cause is shown by the Industrial User to the satisfaction of the Director. Allegedly confidential portions of otherwise non-confidential documents shall be clearly identified by the Industrial User and may be submitted separately to facilitate identification. If the Industrial User desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice shall so state. If no claim of confidentiality is made at the time of submission, the District may make the information available to the public without further notice. If a claim is asserted, the information will be evaluated pursuant to the criteria of ORS 192.345(2) and 40 CFR Part 2 relating to effluent data.
- b. The Industrial User must show that it has taken reasonable measures to protect the confidentiality of the information, that it intends to continue to take such measures and must show that the information claimed to be confidential (a) is not patented; (b) is known only to a limited number of individuals within the Industrial User who are using it to make or produce an article of trade or a service or to locate a mineral or other substance; (c) has commercial value; (d) gives the Industrial User a chance to obtain a business advantage over competitors not having the information; and (e) is not, and has not been, reasonably obtainable without the Industrial User’s consent by other persons (other than governmental bodies) by use of legitimate means (excluding discovery in litigation or administrative proceedings).
- c. The District shall examine the information meeting the criteria set forth above and to the extent allowed, will determine what information, if any, is confidential, in compliance with applicable laws.
- d. If the District determines that the information is confidential, it shall so notify the Industrial User. If a request for inspection under the public records law has been made, the District shall notify the person requesting the information of its confidentiality and notify the Industrial User of the inquiry and the District’s response.
- e. If the District determines that the information is not entitled to confidential treatment, the District shall notify the Industrial User of its decision, as well as any other person who has requested the information.

- f. Once the final decision is made, the District will wait five (5) business days before releasing the subject information so that the Industrial User may have an adequate time to obtain judicial relief to prevent disclosure.
- g. Information deemed confidential or, while a decision thereon is pending, will be kept in a place inaccessible to the public.
- h. Nothing herein shall prevent a party requesting information to exercise remedies provided by the Oregon Public Records law to obtain such information. Nothing herein shall prevent the Industrial User from undertaking those remedies to prevent disclosure if the District has determined that such disclosure will occur. The District will not oppose any motion to intervene or other action taken by an Industrial User in perfect standing to make any confidentiality claims before a court of competent jurisdiction.

6.6 Septic Tank Waste Requirements

This section sets forth uniform requirements for discharges of septic tank wastes (also known as “septage”) at the Tri-City Water Resource Recovery Facility (WRRF), as required by applicable Oregon laws, the federal CWA, and the EPA General Pretreatment Regulations (40 CFR, Part 403).

This section provides for the regulation of discharges of septic tank wastes at the Tri-City WRRF through the issuance of Septic Tank Waste Discharge Permits to approved septic tank waste haulers, authorizes monitoring and enforcement activities, requires septic tank waste hauler reporting, and establishes fees for the equitable distribution of costs of the public sewerage system.

6.6.1 Septic Tank Waste Prohibited Discharges

No septic tank waste hauler shall discharge or cause to be discharged, directly or indirectly, to the Tri-City WRRF, any waste that is not septic tank waste or any pollutant, substances, or wastewater that will interfere with the operation or performance of the public sewerage system; have an adverse effect on the receiving stream; endanger life, limb, or public property; or constitute a nuisance. Prohibited discharges shall include, but are not limited to, the following:

- A. Discharges prohibited in Section 6.4 of these Rules and Regulations or discharges exhibiting characteristics described in this section, whichever is more stringent.
- B. Any wastes having a pH lower than 6.0 S.U. or higher than 9.0 S.U., or having any corrosive property capable of causing damage or hazard to structures, equipment, or people.
- C. Any process waste from industrial or commercial locations.
- D. Any wastes containing liquids, solids, or gases that will create a fire or explosion hazard.
- E. Any wastes containing solid or viscous substances that may cause obstruction to flow such as, but not limited to, oil, grease, sand, rags, or metals.
- F. Any other type of waste that may be untreatable by the treatment plant or will interfere with the operation of the treatment plant, such as, but not limited to toxic, radioactive, or hazardous wastes.

6.6.2 Septic Waste Discharge Procedures

The District will only accept domestic septic tank wastes originating from within Clackamas, Multnomah, and Washington Counties and hauled to the Tri-City WRRF subject to the following procedures.

- A. Discharge of septic tank wastes at the Tri-City WRRF will only be allowed during plant hours established by the District. The District reserves the right to change the hours and/or days that waste haulers can discharge at the Tri-City WRRF.
- B. Each septic tank waste load hauled to the Tri-City WRRF shall be accompanied by a manifest in a form provided by the District that provides verifiable, complete, and accurate information on the source or sources of the septic tank waste load.
- C. If any septic tank waste exhibits prohibited discharge characteristics, exhibits inconsistencies between certified contents and actual contents, contains materials that are suspected to be harmful to the treatment plant, or if the Tri-City WRRF exhibits capacity or operational problems, the District Operator in Charge shall have full authority to refuse acceptance of waste, limit the volume of the discharge, or establish restriction as deemed necessary for the efficient and safe operation of the treatment plant.

6.6.3 Septic Tank Waste Discharge Permits

Only those persons possessing a valid Septic Tank Waste Discharge Permit from the District and displaying a valid charge card issued by the District will be allowed to discharge septic tank wastes at the Tri-City WRRF. The applicant must obtain a separate charge card for each truck or trailer in order for each truck or trailer to be authorized to discharge septic tank wastes.

Septic Tank Waste Permits for the discharge of septic tank wastes at the Tri-City WRRF will be issued by the District only to those persons possessing a valid Sewage Disposal Service Business License issued by the DEQ and who have submitted a complete application (see Section 6.6.4) to the District with all information required by the District pursuant to the Rules and Regulations. Licenses from the DEQ will not be required of governmental units.

The District may refuse to issue a Septic Tank Waste Discharge Permit to any applicant who has had one or more permits previously revoked or canceled under the provisions of this section of the Rules and Regulations, or to any agent, or associates of such person. The District may also refuse to issue a permit to any applicant who has been or is currently under an enforcement action by the District or another governmental unit and relating to the discharge of pollutants to waters of the state or to POTWs.

6.6.4 Permit Applications

Application for a Septic Tank Waste Discharge Permit to discharge septic tank wastes at the Tri-City WRRF shall be made to the District on forms provided by the District. The application shall not be considered as complete until all information identified on the form is provided unless specific exemptions are granted by the District. The District shall impose appropriate conditions in Septic Tank Waste Discharge Permits to ensure compliance with requirements in these Rules and Regulations.

6.6.5 Surety Bond

Except for governmental agencies, each permit applicant, regardless of the number of trucks for which application is made, shall post a surety bond in a form approved by the

District in the sum of \$10,000, which bond shall be forfeited to the District under any of the following conditions:

- A. The discharge of wastes is toxic or harmful to the treatment plant operation or process.
- B. The septic tank wastes are discharged at any unauthorized location within the boundaries of Clackamas County.
- C. Failure to pay all charges for discharge within thirty (30) days of billing by the District.

6.6.6 Issuance of Permit

After full evaluation and acceptance by the District of the information and data furnished by the applicant, the District shall issue a Septic Tank Waste Discharge Permit to the applicant subject to the terms and conditions required by the District consistent with or pursuant to the Rules and Regulations.

Each permit holder will be issued one Septic Tank Waste Discharge Permit. Each truck or trailer will be issued one charge card, which must be presented to the Operator in Charge before any septic tank wastes may be discharged at the Tri-City WRRF.

In addition to complying with the requirements of the Septic Tank Waste Discharge Permit and these Rules and Regulations, the permittee is required to file annually with the District the permittee's current DEQ Sewage Disposal Service Business License or annual proof of application for renewal of the DEQ License if the DEQ has not issued a renewed License and the permittee is operating under an approved License that administratively continues in effect under Oregon law.

A. Permit Limitations

A Septic Tank Waste Discharge Permit is issued to a specific applicant, and a charge card is issued for a specific truck or trailer. The permit is not assignable or transferable to another waste hauler, and the charge card is not assignable or transferable to another truck or trailer without the prior written approval of the District.

No wastes from septic tanks, holding tanks, or pumping facilities, shall be discharged into any sewer system within the jurisdiction of the District, except as specifically authorized by existing codes, ordinances, and regulations.

All Septic Tank Waste Discharge Permits shall be issued for a term not to exceed three (3) years. Each Septic Tank Waste Discharge Permit shall expire on July 1 of each permit term.

If the permittee wishes to continue an activity regulated by the Septic Tank Waste Discharge Permit, the permittee must file with the District a complete application to renew the permit no later than thirty (30) days prior to the expiration date and obtain a renewed permit by no later than the expiration date.

No permit holder acquires any property interest by virtue of permit approval, and continued approval is expressly contingent upon compliance with this section of the Rules and Regulations and all other applicable federal, state, and local requirements.

B. Enforcement and Revocation of Permit

Any septage hauler that fails to comply with the requirements of these Rules and Regulations or the provisions of its Septic Tank Waste Discharge Permit is subject to enforcement by the District.

All Septic Tank Waste Discharge Permits issued to an applicant by the District shall be revoked or canceled for any of the following reasons:

- a. Failure to accurately certify the source or sources of a waste load prior to discharge and failure to provide verifiable, complete, and accurate information in the manner required by the Operator in Charge at the Tri-City WRRF.
- b. Failure to pay all fees and charges for discharging septic tank wastes within thirty (30) days of billing by the District.
- c. Any act which is named a cause for forfeiture of the surety bond, as outlined in Section 6.6.3.

6.6.7 Protecting the Public Interest

No provision of this section of the Rules and Regulations shall be construed to create any right in any individual to a Septic Tank Waste Discharge Permit or to disposition of septic tank wastes at a District facility, which in the opinion of the District would be inconsistent with the public interest.

Rules and Regulations

7. Surface Water Rules

This section presents the District's surface water rules. The purpose of these rules is to:

- Provide for the effective management of surface water, stormwater, and drainage.
- Maintain and improve water quality in the public surface water system and protect beneficial uses of waters of the state.
- Control hydromodification for the purpose of protecting in-stream physical habitat.
- Establish minimum stormwater management requirements to protect water quality of receiving waters and protect downstream parties from the effect of changes in runoff duration and quality due to development activities.
- Implement the requirements of the CWA, the Oregon DEQ NPDES municipal separate stormwater systems (MS4) permit, and other regulations related to stormwater by regulating the contribution of pollutants to the District's stormwater facilities and waters of the state from stormwater discharges from development and redevelopment sites.

7.1 Purpose and Objectives

The District declares its intention to acquire, own, construct, reconstruct, equip, operate, regulate, and maintain within the District, and outside the District limits when consistent with the Board's adopted policies or intergovernmental agreements, a public stormwater system, and to require persons responsible to construct, reconstruct, maintain, and extend the public stormwater system.

The construction of both the public stormwater system and private stormwater management facilities through or adjacent to a new development shall be provided by the person responsible for the development. Improvements shall comply with all applicable District Rules and Regulations, state and federal standards, and local city ordinances, policies, and standards.

No portion of this section, subsequent interpretations of this section, or policies adopted to implement this section shall relieve any property owner of assessments levied against real property for a local improvement project or for abating conditions on the property that violate any provision of these Rules and Regulations.

Stormwater shall be managed in accordance with the District's Stormwater Standards to avoid a negative impact on adjoining properties, nearby streams, wetlands, groundwater, and other water bodies. All local, state, and federal permit requirements related to implementing stormwater management facilities must be met prior to facility use. Surface water discharge from on-site stormwater management facilities shall be conveyed via a drainage system approved by the District.

7.2 Applicability

These Rules and Regulations apply to any property that discharges or requests to discharge, via connection request, development permit, or change in use, to the District's public stormwater system, to groundwater, or to surface waters within District boundaries. These Surface Water Rules apply in Rate Zones 2 and 3.

Stormwater management requirements apply to all new development and redevelopment activities that result in 5,000 or more square feet of new or replaced impervious area. Stormwater runoff from the new development and redevelopment areas must meet the technical

standards found in the Stormwater Standards. These same standards apply to impervious areas subject to a change in point of discharge.

Source control requirements apply to development proposals with high-risk characteristics. Development proposals include new development, redevelopment, tenant improvements, or to existing sites that propose new offsite discharges. High-risk characteristics and the required source controls are identified in the Stormwater Standards. Source control requirements are applied to areas where the high-risk characteristics occur and any areas that are hydraulically connected to those areas.

Erosion control requirements apply to all development and construction related activity. Sites that disturb 800 square feet or more are required to obtain an Erosion Prevention and Sediment Control Permit from WES.

7.3 Discharge Regulations and Requirements

7.3.1 Compliance with Permits

Any industrial discharger, discharger associated with construction activity, or other discharger subject to any valid NPDES or Water Pollution Control Facility permit issued by the DEQ, from which pollutants may enter the public or private stormwater system, shall obtain and comply with all provisions of such permits, including notifying and cooperating with local entities as required by state and federal regulations. Proof of compliance with said permits may be required in a form acceptable to the District prior to issuance of any grading, building, occupancy permits, or business license. At the District's request, the discharger shall submit a copy of Discharge Monitoring Reports required by NPDES or Water Pollution Control Facility permits to the District.

7.3.2 Compliance with State, Local, and Federal Regulations

All users of the public stormwater system and any person or entity whose actions may affect the system shall comply with all applicable federal, state, and local laws. Compliance with the requirements of this section shall in no way substitute or eliminate the necessity for compliance with applicable federal, state, and local laws.

7.3.3 Accidental Spill Prevention and Control

Dischargers who handle, store, or use hazardous or toxic substances (or discharges prohibited under Section 7.7 shall, upon written request of the District, prepare and submit an Accidental Spill Prevention and Control Plan to the District for submittal. If other laws or regulations require an Accidental Spill Prevention and Control Plan, a plan that meets the requirement of those other laws and regulations will satisfy the requirement of this section.

7.3.4 Notification of Spills

As soon as any person in charge of a facility or responsible for emergency response for a facility becomes aware of any suspected, confirmed, or unconfirmed release of material, pollutants, or waste creating a risk of discharge to the public stormwater system and/or surface waters, such persons shall immediately do the following:

- A. Begin containment procedures.
- B. Notify proper emergency personnel in case of an emergency.
- C. Notify appropriate District and/or state officials regarding the nature of spill.

- D. Dischargers shall immediately take all reasonable steps to minimize the effects of an illicit discharge to the public storm sewer and drainage system or any waters of the state. These actions may include cleaning the impacted public and private system components under public direction or performing additional monitoring to determine the nature and extent of the discharge.
- E. Follow-up with the District regarding compliance and modified practices to minimize future spills, as appropriate. The Director may require dischargers to make structural or operational modifications to their facilities, equipment, or drainage systems or to take other measures to protect the public storm sewer and drainage system. Such structures and site modifications must be reviewed and approved by the Director to determine sufficiency.

The notification requirements of this section are in addition to any other notification requirements set forth in federal, state, or local regulations and laws. The notification requirements do not relieve the person of necessary remediation.

7.3.5 Removal of Illicit Connections

The District may require by written notice that a person responsible for an illicit connection to the public stormwater system comply with the requirements of this section to eliminate the illicit connection or secure approval for the connection by a specified date.

7.3.6 Removal of Illicit Discharges

Whenever the District finds that a discharge of pollutants is taking place or has taken place which will result in, or has resulted in, pollution of stormwater or the public stormwater system, the District may require, by written notice, that the discharge cease, the pollution be remediated, and the affected property restored.

Whenever the District determines that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution or illicit discharges to the public stormwater system, the District may, by written notice, order that such person undertake such monitoring activities and/or analyses and furnish such reports as the District may deem necessary to demonstrate compliance with the requirements of these Rules and Regulations.

The written notice shall be served either in person or by certified or registered mail, return receipt requested, and shall set forth the basis for such order and shall particularly describe the monitoring activities and/or analyses and reports required.

The burden to be borne by the owner or operator, including costs of these activities, analyses, and reports, shall bear a reasonable relationship to the need for the monitoring, analyses, and reports and the benefits to be obtained.

The recipient of such order shall undertake and provide the monitoring, analyses, and reports within the time frames set forth in the order.

7.4 Stormwater Management Requirements

This section establishes performance standards for stormwater systems and stormwater management facilities.

7.4.1 General Policy

All development shall be planned, designed, constructed, and maintained to:

- A. Protect and preserve existing streams, creeks, natural drainage channels, and wetlands to meet state and federal requirements or to the maximum extent practicable.
- B. Protect property from flood hazards. Provide an overflow route for runoff if the system fails.
- C. Provide a system by which storm/surface water within the development will be controlled without causing damage or harm to in-stream conditions or habitat, or to property or persons.

Development projects shall not be phased or segmented in such a manner to avoid the requirement of these Rules and Regulations.

7.4.2 Stormwater Review

All development and redevelopment activities that result in 5,000 sf or greater of new or replaced impervious surface area, cumulative over the last three years, are subject to stormwater review including, but not limited to, developments that are subject to land use review and building permitting processes. These processes generally include all land use proposals, site development, and permit approvals within, or proposed to be within, District boundaries. The stormwater requirements can be found in the District's Stormwater Standards.

7.4.3 Stormwater Review Exemptions

Projects in the following categories are generally exempt from stormwater review:

- A. Residential structures being re-built following fire damage, flooding, earthquake, or other natural disasters, as long as the structure is re-built at the same scale and discharging to the same disposal point. Expansions to the original footprint, such as adding or altering the original structure, may trigger stormwater management requirements for the expanded impervious area.
- B. Interior remodeling projects and tenant improvements.
- C. Stream enhancement or restoration projects approved by the County.
- D. Development activities that are considered farming and forest practices that are also exempt from local zoning ordinances, land-use approval and building code requirements including roads, structures, and site improvement for properties that are located outside of the UGB where stormwater is managed through dispersion with no direct connection to the public drainage system. Buildings and site development improvements associated with farm and/or forest practices that are required to obtain a building permit or land-use approval including structures, roads and impervious surface areas are subject to the requirements of these standards.
- E. Modular/temporary structures that will be removed at the completion of the project and do not have a direct connection to the public stormwater system.
- F. Actions by a public utility or any other governmental agency to remove or alleviate an emergency condition.
- G. Road and parking area preservation/maintenance projects such as pothole and square cut patching, surface sealing, replacing, or overlaying of existing asphalt or concrete pavement, provided the preservation/maintenance activity does not disturb the native subgrade or expand the existing area of impervious coverage above the thresholds provided in the Stormwater Standards.

- H. Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics.
- I. Non-pollution generating, linear projects (e.g., pedestrian and bicycle pathways, sidewalks, trails, and ramps) that disperse stormwater runoff into vegetated areas, as long as there is no connection to a storm system as part of the project.

7.4.4 Stormwater Minimum Requirements

The District restricts the uncontrolled and untreated discharge of stormwater runoff into any stormwater system and/or natural drainageway. The District's Stormwater Standards are intended to provide the basic design criteria necessary to mitigate stormwater runoff. The District Stormwater Standards address flow control, water quality, conveyance system design, downstream analysis, safe overflow pathway, erosion prevention and sediment control, source control for high pollutant activities, and operations and maintenance. In the District's sole discretion, the District may authorize the use of a fee in lieu approach where a site is determined by District staff to be unable to meet the flow control or water quality performance standards. The District's Stormwater Standards provide additional detail on the eligibility criteria and the process for implementing the fee in lieu program.

7.4.5 Submittals

Development plans subject to the District Rules and Regulations and Standards shall be prepared by a licensed professional engineer registered in the State of Oregon. All plans and reports must be stamped and signed by the project engineer. For additional information on the submittal requirements see the applicable appendices of the Stormwater Standards.

7.4.6 Construction and Certification

All publicly maintained infrastructure such as conveyance systems, vaults, stormwater facilities, or other improvements shall be constructed per the District's standards and specifications.

Following completion of construction, the engineer shall submit applicable as-built drawings and documents, stamped by a professional engineer, indicating all of the infrastructure has been inspected and installed per approved plans and/or approved changes.

7.5 Source Control Requirements

7.5.1 Purpose

The purpose of this section is to minimize the risk of specific site uses and characteristics that have the potential to generate higher levels of pollutants than typical stormwater runoff. The objective is to manage pollutants at the point of generation, reduce their transport into stormwater, and mitigate potential impacts. Source controls may include, but are not limited to, requirements for cover, drainage, containment, discharge to sanitary sewer, hydraulic isolation, shut-off valves, and operational activities such as spill prevention, signage, and storage.

7.5.2 General Policy

Development proposals that include site uses or characteristics that can contribute pollutants to stormwater must manage and mitigate those impacts as a condition of

development. Source control requirements are included in the District's Stormwater Standards.

7.5.3 Maintenance of Source Controls

The property owner shall maintain all source controls required by the District as long as the tenant or site occupant continues operation with the same site uses or characteristics.

7.5.4 Inspection

The source control measures shall be installed by the owner or their representative and shall be inspected and approved by a District inspector prior to the start of any site uses that triggered the source controls. The District inspector may inspect the development site to determine compliance with the source control plan and development permit at any time during the construction of the project. If applicable, the development site must satisfactorily pass a final inspection prior to District approval of the Certificate of Occupancy.

7.6 Erosion Control Requirements

7.6.1 Purpose

The purpose of this section is to minimize the amount of sediment, construction waste, and other pollutants reaching the surface water management system as a result of construction, grading, excavating, clearing, and any other activity which causes or accelerates erosion and to minimize the disturbance of existing vegetation. The objective is to control erosion at its source as a means of maintaining and improving water quality and minimizing water pollution, downstream flooding, and wildlife habitat damage.

7.6.2 General Policy

All development, regardless of permit applicability or status, shall keep sediment laden water and any other forms of stormwater pollution from entering the public stormwater system.

The requirements for erosion prevention and sediment control shall be implemented in accordance with the Erosion Prevention and Sediment Control (EPSC) Plan requirements included in the District's Stormwater Design Standards and the District's Erosion Prevention and Sediment Control Planning and Design Manual (EPSC Manual).

7.6.3 Measures During Construction

- A. Temporary and permanent measures for all construction projects shall be required to lessen the adverse effects of erosion and sedimentation. The owner or their agent shall properly install, operate, and maintain both temporary and permanent works to protect the environment, adjacent properties, and the public storm system during the useful life of the project. No visible or measurable erosion shall leave the property during construction or during activity. The owner of the property, together with any person who causes such action from which the visible or measurable erosion occurs, shall be responsible for cleanup, fines, and damages. Cleanup responsibilities include cleaning up the storm system, creeks, drainage ways, wetlands, or rights-of-way impacted by a project. For the purposes of this section "visible and measurable erosion" includes, but is not limited to, the following:

- a. Deposits of mud, dirt, sediment, construction waste such as concrete washout debris or saw cutting slurry, construction materials such as rocks or asphalt, or similar material on public or private streets, adjacent property, or into the storm and surface water system, either by direct deposit, dropping, discharge, or as a result of the action of erosion or construction activity
 - b. Evidence of concentrated flows of water over bare soils; turbid or sediment-laden flows; or evidence of on-site erosion such as rivulets or bare soil slopes, where the flow of water is not filtered or captured on the site
 - c. Earth slides, mud flows, earth sloughing, or other earth movement, which results in material leaving the property
- B. Dust and other particulate matters containing pollutants have the potential to settle on property and be carried to waters of the state through rainfall or other means. Dust shall be minimized to the extent practicable, utilizing all measures necessary.
 - C. Maintenance and repair of existing facilities shall be the responsibility of the applicant.
 - D. The applicant is responsible for updating the EPSC Plan with additional controls and resubmitting to the District if the approved EPSC Plan is determined to be ineffective or inadequate for changing site and weather conditions.
 - E. EPSC measures set forth in any approved erosion control plan shall be implemented and maintained on the site until the completion of the project. The District may allow for the removal of selected erosion control measures at an earlier date if erosion control is assured by established landscaping and approved by the District.

7.6.4 Erosion Prevention and Sediment Control Permit

The applicant for a development permit shall submit an EPSC Plan as part of the application specifying appropriate BMPs. An EPSC Permit is required under the following conditions:

- A. Prior to placement of fill, site clearing, or land disturbances, including, but not limited to, grubbing, clearing, or removing ground vegetation, grading, excavating, or other activities, any of which results in the disturbance or exposure of soils covering an area of 800 square feet or greater.
- B. For disturbed areas or exposed soils of areas less than 800 square feet, where the District has determined that site conditions may result in visible and measurable erosion and where the District has provided written notice of the requirement to obtain an EPSC Permit to the property owner. Upon notice by the District, all work shall cease pending receipt of an EPSC Permit and installation of approved erosion control measures.
- C. For any lot that includes natural resources regulated by the District, an EPSC Permit shall be required prior to placing fill, site clearing, or disturbing land, including, but not limited to, grubbing, clearing or removing ground vegetation, grading, excavating, or other activities, any of which has the potential for, or results in, visible and measurable erosion, regardless of the area of disturbance.

Timing

Obtaining the EPSC Permit is required prior to the following, whichever comes first:

- A. Issuance of grading permits, building permits, construction plans and other applicable development permits.

- B. Placement of fill, site clearing, land disturbances, including, but not limited to, grubbing, clearing, or removing ground vegetation, grading, excavating, or other activities, any of which disturbs or exposes soil.

Permit Duration

- A. Development or construction must be initiated as per the approved final development plans within one (1) year of the date of EPSC Permit issuance or the permit will be null and void. If a Hearings Officer or the Board specify a period for commencing development, that period shall supersede.
- B. EPSC Permits (excluding 1200-C and 1200-CN permits) issued by the District shall expire and become null and void 24 months after the date of permit issuance unless extended by the District.
 - a. If the work authorized by such permit has not received final inspection approval prior to the permit expiration date, and the permit has not been extended by the District, all work shall stop until a new permit is obtained that conforms to the erosion control regulations in effect at the time of re-application.
 - b. The District may extend the time for action by the permittee for a period not exceeding 12 months in the District's sole and absolute discretion on written request by the permittee showing that circumstances beyond the control of, and unforeseeable by, the permittee have prevented work from being completed.
- C. All 1200-C and 1200-CN permits shall expire and become null and void if the permit is not renewed annually or as per the general permit schedule set forth by the DEQ.

7.6.5 Erosion Prevention and Sediment Control Plan

Prior to approval of an EPSC Permit, the applicant shall submit an EPSC Plan for review and approval. The EPSC Plan shall be developed in accordance with the Erosion Prevention and Sediment Control Planning and Design Manual. The EPSC Plan shall contain a list of BMPs to be used during construction to control and limit soil erosion in accordance with the District's current EPSC Manual. The EPSC Plan shall include a description of erosion control methods that are adequate to ensure that siltation and pollutants from the grading, site clearing, or construction are contained onsite during the period of activity on the site until the final landscaping is sufficiently established to control erosion.

7.6.6 Approval Process Fees

Fees for EPSC Plan review, site inspections, related activities, and the District's EPSC Manual will be set and adopted by the Board.

7.6.7 Maintenance and Amendment of Inadequate Measures

The permittee shall maintain all facilities required by an approved EPSC Plan to assure their continued effectiveness during construction or other permitted activity. If the facilities and techniques approved in an erosion control plan are not effective or sufficient as determined by the District Site Inspector, the permittee shall submit a revised plan within three (3) working days of written notification by the District. In cases where erosion is occurring, the District may require the permittee to immediately implement interim control measures in accordance with the enforcement procedures in Section 10. .

Upon District approval of the revised plan, the permittee shall immediately implement the revised plan. The permittee shall also immediately remove any eroded sediment carried or tracked onto pavement surfaces, off-site areas, or into the surface water management system such as storm drain inlets, pipes, ditches, culverts, stream corridors, wetlands, or other water bodies. Sediments shall be removed from wetlands, vegetated swales, stream corridors, and water bodies in accordance with District Rules and Regulations and federal, state, and local jurisdictions.

7.6.8 Inspection

The erosion control measures shall be installed by the owner or their representative and shall be inspected and approved by a District inspector prior to the start of any excavation work. The permittee or their designated representative shall be responsible for inspecting and monitoring the site erosion controls during the project and keeping records of their inspection. These records shall be made available to District staff upon request. The District inspector may inspect the development site to determine compliance with the erosion and sediment control plan and permit at any time during the construction of the project. If applicable, the development site must satisfactorily pass a final erosion control inspection prior to District approval of the Certificate of Occupancy.

7.7 Stormwater Discharge Prohibitions

7.7.1 Non-Stormwater Discharge Prohibitions

The commencement, conduct, or continuance of any non-stormwater discharge to the public stormwater system or surface waters is prohibited and is a violation of this section, except as outlined below:

- A. The prohibition shall not apply to any non-stormwater discharge permitted or approved under a valid Industrial or Municipal NPDES Permit, waiver, or discharge order issued to the discharger and administered by the DEQ, provided that the discharger is in full compliance with all requirements of the permit, waiver, or discharge order and other applicable laws or regulations and provided that written approval has been granted by the District for any discharge to the Public Stormwater Conveyance System.
- B. The prohibition shall not apply to the following non-stormwater discharges to the public stormwater system: uncontaminated water line flushing, landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration (as defined in 40 CFR 35.2005(20)) to the District's Public Stormwater System, uncontaminated pumped groundwater, discharges from potable water sources, startup flushing of groundwater wells, foundation drains, air conditioning condensation, irrigation water, dechlorinated swimming pool discharges, springs, water from crawl space pumps, footing drains, lawn watering, individual car washing, charity car washing¹, flows from riparian habitats and wetlands, fire hydrant flushing, street wash water, routine external building wash-down², water associated with dye

¹ Provided that chemicals, soaps, detergents, steam, or heated water are not used. Washing is restricted to the outside of the vehicle, no engines, transmissions, or undercarriages.

² Provided that chemicals, soaps, detergents, steam, or heated water are not used.

testing activity, discharges of treated water from investigation, removal and remedial actions selected or approved by the DEQ, and flows from firefighting. This assumes these discharges are not significant source of pollution.

Discharge of flows to the public or private stormwater system from private washing of sidewalks, streets, and parking lots are discouraged to the maximum extent practicable.

The Director may require BMPs to reduce pollutants or may prohibit a specific discharger from engaging in a specific activity identified in Section 7.7 if at any time the Director determines that the discharge is, was, or will be a significant source of pollution.

7.7.2 Discharge in Violation of Permit

Any discharge that would result in or contribute to a violation of a Municipal NPDES Permit, either separately considered or when combined with other discharges, is a violation of this section and is prohibited. Liability for any such discharge shall be the responsibility of the persons causing, or responsible for, the discharge, and such persons shall defend, indemnify, and hold harmless the District in any administrative or judicial enforcement action against the permit holder relating to such discharge.

7.7.3 Illicit Connections and Illicit Discharges

No person shall establish, use, maintain, or continue illicit connections to the public stormwater system, or begin or continue any illicit discharges to the public stormwater system or surface waters.

7.7.4 Waste Disposal Prohibitions

No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, catch basin, inlet, or other component of the public stormwater system, materials that may cause or contribute to pollution, including, but not limited to, any refuse, rubbish, garbage, fuels, oils, litter, yard debris, landscape materials, compost, topsoil, bark, gravel, sand, dirt, sod, sediment or sediment-laden runoff from industrial, construction or landscaping activities, hazardous materials, or other discarded or abandoned objects, articles, and accumulations.

Commercial or industrial operations or businesses shall not discharge any process water directly to a private or public stormwater system or surface waters except as permitted or approved under a valid Industrial or Municipal NPDES permit, waiver, or discharge order issued to the discharger and administered by the DEQ. This includes, but is not limited to, outdoor commercial, industrial, or business activities that create airborne particulate matter, process by-products or wastes, hazardous materials, or fluids from stored vehicles, where runoff from these activities discharges directly or indirectly to a private or public stormwater system or surface waters.

7.7.5 General Discharge Prohibitions

No person or person in charge of property shall discharge or cause to be discharged into the public stormwater system any of the following:

- A. Any discharge that may harm human health or aquatic life when discharged to a surface water.

- B. Any discharge in violation of the conditions of the discharger's NPDES or other permit or authorization.
- C. Any unauthorized discharge that is intentionally routed to District Underground Injection Control (UIC) systems.
- D. Any discharge with any of the following characteristics or materials:
 - a. A visible sheen
 - b. A visible discoloration including, but not limited to, those attributable to dyes and inks, except for non-toxic dyes used or approved by the District to investigate the potential source of an illicit connection
 - c. Any discharge having a pH of less than 6.5 or greater than 8.5 or that contains toxic chemicals
 - d. Heat that could damage or interfere with any element of the District's storm sewer and drainage system or that causes or contributes to a violation of the receiving-water temperature standards
 - e. Toxic substances at concentrations that cause or contribute to violations of in-stream water quality standards set by the DEQ or that exceed remedial action goals defined in a DEQ or EPA Record of Decision for the protection of surface water or sediment
 - f. Any discharge containing human sanitary waste or animal feces
 - g. Refuse, rubbish, garbage, discarded or abandoned objects, articles, or accumulations of discharges that contain visible floating solids
 - h. A Process Wastewater, unless authorized to discharge under a DEQ permit
 - i. A volume that causes or contributes to an exceedance of the planned capacity of the storm sewer and drainage system, as established by the Director
 - j. Liquids, solids, or gases which, either alone or by interaction, could cause a fire or an explosion including waste streams with a closed-cup flashpoint of less than 140° F (60° C) (using test methods described by 40 CFR 261.21); or discharges which cause the atmosphere in any portion of the city's storm sewer and drainage system to reach a concentration of 10 percent or more of the lower explosive limit per National Institute for Occupational Safety and Health standards
 - k. A substance that causes or may cause a nuisance, hazard, interference, obstruction or damage to the District's storm sewer and drainage system, District personnel, the general public, receiving waters, or associated sediments
 - l. Any substance that causes or contributes to a violation of the terms of the District's NPDES MS4 Discharge Permit or Water Pollution Control Facility for Class V UIC Permit or in-stream water quality standards set by the State of Oregon

Rules and Regulations

8. Natural Resources and Vegetated Buffers

8.1 Purpose and Objectives

The provisions of this section are intended to prevent and reduce adverse impacts and to enhance drainageways and water resources. These requirements are intended to protect the beneficial uses of drainageways and water resources within the District in combination with other state, federal, county, and local laws, and ordinances.

Water Quality Resource Areas (WQRAs) are protected areas that are located along the edge or perimeter of water resources such as streams, lakes, ponds, reservoirs, and wetlands. WQRAs provide water quality treatment and habitat protection. The District's requires WQRAs for all new developments and redevelopments that are bounded by or contain water resources.

The District requires WQRAs to protect the water quality of water resource areas, which include perennial and intermittent streams and wetlands.

8.2 Applicability within District

The provisions of this section shall apply to all development or redevelopment of property within the District. No person shall undertake development activities on a parcel in the District that contains water resources without first obtaining WQRA approval from the District.

8.3 Applicability with Other Agency Requirements

The applicant shall, at a minimum, meet the District WQRA requirements as provided in the Buffer Standards. However, the local planning authority may have additional requirements, which may be more or less restrictive than the District requirements; local, state, or federal agencies may have similar requirements that may or may not align with the District's requirements and policies for WQRAs.

8.4 General Requirements

All parcels containing a water resource or within 200 feet of a water resource located on an adjacent parcel must submit to the District for a WQRA Boundary Verification prior to any development activity. Any parcel with a WQRA must submit to the District for a WQRA Development Permit prior to any development activities.

Any impacts to the WQRA must be mitigated as calculated by the Buffer Standards.

The preliminary site plan must meet design requirements and submittal requirements laid out in the Buffer Standards, including, but not limited to documentation methodology, vegetated corridors widths, mitigation priorities, and landscaping and planting plans.

A partition or subdivision of property that contains a WQRA shall require that the WQRA shall be platted as a tract rather than as part of any lot. The tract shall be protected from development by restrictive covenant, public dedication, or District approved equivalent. However, the tract may be subject to an easement conveying storm and surface water management rights to the surface water management authority.

8.5 General Prohibitions

The following uses and activities are prohibited within a WQRA:

- A. The planting of invasive non-native or noxious vegetation; and
- B. Uncontained areas of hazardous materials as defined by the Oregon Department of Environmental Quality

Rules and Regulations

9. Use of Public Property

9.1 Purpose and Objectives

The purpose of this section is to protect the District's public property; protect the health, safety, and welfare of the public using such areas; ensure the best use of and benefits from such areas; and provide for legal remedies for violation of these Rules. The North Clackamas Park and Recreation District is authorized to maintain District natural areas as directed.

9.2 Applicability

This section shall apply to all properties that are owned, operated, or managed by the District.

9.3 Entry and Access to Public Property

The District may assess a fee for access to or use of District property, such as a parking fee or an entrance fee. These fees will be approved by the Board.

District properties (excluding buildings) designed for public use are open half an hour before sunrise and close half an hour after sunset unless otherwise established by the District and indicated on signs posted at the property.

9.4 Permits Required

A special use permit shall be obtained prior to pursuing the following activities in any District-owned property:

- A. Movie, commercial or television filming, photography, and production.
- B. Organized events, except those specifically hosted by the District.
- C. Special educational events or festivals, except those specifically hosted by the District when such events are held in District-owned properties.
- D. The District may, from time to time, designate certain District properties where alcohol may be brought for use in meal preparation or consumption by issuing a permit for this purpose. Said permit will be in addition to any permit required by the Oregon Liquor Control Commission.
- E. The District may, by issuance of a permit, allow the sale of alcoholic beverages on the premises of designated facilities when duly licensed by the Oregon Liquor Control Commission. For parks located within the District, such permits shall be administered and issued by the District.

The Director or authorized designee, or any law enforcement officer may revoke any permit when it has been issued erroneously or when a law enforcement officer has probable cause to believe the permit holder or any person in his or her custody, control, or family under that permit, has violated any of the provisions of these Rules and Regulations or any state, county, or federal law.

9.4.1 Production of Permits Required

Any permit issued by the District will be kept at the site of the permitted activity for the duration of the activity. No person shall fail to produce and exhibit, upon the request of any law enforcement officer or District employee, any required permit from the Director the person claims to have.

9.4.2 Impeding Permittee Prohibited

No person shall disturb or interfere unreasonably with any person or party occupying any area of a District property or participating in any activity under the authority of a permit.

9.5 Exclusion from Public Property

- A. The Director or authorized designee is hereby authorized to close to public use any District owned and/or maintained properties, or portion thereof, restrict the times when any District owned or maintained area shall be open to such use, and limit or prohibit public use whenever such action is necessary to protect the health or safety of the public or maintain proper function of the public facilities. Notwithstanding the above, the Director shall obtain permission from the District Administrator prior to authorizing any property closure that may impact the work of District employees and may rise to the attention of the District Board. Cause for closure or limitation on use may include sanitary conditions; protection of the watershed; construction or repairs; conservation of fish and wildlife; excessive traffic; unsafe or overcrowded shoreline, ramp, parking, or road conditions; prevention of damage to public facilities; or any dangerous, unsafe, or unhealthful conditions.
- B. Authorized District employees, District's agents, and law enforcement officers shall have the authority to cite or eject from a District property any person who violates either any of the rules herein or an exclusion order.
- C. Any person whose permit has been revoked and all other persons in his or her custody, control, and family under that permit shall immediately leave the District's property.
- D. No person who has been ordered to leave a District property by a law enforcement officer, District employee, or District's agents shall remain therein.

9.6 General Prohibitions

Unless specifically allowed through a Special Use Permit or other written agreement with the District, the following prohibitions apply to District owned property.

9.6.1 Entry to Property

Other than law enforcement officers, authorized District employees, or Districts agents, No Person Shall:

- A. Enter any District property, or park a vehicle on District property, without permission of the District, except on District properties designated for public use.
- B. Enter or remain in any District property, or park a vehicle on District property, after the daily closing time and before the daily opening time without permission of the District. Vehicles in violation of this regulation are subject to tow in accordance with Clackamas County Code Chapter 7.01.
- C. Fail to produce, upon request of any law enforcement officer or District employee, while within the boundaries of any District property, any required proof of entrance and/or fee payment if it is required.

9.6.2 Alterations of or to District Property

No person shall:

- A. Mutilate, deface, damage, move, or remove any table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, traffic recorder, or other structure or facility of any kind.
- B. Dig up, deface, or remove any dirt, stones, rock, or other substance whatever, make any excavation, quarry any stone, lay or set off any blast, or cause or assist in any of the foregoing activities.
- C. Plant any tree or shrub in any District property without written permission of the District.
- D. Except in designated areas, erect temporary signs, markers, or inscriptions of any type without permission from the District.
- E. Pick, cut, mutilate, or remove any flowers, shrubs, foliage, trees, or plant life or products of any type. However, from time to time the District may authorize the removal of non-native species or issue a special use permit for the collection of plant material for the purpose of scientific study.

9.6.3 Fires

No person shall build a fire on any District property.

9.6.4 Hunting, Fireworks and Weapons

No person shall within any District property:

- A. Hunt, pursue, trap, kill, injure, or molest any bird or animal or have in possession any wild animal, bird, fish, or reptile or the eggs or nest of any bird or reptile except for county, state, or federal officers enlisted to remove dangerous or threatening wildlife. However, sport angling is permitted in compliance with rules and regulations promulgated by Oregon Department of Fish and Wildlife (ODFW). From time to time the District may permit the collection of fish or wildlife specimens for the purpose of scientific study when such collection has been authorized by ODFW. Salvage of aquatic species during stream dewatering for a restoration project under the supervision of ODFW or a qualified contractor is allowed.
- B. Discharge, for any reason, any firearm, pellet gun, paint ball gun, bow and arrow, slingshot, or other weapon, except for a law enforcement officer in the discharge of their official duties.
- C. Possess any loaded firearm, except for a law enforcement officer in the discharge of their official duties.
- D. Remove any weapon from the owner's vehicle while in a District property except for a law enforcement officer. All weapons that are stored in a public citizen's vehicle, in a District property, shall be completely unloaded at all times except for those carried by a law enforcement officer.

9.6.5 Consumption of Alcoholic Beverages

Except authorized District employees and agents, no person shall possess or consume alcoholic beverages except as authorized by a Special Use Permit from the District.

9.6.6 Concessions and Solicitations

No person shall:

- A. Operate a concession, either fixed or mobile.
- B. Solicit, sell, or offer for sale, peddle, hawk, or vend any goods, wares, merchandise, food, liquids, or services without having obtained a permit or contract from the District.
- C. Advertise any goods or services, except signs painted or mounted on vehicles in personal use.

9.6.7 Animals

No person shall:

- A. Ride, drive, lead, or keep a horse or other livestock in any District property except when used for official business by a law enforcement office.
- B. Bring any animal, other than service animals, into any District building except as may be permitted by the District for special events.
- C. Allow any animal in his or her custody or control to annoy, molest, bark continuously, attack, or injure any person or animal in the District property.
- D. Tie up any animal in his or her custody or control and leave such animal unattended.
- E. Leave their animal's waste within a District property unless it is placed in a bag or container and left in a designated waste receptacle.

9.6.8 Motor Vehicles

No person shall:

- A. Operate any motor vehicle in violation of the State Motor Vehicle Code and other laws.
- B. Operate any motor vehicle at a speed in excess of 10 miles per hour unless otherwise designated.
- C. Park a motor vehicle any place other than in designated parking areas.
- D. Operate a motor vehicle or bicycle on any area or trail that is not specifically designated for motor vehicle or bicycle use, that is posted as closed to the public, or on which signs have been placed by authority of the District prohibiting the operation of motor vehicles or bicycles.
- E. Leave any vehicle at any District property after hours or overnight without having obtained written permission from the District.

9.6.9 Waste Disposal

No person shall:

- A. Leave any trash, refuse, garbage, litter, waste material, vehicles, bottles, cans, ashes, waste, paper, garbage, sewage, fish entrails, and other rubbish or refuse outside of receptacles designated for that purpose.
- B. Throw, discharge, or otherwise place or cause to be placed in the soils of any District property or the waters of any fountain, pond, lake, stream, or other body of water any matter or thing which will or may result in the pollution of those waters or soils.

9.6.10 Camping

No Person shall camp overnight or longer on any District property.

9.6.11 Noise

No Person shall:

- A. Set up or use a public address system without having secured a special use permit from the District.
- B. Operate or use any noise-producing machine, vehicle, device, or instrument in a manner that is disturbing to other District visitors.

9.6.12 Behavior

No person shall use abusive or threatening language or gestures, create any public disturbance, panhandle, or engage in riotous behavior.



WES Rules and Regulations

10. Enforcement

This section presents an overview of the enforcement policies, methods, and processes used by the District.

10.1 Purpose and Objectives

The Director, or their designee, may enforce all of these Rules and Regulations, and any law enforcement officer may enforce the rules of Section 10. . Anyone authorized may use the procedures of this section in order to enforce these Rules and Regulations. No person shall harass, obstruct, interfere with, or disobey the direction of any law enforcement officer or District employee carrying out the enforcement of these Rules and Regulations. The formal enforcement action as described in these sections in no way limits the District from seeking other legal or equitable remedies in the proper court as provided by Oregon law.

10.1.1 Other Laws Applicable

These Rules and Regulations shall in no way be substitute for or eliminate the necessity of conforming with any and all state laws and rules and other ordinances, which are now or may be in the future in effect which relate to the activities regulated in this ordinance.

10.1.2 Severability

If any section, subsection, sentence, clause, phrase, or portion of these Rules and Regulations is for any reason held invalid or unconstitutional by a court of competent jurisdiction, that portion shall be considered a separate, distinct, and independent provision, and the holding shall not affect the validity of the remaining portion.

10.1.3 Fines or Civil Penalties

All monetary fines or civil penalties shall be set by the Board and may be in addition to any fines or fees set by DEQ.

10.1.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant Person. Enforcement of violations will generally be in accordance with the WES's enforcement response plan. However, the Director may take other action against any Person when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant Person.

10.2 Violations

Whenever the Director has reason to believe that a use or condition exists in violation of any of the Rules and Regulations adopted thereunder, they are authorized to initiate enforcement action. The violation will be documented by the use of a citation, which form shall vary depending on the violation, further described in Section 10.6.

The District may impose civil penalties, including, but not limited to, stop work orders, fines, and modification or revocation of permit and/or cessation of services or seek an injunction or other

relief provided by law when any user or person violates any condition or provision of these Rules and Regulations or any final order entered with respect thereto as well as violation of federal or state statutes, regulations, or administrative rules.

The goal of enforcement is to (a) obtain and maintain compliance with applicable federal and state statutes or administrative rules, ordinances, Rules and Regulations, permits and orders; (b) protect the public health and the environment; (c) deter future violators and violations; and (d) ensure appropriate and consistent enforcement. Except as provided in Section 10.7, the District shall endeavor by conference, conciliation, and persuasion to solicit compliance. The District shall address all documented violations in order of seriousness at the most appropriate level of enforcement necessary to achieve the goals set forth herein under the circumstances of each violation. The violators who do not comply with initial enforcement action shall be subject to increasing levels of enforcement until compliance is achieved.

10.3 Declaration of Intent

- A. All violations of the Rules and Regulations are determined to be detrimental to the stormwater system, sanitary sewer system, or the environment and are hereby declared to be a public nuisance. All conditions which are determined by the Director to be in violation of the Rules and Regulations shall be subject to the provisions of this section and shall be corrected by any reasonable and lawful means as provided herein.
- B. The Director shall have the power to render interpretations in order to clarify the application of provisions of the Rules and Regulations. Such interpretations shall be in conformity with the intent and purpose of the Rules and Regulations.

10.4 Inspection, Entry, and Sampling

Authorized District representatives may inspect the property and facilities of any person, property, or facility to determine compliance with the requirements of these Rules and Regulations. The person shall allow the District or its authorized representatives to enter upon the premises at all reasonable hours for the purpose of inspection, sampling, or records examination. The District shall also have the right to set up on the person's property such devices as are necessary to conduct sampling, inspection, compliance, monitoring and/or metering operations. The right of entry includes but is not limited to access to those portions of the premises that contain facilities for sampling, measuring, treating, transporting, or otherwise handling surface water, wastewater, and storing records, reports, or other documents related thereto.

The District is authorized to conduct inspections and take such actions (including photographs) as required to enforce any provisions of these Rules and Regulations or any permit issued pursuant to these Rules and Regulations whenever the Director has reasonable cause to believe there exists any violation of these Rules and Regulations. If the premises are occupied, credentials shall be presented to the occupant and entry requested. If the premises are unoccupied and no permit has been issued, the District shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused in either case, the District shall have recourse to the remedies provided by law to secure entry, including warrants for entry.

Where feasible, inspections shall occur at Reasonable Times. If a permit has been issued and the responsible party or their representative is at the site when the inspection is occurring, the Director or authorized representative shall first present proper credentials to the responsible party. The permittee or person having charge or control of the premises shall allow the Director or the Director's authorized representatives, agents, and contractors to:

- A. Enter upon the property where any regulated facility or activity is located or conducted, or where records must be kept under the conditions of a permit.
- B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of a permit.
- C. Inspect at reasonable times the property, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required by these Rules and Regulations or under a permit.
- D. Sample or monitor at reasonable times, for the purpose of assuring permit compliance with these Rules and Regulations or as otherwise authorized by local or state law, any substances or parameters at any location.

10.4.1 Special Investigations

Whenever any work has been commenced, for which a permit or approval is required by the Rules and Regulations, without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

An investigation fee, in addition to the permit or approval fee shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the base permit or approval fee required by the applicable requirements of these Rules and Regulations.

10.5 Suspension or Revocation of Permits

10.5.1 Suspension of Permits

The Director may temporarily suspend any permit issued under the authority of these Rules and Regulations for (a) failure of the holder to comply with the requirements of the Rules and Regulations thereunder or (b) failure to comply with any notice, citation, or order issued pursuant to these Rules and Regulations.

Such permit suspension shall be carried out through the citation and order provisions of these Rules and Regulations, and the suspension shall be effective upon service of the citation and order upon the holder or operator. The holder or operator may appeal such suspension as provided by these Rules and Regulations.

Notwithstanding any other provision of these Rules and Regulations, whenever the Director finds that a violation of the Rules and Regulations has created or is creating an unsanitary, dangerous, or other condition which, in their judgment, constitutes an immediate and irreparable hazard, they may, without service of a written citation and order, suspend and terminate operations under the permit immediately.

10.5.2 Revocation of Permits

In addition to the reasons cited in in these Rules, the Director may permanently revoke any stormwater or sanitary sewer related permit issued by the District for any of the following:

- A. Failure of the holder to comply with the requirements of these Rules and Regulations
- B. Failure of the holder to comply with any notice and order issued pursuant to the Rules and Regulations
- C. Interference with the District in the performance of their duties

- D. Discovery of the District that a permit was issued in error or on the basis of incorrect information supplied to the District
- E. Notice of noncompliance

Such permit revocation shall be carried out through the citation and order provisions of these Rules and Regulations, and the revocation shall be effective upon service of the citation and order upon the holder or operator. The holder or operator may appeal such revocation, as provided by these Rules and Regulations.

A permit may first be suspended pending its revocation or a hearing relative thereto the date the Director renders its final decision.

10.6 Citations for Violations

Whenever the Director has reason to believe that a violation of the Rules and Regulations has occurred, a written citation may be issued by the Director. The Director, or those authorized in by this section, may issue a written citation directed either to the owner or operator of the source of the violation, the person in possession of the property where the violation originates, or the person otherwise causing or responsible for the violation. The citation should be issued first against the violator where the violator is not the property owner (e.g., tenant), unless the seriousness of violation demands filing against a property owner.

10.6.1 Requirements of the Citation

The citation must be served in the manner prescribed in Section 10.12.4 and shall contain:

- A. As applicable: the citation number, case file number, and/or permit number.
- B. The street address when available and a legal description of real property and/or description of personal property sufficient for identification of where the violation occurred or is located.
- C. A statement that the Director, or their designee, has found the person or entity to be in violation of the Rules and Regulations on the property, with a brief and concise description of the conditions found to be in violation.
- D. A statement of the corrective action required to be taken. If the Director has determined that corrective action is required, the order shall require that all required permits be secured, and the work physically commence within such time and be completed within such time as the Director shall determine is reasonable under the circumstances.
- E. A statement specifying the amount of any civil penalty assessed according to Section 10.7 on account of the violation and, if applicable, the conditions on which assessment of such civil penalty is contingent. The civil penalty may be contingent on continued violation after an identified time period for corrective action.
- F. Statements advising that (a) if any required work is not commenced or completed within the time specified above, the Director may proceed to abate the violation as authorized by Section 10.9 and cause the work to be done and charge the costs thereof as a lien against the property and as a joint and separate personal obligation of any person in violation; and (b) if any assessed civil penalty is not paid, the Director will charge the amount of the penalty, and any costs of abatement undertaken pursuant to Section 10.9, as a lien against the property and as a joint and separate personal obligation of any person in violation.

- G. A statement advising that the citation shall become final unless, no later than ten (10) days after the citation is served, any person aggrieved by the order requests in writing an appeal before the Director or Hearings Officer.

Prior Notices and Exceptions

Except as otherwise provided, prior to the assessment of any civil penalty the District shall serve a citation upon the respondent. The written citation shall be served in the manner required by Section 10.12.4, specifying the violation, and stating that the District will assess a civil penalty if a violation continues or occurs after the date of corrective action specified in the citation.

The time allowance for corrective action is not required if (a) the act or omission constituting the violation is intentional or (b) the violation has already ceased to exist or is not expected to continue for more than five (5) days.

10.7 Civil and Criminal Penalties

In addition to or as an alternative to any other judicial or administrative remedy provided herein or by law, any person who violates any portion of the Rules and Regulations, or by each act of commission or omission procures, aids or abets such violation, shall be subject to a civil penalty as provided in this section; however, civil infractions shall be subject to civil penalty as provided in ORS 455.895.

In enforcing any of the requirements of the Rules and Regulations or procedures adopted hereunder, WES is authorized to refer violations of these Rules and Regulations to the proper authorities for investigation and enforcement as criminal matters. Pursuant to ORS 198.600, each and any violation of WES Rules is a Class C misdemeanor.

In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to the District's regulations, permits, or orders by service of a written notice of assessment of civil penalty upon the owner or operator of the source of the violation, the person in possession of the property where the violation originates, or the person otherwise causing or responsible for the violation.

Each day that a violation occurs or continues shall be considered a separate violation.

For violations of discharge limits, each parameter that exceeds a discharge limit shall be considered a separate violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

10.7.1 Civil Penalties Matrix

The amount of any civil penalty shall be determined based on **Table 4** as follows:

Table 4. Civil Penalties

Type of Violation	Civil Penalty, Per Day
Industrial Wastewater Discharge Permit Violations	\$1,000
Regulated Activity without a Permit	\$500
Prohibited Discharge	\$500
Erosion Control	\$500
Water Quality Buffers	\$500
Stormwater Control Facilities	\$500

Trespass and other use of property	\$100
All other Violations	\$1,000

No civil penalty issued by the Director pursuant to this matrix shall be less than \$100 or more than \$10,000 for each day of each violation.

10.7.2 Civil Penalty Assessment

The Civil Penalty assessment shall contain the following information or blanks in which such information is entered:

- A. File number, citation number, or permit number
- B. Name of the person or business entity cited (Respondent)
- C. Name of the property owner
- D. Chapter and section of the rules and regulations violated
- E. A brief description of the violation of which the Respondent is charged in such manner as can be readily understood by a person making a reasonable effort to do so
- F. The date and place at which the violation occurred and the date on which the penalty was issued
- G. The place where the Respondent cited can appeal to the Director and the time within which such appeal must be filed
- H. The penalty assessed for the violation by schedule
- I. Statement to certify that there are reasonable grounds to believe that the Respondent cited committed a violation of the Rules and Regulations

10.8 Stop Work Orders

In addition to civil penalties described in Section 10.7, violations may be enforced by on-site control activities to mitigate existing violations of these rules including failure to follow approved plans and prevent future violations to the greatest extent possible. Initial violations will result in a written description of requirements for compliance and a specified period for compliance as included in the citation. If compliance is not achieved, or violations continue, the Director or designee may issue a stop work order on the project, which will remain in effect until the violation is repaired to the requirements stated in these Rules and Regulations. The District reserves the right to issue an immediate Stop Work Order if a threat is posed to human health or the environment. If the violation is not remedied or the person fails to commence diligently remedying the violation within 24 hours, the District may abate the violation in accordance with Section 10.9.

10.9 Abatement

In addition, or as an alternative to any other judicial or administrative remedy provided herein or by law, the Director may order a Rules and Regulations violation to be abated.

The Director may order any person in violation of the Rules and Regulations to commence corrective work and to complete the work within such time as a Director determines reasonable under the circumstances. The person, subject to the Director's order, shall either complete the corrective work or timely file an appeal. If the required corrective work is not commenced or completed within the time specified, the Director may proceed to abate the violation and cause the work to be done, upon receipt, by a court of competent jurisdiction, of an order authorizing

the same. The Director or District representative is expressly authorized to enter the property of the person committing the violation for the purpose of abatement of said violation. In addition, the District may perform tests on the property to trace sources of water quantity or quality related to the violation.

The actual cost of abatement, including incidental costs such as staff time, legal costs, costs of postage, and any other reasonable costs shall be included as abatement costs of 25 percent of the total fine. The Director will charge the costs thereof as a lien against the property and as both a joint and separate personal obligation of any person who is in violation. All challenges to the reasonableness of the cost charged may be raised at such time as the District undertakes a lien foreclosure.

10.10 Final Order

Any order duly issued by the Director pursuant to the procedures contained in these Rules and Regulations shall become final ten (10) days after service of the citation unless a written request for hearing is received by the Director within the 10-day period.

An order that is subjected to the appeal procedure shall become final twenty-one (21) days after a mailing of the Director's or Hearings Officer's decision.

10.10.1 Supplemental Notice of Violation

The Director may at any time add to, rescind in part, or otherwise modify a notice and order by issuing a supplemental notice and order. The supplemental notice and order shall be governed by the same procedures applicable to all notices and orders and contained in the Rules and Regulations.

10.10.2 Enforcement of Final Order

If, after any order duly issued by the Director has become final, the Respondent to whom such order is directed fails, neglects, or refuses to obey such order, including refusal to pay a civil penalty assessed under such order, the Director may complete any or all of the following actions:

- A. Cause such Respondent to be prosecuted under this title
- B. Institute any appropriate action to collect a civil penalty assessed under this title
- C. Abate the violation using the procedures of this title
- D. File with the County Clerk a certificate describing the property and the violation and stating that the owner has been so notified
- E. Pursue any other appropriate remedy at law or in equity under the Rules and Regulations

10.10.3 Settlement of Civil Penalty Claims

The Director is authorized to settle and compromise claims for civil penalties accruing pursuant to these Rules and Regulations where such settlement is clearly in the interests of the District provided that the Director shall periodically report such settlements and compromises to the Board.

In determining whether a penalty should be compromised or settled, the Director may take into account the following:

- A. New information obtained through further investigation or provided by Respondent, which relates to the penalty determination factors.

- B. The effect of compromise or settlement on deterrence.
- C. Whether Respondent has or is willing to employ adequate means to correct the violation or maintain compliance.
- D. Whether Respondent has had any previous penalties that have been compromised or settled.
- E. Whether the compromise or settlement would be consistent with the District's goal of protecting the public health and environment as described in Section 2.1.
- F. The relative strength or weaknesses of the District's case.

10.11 Recovery of Civil Penalty and Cost of Abatement

10.11.1 Lien Authorized

The District is authorized to have a lien for any civil penalty imposed or for the cost of any work of abatement done pursuant to this title, or both, against the real property on which the civil penalty was imposed or any of the above work was performed.

10.11.2 Personal Obligation Authorized

The civil penalty and the cost of abatement are also joint and separate personal obligations of any Respondent in violation. The prosecuting attorney on behalf of the District may collect the civil penalty and the abatement work costs by use of all appropriate legal remedies.

10.11.3 Priority

The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state and county taxes with which it shall be on a parity.

10.11.4 Claim of Lien

The District may file a claim of lien with the County Clerk within ninety (90) days from the date the civil penalty is due or within ninety (90) days from the date of completion of the work or abatement performed. The claim of lien shall contain the following information:

- A. The authority for imposing a civil penalty or proceeding to abate the violation, or both
- B. A brief description of the civil penalty imposed, or the abatement work done, or both, including the violations charged and the duration thereof, including the time the work is commenced and completed and the name of the persons or organizations performing the work
- C. A description of the property to be charged with the lien
- D. The name of the known owner or reputed owner, and if not known, the fact shall be alleged
- E. The amount, including lawful and reasonable costs, for which the lien is claimed

The Director or their authorized representative shall sign and verify the claim by oath to the effect that the affiant believes the claim is just.

The claim of lien may be amended in case of action brought to foreclose same, by order of the court, insofar as the interests of third parties shall not be detrimentally affected by amendment.

10.11.5 Duration of Lien

No lien created by these Rules and Regulations shall bind the property subject to the lien for a period longer than three (3) years after the claim has been filed unless an action is commenced in the proper court within that time to enforce the lien.

10.11.6 Foreclosure Parties

The lien provided by this title may be foreclosed and enforced by a civil action in a court having jurisdiction.

All persons who have legally filed claims of liens against the same property prior to commencement of the action shall be joined as parties, either plaintiff or defendant.

Dismissal of an action to foreclose a lien at the instance of a plaintiff shall not prejudice another party to the suit who claims a lien.

10.12 Appeals

The decision of the District or the Hearings Officer shall be sent to the user or person by First Class U.S. mail. This decision shall be final unless appealed using the procedures in Section 3.7.2 or ORS 34 relating to writ of review procedures.

10.12.1 Appeals

The citation shall be final unless the respondent files a written Request for Hearing with the District within twenty-one (21) days from the date of the citation. The Request for Hearing shall contain the following information:

- A. The name of the Respondent.
- B. The citation number, the case file number, and/or permit number.
- C. The name and signature of the Respondent and a statement that if acting on behalf of a partnership or corporation, that the person executing the Request for Hearing is duly authorized to file such request and such person is the contact representative.
- D. The date that the citation was received by the Respondent.
- E. A detailed description of the disagreement with the citation. In the Request for Hearing, the party shall admit or deny all factual matters and shall affirmatively allege any affirmative claim and defense and the reasons, therefore.
- F. The request shall be limited to the issues raised in the citation.

10.12.2 Hearing

Through the adoption of these Rules and Regulations, the Board delegates decision making authority to a Hearings Officer for all matters arising under this section. The Board further delegates to the Director the responsibility for selecting a Hearings Officer from those under contract with the County. If no hearings officer is available under the County contracts, the Director will work with County Counsel to identify a suitable alternative.

A Request for Hearing received from a party will initiate a proceeding before the District or Hearings Officer. If a Request for Hearing is filed, the District shall file a complaint with the Hearings Officer. The District may, for any violation, file a complaint with the Hearings Officer before or after a citation is issued. The complaint shall contain the following: name and address of respondent(s); address or location of the alleged

violation; nature of violation, including rule, County Code provisions, statute or administrative rules section violated; and relief sought. Employees of the District are authorized to sign and file complaints on behalf of the District.

10.12.3 Economic or Financial Hardship

In a case in which a citation has been issued and the respondent does not wish to contest the existence of the violation and there is economic or financial hardship, the respondent may appeal only the amount of civil penalties imposed by the citation by initiating a proceeding before the hearings officer. The only issue before the hearings officer in such a proceeding is whether the respondent establishes sufficient economic or financial hardship to justify reduction of the amount of civil penalties.

10.12.4 Notice of Hearing

The District shall provide a Notice of Hearing to the Respondent, which shall contain a statement of the time, date, and place of the hearing. A copy of the Complaint and the Statement of Rights described in Section 10.12.5 shall be attached to the notice. The notice shall be mailed or delivered at least five (5) days prior to the hearing date.

- A. The District shall cause notice of the hearing to be given to the respondent(s) by:
 - a. First Class U.S. Mail; or,
 - b. Personal service; or,
 - c. Attaching the hearing notice in a secure manner to the main entrance to that portion of the premises of which the Respondent has possession or where the violation is present.
- B. Notice may be delivered to the property or to the mailing address of the owner of the property as listed on the County tax roll. Notice is considered complete on the date of personal delivery or upon deposit in the U.S. mail.
- C. The Hearings Officer shall disregard technical deficiencies in the notice, provided the Hearings Officer finds that the respondent received actual notice in advance of the hearing.

10.12.5 Statement of Rights

- A. A Notice of Hearing shall include a statement regarding the following matters:
 - a. A general description of the hearing procedure including the order of presentation of evidence, what kinds of evidence are admissible, whether objections may be made to the introduction of evidence and what kind of objections may be made, and an explanation of the burdens of proof or burdens of production of evidence.
 - b. That a record shall be made of the proceedings and the manner of making the record and its availability to the parties.
 - c. The function of the record-making with respect to the perpetuation of the testimony and evidence and with respect to any appeal from the order of the Hearings Officer.
 - d. Whether an attorney will represent the District in the matters to be heard and the Respondent's right to be represented by an attorney at their expense.
 - e. The title and function of the Hearings Officer, including the effect and authority of the Hearings Officer's determination.

- f. That the decision of the Hearings Officer may be appealed as described in Section 10.11 and that the appellant shall pay all costs of the appeal including costs for preparation of a transcript.
- B. The failure to give notice of any item specified in this section shall not invalidate any order of the Hearings Officer unless on review a court finds that the failure affects the substantive rights of one of the parties. In the event of such a finding, the court shall remand the matter to the Hearings Officer for a reopening of the hearing and shall direct the Hearings Officer as to what steps shall be taken to remedy any prejudice to the rights of any party.

10.12.6 Procedure in Hearings

- A. Hearings to determine whether a violation has occurred shall be held before the Hearings Officer. The District must prove the violation alleged by a preponderance of the admissible evidence.
- B. Unless precluded by law, informal disposition of any proceeding may be made, with or without a hearing, by stipulation, consent order, agreed settlement, or default.
- C. A party may elect to be represented by counsel at his/her own expense and to respond to and present evidence and argument on all issues involved.
- D. A party may request that a hearing be held remotely by telephone or video conference. The Hearings Officer has the discretion to grant or deny a request for a telephonic hearing for any reason.
- E. A party may request that an appeal to the Hearings Officer be conducted solely based on written submissions by the parties, without a hearing. The Hearings Officer may grant a request for appeal based only on written submissions if, and only if, all parties agree in writing to waive a hearing and to proceed through written submission only.
- F. An order adverse to a party may be issued upon default only upon a prima facie case made on the record before the Hearings Officer.
- G. Testimony shall be taken upon oath or affirmation of the witness. The Hearings Officer may administer oaths or affirmations to witnesses.
- H. The Hearings Officer shall issue subpoenas, in accordance with Oregon Rule of Civil Procedure 55, to any party upon showing of general relevance and reasonable scope of the evidence sought. Witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the District, shall receive fees and mileage as prescribed by law for witnesses in civil actions from the party requesting their testimony. Any party requesting the issuance of a subpoena shall pay applicable fees and mileage at the time the issuance of a subpoena is requested.
- I. If any person fails to comply with any subpoena so issued, or any party or witness refuses to testify on any matters on which he/she may be lawfully interrogated, a judge of the Circuit Court for Clackamas County, on the application of the Hearings Officer, or of the party requesting the issuance of the subpoena, may compel obedience by proceedings for Contempt as in the case of disobedience of the requirements of subpoena issued from such court or a refusal to testify therein.
- J. The Hearings Officer shall place on the record a statement of the substance of any written or oral ex parte communications made to the Hearings Officer on a fact in issue during the pendency of the proceedings. The Hearings Officer shall notify the parties of the communication and of their right to rebut such communications.

- K. The record of the case shall include:
 - a. All pleadings, motions, and intermediate rulings
 - b. Evidence received
 - c. Stipulations
 - d. A statement of matters officially noticed
 - e. Questions and offers of proof, objections, and ruling thereon
 - f. A statement of any ex parte communications on a fact in issue made to the Hearings Officer during the pendency of the proceedings
 - g. Proposed findings and exceptions
 - h. The final order prepared by the Hearings Officer
- L. A verbatim, written, or mechanical record shall be made on all motions, rulings, and testimony. The record need not be transcribed unless requested for purposes of court review. The Hearings Officer shall charge the party requesting transcription the cost of transcription in advance. Failure to pay the transcription fees shall constitute a separate ground for denial of review of the decision of the Hearings Officer.
- M. Enforcement proceedings before the Hearings Officer shall be conducted in accordance with the procedure set forth in this section. The Hearings Officer may promulgate reasonable rules and regulations, not inconsistent with this section, concerning procedure and the conduct of hearings.

10.12.7 Presentation of Evidence in Hearing

- A. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Erroneous rulings on evidence shall not preclude action by the Hearings Officer unless shown on the record to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible. The Hearings Officer shall give effect to the rules of privilege recognized by law.
- B. All evidence shall be offered and made a part of the record in the case, and except for matters stipulated to and except as provided in item 4) below, no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.
- C. Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.
- D. The Hearings Officer may take notice of judicially recognizable facts, and the Hearings Officer may take official notice of general, technical, or scientific facts within the specialized knowledge of District employees. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of material officially noticed, and they shall be afforded an opportunity to contest the facts so noticed.

10.12.8 Powers of the Hearings Officer

The Hearings Officer shall order a party found in violation to comply within such time as the Hearings Officer may by order allow. The order may require such party to do any and all of the following:

- A. Make any and all necessary repairs, modifications, and/or improvements to the structure, real property, or equipment involved.
- B. Obtain any and all necessary permits, inspections, and approvals.
- C. Order compliance as appropriate under applicable state law, codes, permit, or these rules.
- D. Install any equipment necessary to achieve compliance.
- E. Pay to the District a civil penalty, the amount of which shall be determined by the Hearings Officer within the range established pursuant to Section 10.7.
- F. Reimburse the District for actual costs incurred in conjunction with the enforcement action.
- G. Abate or remove any nuisance.
- H. Change the use of the building, structure, or real property involved.
- I. Pay a reduced forfeiture amount.
- J. Undertake any other action reasonably necessary to correct the violation.

10.12.9 Orders of the Hearings Officer

- A. Every order adverse to a party to the proceeding shall be in writing or stated in the record and may be accompanied by an opinion.
- B. Findings of fact and conclusions of law shall accompany a final order. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the Hearings Officer's order.
- C. The Hearings Officer shall notify the respondent of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to the respondent or, if applicable, the respondent's attorney of record. The Hearings Officer shall issue a final order within fourteen (14) days from the conclusion of the hearing.
- D. Every final order shall include a citation of the ordinance or title, chapter, and section under which the order may be judicially reviewed.
- E. A final order shall become effective as stated in Section 10.10.