

Exhibit A

WATER ENVIRONMENT SERVICES
RULES AND REGULATIONS

JULY 2018



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CHAPTER 1
GENERAL PURPOSES AND PROVISIONS

SECTION 1 DECLARATION OF POLICY

1.1 PURPOSE

Water Environment Services (“WES”) is an intergovernmental entity within Clackamas County, Oregon. WES was organized pursuant to Oregon Revised Statutes Chapter 190 for the purpose of holding the assets of the Partner organizations and to provide for a singular management ability of the same. This management structure provides for a regional, consistent, and efficient way to plan for and provide North Clackamas County’s current and future wastewater and surface water needs in a way that protects public health and the environment while supporting economic development.

These Water Environment Services 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 affairs of WES, and general welfare of the inhabitants of the Tri-City Service District (“TCSD”), the Surface Water Management Agency of Clackamas County (“SWMACC”), and Clackamas County Service District No. 1 (“CCSD1”).

1.2 PARTNER(S)

WES is an entity consisting of TCSD, a regional provider of only sanitary sewer services, CCSD1, a regional provider of sanitary sewer and surface water management services, and SWMACC, a regional provider of only surface water management services. Each are individually commonly referred to as a "Partner" and collectively as the "Partners." TCSD and SWMACC were fully integrated into WES on July 1, 2017, and CCSD1 will become fully integrated on July 1, 2018.

1.3 BOARD

The Board of County Commissioners of Clackamas County (“Board”) is the governing body of WES. The business and affairs of WES shall be managed by the Board in accordance with Oregon Revised Statutes Chapter 190. All powers, privileges and duties vested in or imposed upon WES by law shall be exercised and performed by and through the Board, whether set forth specifically or implied in these Rules and Regulations. The Board may delegate to officers and employees of WES any or all executive, administrative, and managerial powers.

1.4 DECLARATION OF POLICY

It is intended that these Rules and Regulations shall be liberally construed to affect the general purposes set forth herein, and that each and every part hereof is separate, distinct and severable from all other parts. Omission from, and additional materials set forth in, these Rules and Regulations shall not be construed 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 herein shall be so construed as to prejudice, limit or affect the right of WES to secure the full benefit and protection of any laws which are now or hereafter may be enacted by the Oregon

State Legislature. These Rules and Regulations become effective on the date the ordinance is adopted by the Board and, to the extent there is a conflict, shall supersede all former TCSD, CCSD1, and SWMACC rules and regulations.

1.5 ADOPTION OF NEW OR AMENDED RULES AND REGULATIONS

Upon the recommendation of the Director, or on its own motion, the Board of County Commissioners of Clackamas County, Oregon, acting as the governing body of WES, may promulgate new or amended rules pertaining to these Rules or Regulations. Except as specifically provided in these Rules and Regulations, any new or amended rule(s) will be adopted pursuant to ORS 198.510 through 198.600 and ORS 451.

1.6 SERVICE AREAS / WES RATE ZONES

The service area of WES encompasses the geographic boundaries of (i) the TCSD, which includes the City of West Linn, the City of Oregon City, the City of Gladstone, and certain unincorporated areas; (ii) SWMACC, which includes the City of Rivergrove and unincorporated areas of Clackamas County within the Tualatin River Drainage Basin; and (iii) the 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. The rate zones were established by the WES Intergovernmental Partnership Agreement executed by the parties on November 3, 2016, and amended on May 18, 2017.

1.6.1 TCSD / RATE ZONE 1

Tri-City Service District, Clackamas County, Oregon, was organized for the purpose of providing sewerage works, including all facilities necessary for collecting, pumping, treating and disposing of sanitary or storm sewage.

WES Rate Zone 1 is coterminous with the boundaries of TCSD, as they may be adjusted from time to time. Rate provisions listed in Chapter 2 only apply to the area known as 'Rate Zone 1.'

1.6.2 SWMACC / RATE ZONE 3

Surface Water Management Agency of Clackamas County, Clackamas County, Oregon, was organized for the purpose of protecting, maintaining and enhancing the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment.

WES Rate Zone 3 is coterminous with the boundaries of SWMACC, as they may be adjusted from time to time. Rate provisions listed in Chapter 3 only apply to the area known as 'Rate Zone 3.'

1.6.3 CCSD1 / RATE ZONE 2

Clackamas County, Oregon, Service District No. 1 was organized for the purpose of

providing sewerage works, including all facilities necessary for collecting, pumping, treating and disposing of sanitary or storm sewage. It was also formed for the purpose of protecting, maintaining and enhancing the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment.

WES Rate Zone 2 is coterminous with the boundaries of CCSD1, as they may be adjusted from time to time. Rate provisions listed in Chapter 4 only apply to the area known as 'Rate Zone 2.'

1.7 ENFORCEMENT OF RULES AND REGULATIONS

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

1.8 SEVERABILITY

If any provision of these Rules and Regulations or the application thereof to any person or circumstance is held invalid, such determination shall not affect the enforceability of any other provision or application of these Rules and Regulations. A determination by a court of competent jurisdiction that any section, clause, phrase, or word of these Rules and Regulations or its application is invalid or unenforceable for any reason shall not affect the validity of the remainder of this Rules and Regulations or its application, and all portions not so stricken shall continue in full force and effect.

1.9 DELEGATION OF AUTHORITY TO THE DIRECTOR

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 WES shall provide 30 days public notice on its website of any potential change to such standards or requirements.

CHAPTER 2

SANITARY SEWER RULES AND REGULATIONS FOR RATE ZONE 1

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SECTION 1 DECLARATION OF POLICY

1.1 PURPOSE AND OBJECTIVES

Tri-City Service District, Clackamas County, Oregon, was organized pursuant to Chapter 451, Oregon Revised Statutes, for the purpose of providing sewerage works, including all facilities necessary for collecting, pumping, treating and disposing of sanitary or storm sewage within its boundaries. It is further declared to be the policy of the District to provide and offer sewage disposal service for such areas adjacent to the District as may, in the judgment of the District, be feasibly served upon such terms, conditions, and rates as the District shall, from time to time, determine. The objectives of these Rules and Regulations ("Rules and Regulations" or this Ordinance) are: (a) to advance public health and welfare; (b) to prevent the introduction of pollutants which will interfere with the operation of the sewage system or contaminate the resulting biosolids; (c) to prevent the introduction of pollutants which will pass through the sewage system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system; (d) to protect City and District personnel who may come into contact with sewage, biosolids and effluent in the course of their employment as well as protecting the general public; (e) to ensure that the District complies with its NPDES permit conditions, biosolids use and disposal requirements and other applicable Federal and State laws; (f) to improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and (g) to provide for the equitable distribution of the costs of the sewage system.

1.2 ADOPTION OF NEW OR AMENDED RULES AND REGULATIONS

Upon the recommendation of the Director, or on its own motion, the Board of County Commissioners of Clackamas County, Oregon, acting as the governing body of the District, may promulgate new or amended rules pertaining to these Rules or Regulations. Except as specifically provided in these Rules and Regulations, any new or amended rule(s) will be adopted pursuant to ORS 198.510 through 198.600.

SECTION 2 DEFINITIONS

2.1 WORDS AND TERMS

Unless the context specifically indicates otherwise, the following words and terms, as used in this Ordinance, shall have the meanings hereinafter designated:

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

2.1.2 Applicable Pretreatment Standards. Local, state, and federal standards, whichever are more stringent and apply to the Industrial User.

2.1.3 ASTM Specifications. The Standard specifications or methods of the American Society for Testing and Materials. Unless otherwise stated, it shall refer to the latest adopted revisions of said specifications.

2.1.4 Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under a standard laboratory procedure in five (5) days at a temperature of twenty degrees centigrade (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.

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

2.1.6 Board. The Board of County Commissioners of Clackamas County, acting as the governing body of Tri-City Service District.

2.1.7 Building. Any structure containing sanitary facilities.

2.1.8 Building Drain. That part of the lowest piping of a sewerage system which receives the discharge from the drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the building wall.

2.1.9 Building Sewer. The extension from the building drain to the service connection.

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

2.1.11 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.

2.1.12 City. The Cities of Oregon City, West Linn and Gladstone, Oregon.

2.1.13 Cleanout. A sealed aperture permitting access to a sewer pipe for cleaning purposes.

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

2.1.15 Combined Sewer System. A conduit or system of conduits in which both sewage and storm water are transported.

2.1.16 Composite Sample. A series of samples mixed together so as 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) are equal volumes taken at varying time intervals in proportion to the wastewater flow; or (c) equal volumes taken at equal time intervals.

2.1.17 Contractor. A person duly licensed or approved by the State of Oregon, the District or City to perform the type of work to be done under a permit or contract issued by the District or City.

2.1.18 County. Clackamas County, Oregon.

2.1.19 Day. A continuous twenty-four (24) hour period from 12:01 a.m. to 12:00 p.m.

2.1.20 Department of Environmental Quality, or DEQ. The State of Oregon, Department of Environmental Quality.

2.1.21 Development. The act of conducting a building operation, or making a physical change in the use or appearance of a structure or land, which increases the usage of any capital improvements or which creates the need for additional capital improvements.

2.1.22 Direct Discharge. The discharge of treated or untreated wastewater directly to the waters of the State of Oregon.

2.1.23 Director. The Director of the Water Environment Services Department of Clackamas County, Oregon.

2.1.24 Discharger or User. Any person who causes wastes or sewage to enter directly or indirectly to the District or City sewerage system.

2.1.25 District. Tri-City Service District.

2.1.26 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 District sewerage system.

2.1.27 Dwelling Unit. A living unit with kitchen facilities including those in multiple dwellings, apartments, hotels, motels, mobile homes, or trailers.

2.1.28 Engineer. A registered professional engineer licensed to practice by the State of Oregon.

2.1.29 Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

2.1.30 Equivalent Dwelling Unit, or EDU. A unit of measurement of sewer usage which is assumed to be equivalent to the usage of an average dwelling unit. Equivalent 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.
- (b) System Development Charge. A unit, based upon a single dwelling unit or its equivalent, for connecting to the District sewerage system.

2.1.31 Garbage. Solid wastes from the preparation, cooking, and dispensing of food and from the handling, storage and sale of produce.

2.1.32 Government Agency. Any municipal or quasi-municipal corporation, state or federal agency.

2.1.33 Grab Sample. A sample which is taken from a waste stream on a onetime basis with no regard to the flow in the waste stream and without consideration of time.

2.1.34 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.

2.1.35 Improvement Fee. A fee for costs associated with capital improvements to be constructed after the date this ordinance becomes effective.

2.1.36 Indirect Discharge. The discharge or the introduction of non-domestic pollutants or industrial wastes into the sewerage system from any source regulated under Section 307(b) or (c) of the Act (33 U.S.C. 1317), including hauled tank wastes discharged into the sewerage system.

2.1.37 Industrial User. Any person who discharges industrial waste into the District and City sewerage system.

2.1.38 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 State Department of Environmental Quality or the United States Environmental Protection Agency, exclusive of domestic sewage.

2.1.39 Inspector. A person designated by the District or City to inspect building sewers, service connections, and other installations to be connected to the District or City sewerage systems.

2.1.40 Installer. Either the owner of the property being served or a contractor doing work in connection with the installation of a service connection or building sewer under a proper permit from the District or City.

2.1.41 Interference. A discharge which, alone or in conjunction with a discharge from other sources, inhibits or disrupts the public 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.

2.1.42 Local Collection Facilities. All sewerage facilities that are owned, operated and maintained by a City which collect and convey sewage to the District sewerage system.

2.1.43 May. The word "may" is permissive.

2.1.44 National Pollution Discharge Elimination System, or NPDES Permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

2.1.45 New Source. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced according to the deadlines and conditions of 40 CFR 403.3.

2.1.46 Operation, Maintenance, and Replacement; or O, M, & R. Those functions that result in expenditures during the useful life of the treatment works or sewerage system for materials, labor, utilities, administrative costs, and other items which are necessary for managing and maintaining the sewage works to achieve the capacity and performance for which such works were designed and constructed.

2.1.47 This Ordinance. This Ordinance as adopted, any and all rules and orders adopted pursuant hereto, and any and all amendments to the Ordinance or an such rules or amendments. This Ordinance may also be referred to as Rules and Regulations.

2.1.48 Pass Through. A discharge which 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.

2.1.49 Permit. Any authorization required pursuant to this or any other regulation of the District or City for connection of facilities to the public sewerage system and/or continued discharge of sewage to the public sewerage system.

2.1.50 Person. Any individual, public or private corporation, political subdivision, governmental agency, municipality, industry, partnership, association, firm, trust or any other legal entity.

2.1.51 pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution. pH shall be determined using one of the applicable procedures prescribed in 40 CFR Part 136.

2.1.52 Pollutant. Any of the following, including but not limited to: dredged soil spoil, solid waste, incinerator residue, sewage, garbage, sewage biosolids, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

2.1.53 Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the public sewage system. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 CFR, Section 403.6(d).

2.1.54 Pretreatment Requirement. Any substantive or procedural pretreatment requirement other than applicable pretreatment standard, imposed on an Industrial User.

2.1.55 Properly Shredded Garbage. The wastes from foods that have been shredded to such a degree that all particles will be carried freely under the flow and conditions normally prevailing in public sewers with no particle greater than one-half inch (½") in any dimension.

2.1.56 Publicly Owned Treatment Works, or POTW. A treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by a governmental entity. This definition includes any public sewers that conveys 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 this ordinance, "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.

2.1.57 Public Right-of-Way. Any public highway, road, street, avenue, alleyway, public place, public easement, or public right-of-way.

2.1.58 Public Sewer or Public Sewerage System. Any or any part of the facilities for collection, pumping, treating and disposing of sewage as acquired, constructed, or used by the District or City within the boundaries of the District.

2.1.59 Qualified Public Improvements. A capital improvement that 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) not located on or contiguous to a parcel of land that is the subject of the development approval.

2.1.60 Receiving Waters. Any body of water into which effluent from a sewage treatment plant is discharged either directly or indirectly.

2.1.61 Reimbursement Fee. A cost associated with capital improvements constructed or under construction on the effective date of this Ordinance.

2.1.62 Replacement. Any actions which 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.

2.1.63 Rules and Regulations. This Ordinance and all amendments thereto.

2.1.64 Sanitary Sewer. A conduit intended to carry 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.

2.1.65 Service Connection. That portion of a private sewer which has been constructed from the public sewer to the edge of the public right-of-way or sewer easement in which the public sewer is located.

2.1.66 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.

2.1.67 Sewage Disposal Agreement. An agreement between the District or City and any government agency or person providing for the delivery or receipt of sewage to or from the District sewerage system.

2.1.68 Sewage Treatment Plant. An arrangement of devices, structures, and equipment for treating sewage.

2.1.69 Sewer Easement. Any easement in which the District or City has the right to construct and maintain a public sewer.

2.1.70 Sewer Main Extension. Any extension or addition of the public sewer.

2.1.71 Sewer Service Area. An area served by sewage treatment facilities within the District or a defined geographic area which becomes a part of the District.

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

2.1.73 Shall. The word "shall" is mandatory.

2.1.74 Significant Industrial User. The term significant industrial user means:

- (a) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter 1, subchapter N; and
- (b) Any other industrial user that: discharges an average of 25,000 gallons per day or more of processed wastewater to the sewerage system (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five (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)).

- (c) Upon finding that an industrial user meeting the criteria of this definition 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, on its own initiative or in response to a petition received from the industrial user, determine that such industrial user is not a significant industrial user.

2.1.75 Significant Non-Compliance. 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 sixty-six percent or more of all the measurements taken during a six-month period exceeded (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (b) Technical Review Criteria (TRC) violations, defined as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceeded the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, 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, 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 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 30 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, which the District determines will adversely affect the operation or implementation of the Pretreatment Program.

2.1.76 Slugload. Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary discharge. Any discharge which exceeds, for a period of longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour flow during

normal operation or more than five (5) times a specified allowable concentration of any hazardous or toxic substance listed in, but not limited to, the toxic pollutant list set forth in Table II, attached to this Ordinance. In the case of batch discharges, the average flow shall be calculated using the actual discharge times.

2.1.77 Standard Industrial Classification, or SIC. A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

2.1.78 Standard Methods. The examination and analytical procedures set forth in the most recent edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

2.1.79 Storm Sewer. A sewer designed to carry only storm waters, surface runoff, street washwaters, or drainage.

2.1.80 Storm Water. Waters on the surface of the ground or underground resulting from precipitation.

2.1.81 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 CRF Part 136.

2.1.82 System Development Charge. A reimbursement fee, an improvement fee or a combination thereof assessed or collected as a condition of connection to the sanitary sewer system. It shall also include that portion of a sanitary sewer connection charge that is greater than the amount necessary to reimburse the District for its average cost of inspecting connections to the sanitary sewer system. "System Development Charge" 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.

2.1.83 Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a), 503(13), or other federal Acts.

2.1.84 Unit. A unit of measurement of sewer usage assumed to be equivalent to the usage of an average single family dwelling unit. A unit is equivalent to sewage of a strength and volume normally associated with an average single family dwelling unit or its equivalent. Where unit equivalency must be computed it shall be equivalent to: (a) 1,000 cubic feet of water consumption per month; (b) .449 pounds of BOD5 per day; and (c) .449 pounds of suspended solids per day.

2.1.85 Unpolluted Water or Liquids. Any water or liquid containing none of the following: free or emulsified grease or oil, acids or alkalis, substances that may impart taste and odor or color characteristics, toxic or poisonous substances in suspension, colloidal state or solution, odorous or otherwise obnoxious gases. Such water shall meet the current state standards for water use and recreation. Analytical determination shall be made in accordance with the applicable procedures prescribed in 40 CRF Part 136.

2.1.86 Upset. An exceptional incident in which an Industrial User unintentionally and temporarily is in a state of noncompliance with this Ordinance, due to factors beyond the reasonable control of the Industrial User, and excluding noncompliance to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventive maintenance or careless or improper operation thereof.

2.1.87 Useful Life. The period during which a treatment works or other specific facility operates.

2.1.88 User Charge. The periodic charges levied on all users of the public sewerage system for the cost of operation, maintenance, and replacement; including but not limited to, any other costs, such as, but not limited to, debt service, debt service coverage, capital improvements, etc.

2.1.89 Water of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Oregon or any portion thereof.

2.2 ADDITIONAL WORDS OR TERMS

Words, terms or expressions peculiar to the art or science of sewerage not hereinabove defined shall have the meanings given therefor in Glossary, Water and Wastewater Control Engineering, published in 1969 and prepared by a Joint Committee representing the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and the Water Pollution Control Federation.

2.3 PRONOUNS

Pronouns indicating number or gender in this Ordinance are interchangeable and shall be interpreted to give effect to the requirements and intent of this Ordinance.

2.4 ABBREVIATIONS

The following abbreviations shall have the designated meanings:

ASTM	American Society for Testing and Materials
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
CWA	Clean Water Act
DEQ	Department of Environmental Quality
EDU	Equivalent Dwelling Unit
EPA	Environmental Protection Agency
L	Liter
mg	Milligrams
mg/l	Milligrams per liter
OAR	Oregon Administrative Rules
ORS	Oregon Revised Statutes

SECTION 3 DISCHARGE REGULATIONS

3.1 GENERAL DISCHARGE PROHIBITIONS

3.1.1 Unpolluted Water and Storm Water

No persons shall discharge or contribute to the discharge of any storm water or other unpolluted water into the District or City sewerage systems.

3.1.2 Prohibited Substances

No persons shall discharge or cause to be discharged, directly or indirectly, into the public sewerage system any pollutant, substances, or wastewater which 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. 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, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods of 40 CFR 261.21. At no time shall two (2) 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 five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) 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. Toxic pollutants shall include, but not be limited to, any pollutant listed in the toxic pollutant list set forth in Table II, attached to this Ordinance.
- (c) Any sewage having a pH lower than 5.5 Standard Unit ("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 exceed the pH range of 5.5 S.U. to 11.5 S.U. 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.

- (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 sewage treatment plant such as, but not limited to, 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 degrees Fahrenheit (60 degrees Celsius) or having temperatures sufficient to cause the influent to the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius). 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 garbage that has not been properly shredded to one-half inch ($\frac{1}{2}$ ") or less in any dimension.
- (g) Any sewage containing unusual concentrations of inert suspended solids (such as, but not limited to, Fullers 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 sewerage system.
- (h) 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).
- (i) Any slug discharge, which means any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single discharge episode of such volume or strength as to cause interference to the sewerage system.
- (j) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into sewers for maintenance and repair.
- (k) Any hauled wastes or pollutants, except such wastes received at the District's sewage treatment plant under a District permit or at a District approved dump station pursuant to Section 10 of this Ordinance.
- (l) Any substance which may cause the District's sewage treatment plant to violate its NPDES Permit or the receiving water quality standards or any other permit issued to District or City.
- (m) Any wastewater which causes or may cause a hazard to human life or creates a public nuisance.

- (n) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as to exceed limits established by State or Federal regulations.
- (o) Any substance which may cause the District's sewage treatment plant effluent or any other product of the District's sewage treatment process such as residues, biosolids, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. (In no case, shall a substance discharged to the District's sewerage system cause the District to be in noncompliance with biosolids use or disposal criteria, guidelines, or regulations developed under Section 405 of the Clean Water Act; any criteria, guidelines, or regulations affecting biosolids use or disposal developed pursuant to the Solid Waste Disposal Act, the Clear Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used, or any amendments thereto.)
- (p) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.
- (q) Pollutants which result in presence of toxic gases, vapors, or fumes in the POTW that may cause acute worker health and safety problems.

3.2 DISCHARGE LIMITATIONS

3.2.1 National Categorical Pretreatment Standards

National categorical pretreatment standards, as promulgated by the Environmental Protection Agency (EPA) pursuant to the Federal Water Pollution Control Act, if more stringent than limitations imposed under this Ordinance, shall be met by all Dischargers into the sewerage system who are subject to such standards.

3.2.2 State Requirements

State requirements and limitations on all discharges to the public sewerage system shall be met by all Dischargers who are subject to such standards in any instance in which the State standards are more stringent than Federal requirements and limitations, or those in this or any other applicable Ordinance.

3.2.3 District Requirements

No persons shall discharge into the public sewerage system any sewage containing the following:

- (a) Fats, wax, grease, or oils whether emulsified or not, in excess of 100 milligrams per liter for sources of petroleum origin, or in excess of 300 milligrams per liter for sources composed of fatty matter from animal and vegetable sources, or containing substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit (0 degrees Celsius and 65 degrees Celsius).

- (b) 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.
- (c) Pollutants in excess of the concentrations in Table III measured as a total of both soluble and insoluble concentrations for a composite representing the process day or at any time as shown by grab sample, unless the Discharger has a valid Industrial Wastewater Discharge Permit which establishes a different limitation for the specific pollutant as set forth in Table III.

3.2.4 Wastewater Discharge Permit Limitations

It shall be unlawful for an Industrial User with a valid Industrial Wastewater Discharge Permit to discharge wastes to the public sewerage system in excess of the limitations established in the discharge permit or in violation of the prohibited discharge substances described in Subsection 3.1.

3.2.5 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 owner.

3.2.6 More Stringent Limitations

The District reserves the right to amend these Rules and Regulations at any time to provide for more stringent limitations or requirements on discharges to the public sewerage system where it deems necessary to comply with the objectives of this Ordinance. Nothing in these Rules and Regulations shall prohibit a City served by the District from adopting more stringent limitations or requirements than are contained herein for its sewerage system.

3.2.7 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 180 days after the discharge of any listed or characteristic hazardous waste(s).

3.2.8 Dilution

No discharger 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 this Ordinance.

3.3 ACCIDENTAL DISCHARGES

Each Discharger shall provide protection from accidental discharge of prohibited substances or other substances regulated by this Ordinance. Where necessary, facilities to prevent accidental discharge

of prohibited substances shall be provided and maintained at the Discharger's own cost and expense. 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 his plan and submit it to the District upon request. 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 this Ordinance. Dischargers shall notify the District immediately upon the occurrence of an accidental discharge of substances, or slug loadings, prohibited by this Ordinance. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, corrective actions taken.

3.3.1 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.

3.3.2 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 to occur are advised of the emergency notification procedure.

SECTION 4 INDUSTRIAL WASTES

4.1 GENERAL STATEMENT

4.1.1 Scope

This section of the Rules and Regulations sets forth uniform requirements for direct and indirect 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 Clean Water Act 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 Clean Water Act and any implementing regulations pursuant to these Rules and Regulations. Enforcement may include injunctive or any other relief in Federal and State courts or through administrative hearings.

The objectives of this section of the Rules and Regulations are to prevent the introduction of pollutants into the public sewerage system which will interfere with the operation of the systems or contaminate the resulting biosolids; to prevent the introduction of pollutants into the public sewerage system which 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 District sewerage system.

This section provides for the regulation of direct and indirect discharges of industrial wastes to the public sewerage system through the issuance of permits 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.

4.1.2 Signatory Requirements

All applications, reports, or information submitted to the District shall be signed and certified in accordance with 40 CFR 403.12(l).

4.1.3 Provision on Fraud and False Statements

Any reports required in this Ordinance and any other documents required to be submitted to the District or maintained by the Industrial User shall be subject to enforcement provisions of municipal and state law relating to fraud and false statements. In addition, the Industrial User shall be subject to: (a) the provisions of 18 U.S.C. Section 1001 relating to fraud and false statements; (b) the provisions of Sections 309(c)(4) of the Clean Water Act, as amended governing false statements, representation or certification; and (d) the provision of Section 309(c)(6) regarding responsible corporate officers.

4.2 INDUSTRIAL WASTEWATER DISCHARGE PERMITS

4.2.1 Requirements for a Permit

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:

- (a) The discharge is subject to promulgated national categorical pretreatment standards; or
- (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 sewerage system; or
- (c) The discharge requires pretreatment in order to comply with the discharge limitations set forth in Section 3 of this Ordinance; or
- (d) The discharge contains suspended solids or BOD in excess of 350 mg/l, or in excess of thirty (30) pounds in any one day; or
- (e) The discharge contains wastes requiring unusual quantities of chlorine (more than 20 mg/l) for treatment at the treatment plant; or
- (f) The discharge exceeds an average flow of 10,000 gallons or more in any one day, excluding sanitary, non-contact cooling water and boiler blowdown wastewater, or contributes a maximum instantaneous flow which exceeds ten (10) percent of the capacity of the available lateral or appropriate trunk sewer; or
- (g) Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW; or
- (h) The discharge is a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR, Part 261.

4.2.2 Permit Applications

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 sewerage system is to begin.

4.2.3 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 will 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 are discussed. As part of the tour of that plant, an industrial waste sampling point will be identified. The sampling location, if appropriate and acceptable to the District, will be used for both self-monitoring and monitoring by District personnel for water quality and quantity monitoring and permit enforcement. 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.

4.2.4 Issuance of Permit

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 by an Order of the Board. The permittee shall reapply with the District for reissuance of its permit at least 90 days prior to the permit expiration date. Reapplication shall be on the form provided by the District.

4.2.5 Permit Conditions

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

- (a) Fees and charges to be paid upon initial permit issuance;
- (b) Limits on the average and maximum wastewater constituents and characteristics;
- (c) Limits on average and maximum rate and time of discharge and/or requirements for flow regulations and equalization;
- (d) Requirements for installation and maintenance of inspection and sampling facilities compatible with facilities of the District;
- (e) Special conditions as the District may reasonably require under particular circumstances of a given discharge including sampling locations, frequency of sampling, number, types, and standards for test and reporting schedule;
- (f) Compliance schedules;
- (g) Requirements for submission of special technical reports or discharge reports where the same differ from those prescribed by this Ordinance;
- (h) An effective date and expiration date of the permit;

- (i) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the District, Oregon DEQ and the EPA, and affording District access thereto 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 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 District sewerage system or any significant change in the production where the permit incorporates equivalent mass or connection limits calculated from a production based standard.
- (l) Requirements for notification to the District of slugload discharges and slug control plans;
- (m) Other conditions as deemed appropriate by the District to ensure compliance with this Ordinance 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.
- (o) Duty to reapply and to 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.

4.2.6 Permit Modifications

An Industrial Wastewater Discharge Permit may be 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 pretreatment standards or requirements or to prevent violation of its NPDES permit or any permit issued to the District or City. 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, the change will result in violations of District, State, or Federal laws or regulations; will overload or cause damage to any portion of the District or City sewerage systems; 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 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.

4.2.7 Permit Duration/No Property Interest Acquired

All Industrial Wastewater Discharge Permits shall be issued for a specified time 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. 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.

4.2.8 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.

4.2.9 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, transfer of business ownership. All are void upon the issuance of a new Industrial Wastewater Discharge Permit.

4.3 PRETREATMENT FACILITIES

4.3.1 General Requirements

If, as determined by the District, treatment facilities, operation changes or process modifications at an Industrial User's facility are needed to comply with any requirements under this Ordinance or are necessary to meet any applicable 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, impact of the waste on the marketability of the District's treatment plant biosolids, and any other appropriate factor.

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

4.3.2 Condition of Permit

Any requirement in Paragraph 4.3.1 may be incorporated as part of an Industrial wastewater Discharge Permit issued under Subsection 4.2 and made a condition of issuance of such permit or made a condition of the acceptance of the waste from such facility.

4.3.3 Plans, Specifications, and Construction

Plans, specifications and other information relating to the construction or installation of pretreatment facilities required by the District under this Ordinance shall be submitted to the District. No construction or installation thereof 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 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 to 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.

4.3.4 Sampling and Monitoring Facility

Any person constructing a pretreatment facility, as required by the District, shall also install and maintain at his own expense a sampling manhole or other suitable monitoring access for checking and investigating the discharge from the pretreatment facility to the public sewer. 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.

4.4 REPORTING REQUIREMENTS

4.4.1 Initial Compliance Report

Within one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard issued by the Environmental Protection Agency (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:

- (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 wastestream 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; and
- (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 to by a qualified professional engineer.

New sources subject to an effective categorical pretreatment standard issued by the EPA shall submit to the District, 90 days prior to commencement of their discharge into the sewerage system, a report which contains the information listed in items (a) through (e) above, along with information on the method of pretreatment the source intends to use 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 thereto, including the signatory requirements 403.12(l) for industrial user 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.

4.4.2 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 pretreatment standards and requirements shall submit to the District a report

indicating the nature and concentration of all pollutants in the wastestream 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 twelve (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 to by a qualified professional engineer. A new source is required to achieve compliance within 90 days after commencement of discharge.

If the Industrial Discharger is required to install additional pretreatment or provide additional operation and maintenance, a schedule will be required 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 contract for major components, commencing construction, completing construction, etc.) No increment of progress shall exceed nine (9) months. The Industrial Discharger shall submit a progress report to the District including, at a minimum, whether or not 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 discharger 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 nine (9) months elapse between such progress reports to the District.

4.4.3 Periodic Compliance Reports

Any Discharger that is required to have an Industrial Wastewater Discharge Permit pursuant to this Ordinance shall submit 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 six-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 and 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.

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 Federal 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, all monitoring results must be included in the periodic compliance reports.

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

The District may require reporting by Industrial Dischargers 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 may require self-monitoring by the Discharger, or 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 Ordinance. 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.

4.4.4 TTO Reporting

Those industries which are required by EPA to eliminate and/or reduce the levels of total toxic organics (TTO's) discharged into the public sewerage system must follow the National Categorical Pretreatment Standards for that industry.

4.4.5 Violations

The Industrial User shall notify the District within twenty-four (24) hours of becoming aware of a sampling activity which indicates a violation of the permit. The Industrial User shall repeat the sampling and analysis and submit their results to the District as soon as possible, but in no event later than thirty (30) days after becoming aware of the violation.

4.5 INSPECTION AND SAMPLING

4.5.1 Inspection

Authorized District representatives may inspect the monitoring facilities of any Industrial Waste Discharger to determine compliance with the requirements of the Ordinance. The Discharger shall allow the District to enter upon the premises of the Discharger at all reasonable hours, for the purpose of inspection, sampling, or records examination and copying. The District shall also have the right to set up on the Discharger'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, to those portions of the premises that contain facilities for sampling, measuring, treating, transporting, or otherwise handling wastes, and 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 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 this Ordinance;
- (c) The entry shall be made at reasonable times during normal operating or business hours unless an emergency situation exists as determined by the District; and

- (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.

4.5.2 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. A minimum of four grab samples must be used for pH, cyanide, total phenols, oil grease, sulfides, and volatile organics. For all other pollutants, the sampling method shall be by 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.

Samples that are taken by the District for the purposes of determining compliance with the requirements of this Ordinance shall be split with the Discharger (or a duplicate sample provided in the instance of fats, oils, and greases) 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 amendments thereto. 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 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 United States Environmental Protection Agency.

4.5.3 Monitoring Facilities

- (a) Any person discharging industrial waste into the public sewerage system which 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 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 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 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. 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 subject to District approval.

4.6 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 this Ordinance and the requirements of any applicable wastewater discharge permit issued pursuant to the provisions of this Ordinance.

4.7 CHANGE IN PERMITTED DISCHARGE

It shall be the responsibility of every Industrial User to promptly 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 discharge. Changes in the discharge involving the introduction of a 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 as described under Subsection 4.2. Any such reporting shall not be deemed to exonerate the Discharger from liability for violations of this Ordinance. Any industrial user operating under equivalent mass or concentration limits calculated from a production based standard shall notify the District within two 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 not notifying 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.

4.8 RECORDS

All Dischargers subject to this Ordinance shall retain and preserve for not less than three (3) years all records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, 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 which 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 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 and appeals have expired.

4.9 CONFIDENTIAL INFORMATION

4.9.1 Public Inspection

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 which qualify as trade secrets shall not be made public. Notwithstanding the foregoing, the United States Environmental Protection Agency and the State of Oregon Department of Environmental Quality shall have access to all records at all times. Effluent data, as defined and set forth in 40 CFR Part 2 incorporated by reference hereto, shall be available to the public.

4.9.2 Disclosure in the Public Interest

Nothing in paragraph 4.9.1 shall prevent disclosure of any information submitted by an industrial user when the public interest in that case requires disclosure. Disclosure to other governmental agencies for uses related to this ordinance is in the public interest.

4.9.3 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 type legend or other suitable form of notice employing language such as "trade secret", "proprietary" or "business confidential". 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 192.501(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.
- (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) Any party aggrieved by a ruling of the District may, within three business days of the decision, seek reconsideration by filing a written request accompanied by any additional supporting arguments or explanation supporting or denying confidentiality. Once the final decision is made, the District will wait five 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 to perfect standing to make any confidentiality claims before a court of competent jurisdiction.

4.10 ENFORCEMENT OF STANDARDS THROUGH ADMINISTRATIVE PENALTIES

4.10.1 Enforcement

In addition to the imposition of civil penalties, the District shall have the right to enforce this ordinance by injunction, or other relief, and seek fines, penalties and damages in Federal or State courts.

Any discharger that fails to comply with the requirements of these Rules and Regulations or provisions of its Industrial Wastewater Discharge Permit may be subject to enforcement actions as prescribed below in addition to those developed by the District.

(a) Violations

- (1) A violation shall have occurred when any requirement of these Rules and Regulations has not been met.
- (2) Each day a violation occurs or continues shall be considered a separate violation.
- (3) For violations of discharge limits, each parameter that exceeds a discharge limit shall be considered a separate violation;
- (4) Significant Non-Compliance: Significant non-compliance with applicable pretreatment requirements exists when a violation by any discharger meets one or more of the criteria defined in Section 2.

(b) Enforcement Mechanisms

- (1) In enforcing any of the requirements of this ordinance or rules or procedures adopted hereunder, the District may:
 - (i) Take civil administrative action (such as issuance of notices of violations, administrative fines, revocation of a permit) as outlined in herein;
 - (ii) Issue compliance orders;
 - (iii) Cause an appropriate action (such as civil litigation, criminal prosecution) to be instituted in a court of competent jurisdiction;
 - (iv) Terminate sewer service; or
 - (v) Take such other action as the District deems appropriate.
- (2) The type of enforcement action shall be based, but not limited by the duration and the severity of the violation; impacts on water quality, biosolids, disposal, interference, worker health and safety; violation of the District's NPDES permit. Enforcement shall, generally, be escalated in nature.
- (3) Whenever the District finds that any discharger has violated any provisions of these Rules and Regulations, or its waste discharge permit, it shall take appropriate enforcement action against the noncomplying industry based on its enforcement response procedures. The discharger will be required to comply with all requirements contained in the enforcement document issued by the District to include such items

as responding in a timely fashion to notices of violation letters, compliance inquiry letters, or show cause hearings, and compliance with all terms of compliance orders or other enforcement mechanisms as established by the District.

4.10.2 Imposition of Civil Penalties

The District may impose civil penalties including, but not limited to, fines, damages, modification or revocation of permit and/or cessation of services when any Industrial User (a) fails to factually report the wastewater constituents and characteristics of its discharge; (b) fails to report significant changes in wastewater constituents or characteristics; (c) tampers with sampling and monitoring equipment; (d) refuses reasonable access to the user's premises by representatives of the District for the purpose of inspection or monitoring; or (e) violates any condition or provision of its permit, this Ordinance, any rule adopted pursuant hereto, or any final judicial order entered with respect thereto. Nothing herein shall prevent the District from seeking injunctive or declaratory relief or any other remedy available under Federal or State law.

4.10.3 Procedure for Imposition of Civil Penalties

Procedures for the imposition of civil penalties on Industrial Users shall be in accordance with Section 11. In addition to any other remedy or penalty, the District may assess civil penalties of at least \$1,000 per day for each violation.

4.10.4 Emergency Suspension of Service and Permits Notwithstanding Any Other Provisions of This Ordinance

In addition to the procedures given in Section 11 for the enforcement of the civil penalty, the District may immediately cause to be suspended wastewater treatment service and/or the sewer permit of an Industrial User when it appears that an actual or threatened discharge presents, or may present, an imminent danger to the health or welfare of persons or the environment, interferes with the operations of the public sewerage system, or violates any pretreatment limits imposed by this Ordinance, any rule adopted or any permit issued pursuant hereto, or any other applicable law.

The suspension notice shall be served upon the Industrial User by personal, office, or substitute service as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, unless the emergency nature of the suspension makes service impracticable.

Any Industrial User notified of the suspension of the Industrial User's permit and/or service shall cease all discharges within the time determined solely by the District and specified in the suspension notice. If the Industrial User fails to comply voluntarily with the notice of suspension, the District may immediately, in its discretion, enter upon the property and disconnect the service, or seek a temporary restraining order or other relief from the Circuit Court to compel compliance or may proceed judicially or administratively as set forth in these Regulations to insure compliance with this Ordinance. The District shall reinstate the permit and/or service of the Industrial User and may terminate, in its discretion, any proceedings brought upon proof by the user of the elimination of the noncomplying discharge or conditions creating the threat of imminent or substantial danger as set forth above.

4.10.5 Operational Upset

Any Industrial User who experiences an upset in operations which place the industrial user in a temporary state of noncompliance with this Ordinance, and/or any rule adopted or permit issued pursuant hereto, shall inform the District thereof as soon as practicable, but not later than twenty-four (24) hours after first awareness of commencement of the upset. Where such information is given orally, a written follow-up report thereof 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 of the upset, the cause(s) thereof, 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 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 same, shall be an affirmative defense to any enforcement action brought by the District against an industrial user for any noncompliance with this Ordinance or any rule adopted or permit issued pursuant hereto which 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 production for all discharges to the extent necessary to maintain compliance with this ordinance or any rule adopted or permit issued pursuant hereto 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.

4.10.6 Bypass

Bypass means the intentional diversion of waste streams from any portion of an industrial users treatment facility. 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); (b) there was 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 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 days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent 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 which does not cause Pretreatment Standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of the paragraphs of this section.

4.10.7 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), (4), (5), (6) and (7) in addition to those covered in this Ordinance. The Industrial User in its demonstration shall be limited to provisions of 40 CFR 403.5(a)(2)(i) and (ii).

4.10.8 Public Notification

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 twelve (12) months, in accordance with and as defined in 40 CFR 403.8(f)(2)(viii).

SECTION 5 USE OF PUBLIC SEWERS REQUIRED

5.1 GENERAL

The owner of any building situated within the District and proximate to any street or sewer easement in which there is located a public sewer of the District or City may request permission, at owner's expense, to connect said building directly to the proper public sewer in accordance with the provisions of these Rules and Regulations and other applicable codes. Such request shall be made through proper application to connect to the sanitary sewer system.

5.2 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. The fee shall be due and payable immediately upon billing. The fee may be amended from time to time by order of the Board.

5.3 HEALTH HAZARDS

Where it is determined that property not within the boundaries of the District has a failing subsurface disposal system constituting a health hazard, the property owner may apply to the District for annexation. Annexation will occur by an Order of the Board finding a health hazard, said Order subject to compliance with all applicable statutes. If the property is within the Urban Growth Boundary the property must be annexed to the City and District, and no extraterritorial extension of service will be allowed unless in conformance with the then existing Rules of the Tri-City Advisory Committee. If extraterritorial extension is allowed, the property owner shall agree to pay all amounts determined under these Rules and Regulations in the District's applicable assessment formulas or collection sewer charge so that the proportionate fair share for service is fully paid.

SECTION 6 CONNECTION RULES AND SPECIFICATIONS

6.1 GENERAL REQUIREMENTS

All connections and specifications shall be in accordance with the Ordinances and laws of the District, the affected City, the Plumbing Code of the State of Oregon, and any other federal or state requirement.

6.2 GREASE, OIL, SAND AND SCUM TRAPS

All restaurants, fast food, delicatessens, taverns, and other food preparation facilities which prepare food onsite, service stations, automotive repair facilities or any other facility so determined by the District and/or city shall install grease, oil, sand and scum trap separators to remove fats, oils, greases, and scums. In addition, all proprietors will be responsible for cleaning and maintaining these separators. The District and/or City shall also have the authority to enter upon premises drained by any side sewer, at all reasonable hours, to ascertain whether this provision of limiting the introduction of fats, oils, greases, and scums to the system has been complied with. Violators of this provision may be directed to prepare a schedule of corrective action, pay a penalty as prescribed in Section 11, or both.

6.3 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.

6.4 ABANDONED CONNECTION

Any connection that is abandoned shall be capped or plugged by the property owner at the private property line or easement line at his sole cost and expense. All materials to plug or cap the service connection shall be approved by the District and/or city and inspected by the District and/or City prior to backfilling.

SECTION 7 PUBLIC SEWER CONSTRUCTION

7.1 CONSTRUCTION GENERALLY

All sewer construction shall conform to all standards of the District, the City, and the Department of Environmental quality of the State of Oregon, including but not limited to, OAR Chapter 340, Division 52, or as may be amended and specifically incorporated by reference hereto. Any sewer construction must be constructed under the continuous inspection of a registered professional engineer approved by the District. If a third party is involved, the agreement between the person causing construction and the registered professional engineer shall provide that the engineer shall have the sole responsibility for determining that design, materials and construction of the sewer extension conform to all of the applicable specifications of the District. Such agreement shall further provide that the engineer shall furnish such testing and inspection services as are required by the District and are deemed necessary by the engineer to permit him to make the certification required by Subsection 7.5 of these regulations.

7.2 PLANS

Three (3) copies of the plans and specifications prepared by the engineer shall be furnished to the District and shall be approved by the District in writing.

7.3 SPECIFICATIONS

All construction and material specifications for any sewer construction shall be in conformance with the construction and material specifications which are then in use by the District for sewer extensions constructed by the District.

7.4 SEWER EXTENSIONS

Sewer construction shall be constructed by a contractor duly licensed by the State of Oregon and any other licensing political subdivision having jurisdiction over the work. All sewer construction shall be located within the public right-of-way wherever possible.

7.5 CERTIFICATION

Prior to the acceptance of sewer construction 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 District's sewerage system, the engineer shall certify in writing on forms provided by the District the total construction costs of the sewer construction.

7.6 ACCEPTANCE BY DISTRICT

When the District is in receipt of the certification required of the engineer, the engineer shall arrange with the District for the District to perform a joint inspection of the sewer construction with the engineer. Following completion of the joint inspection, the District shall, if it determines as a result of such inspection that the construction is in conformance with the construction materials specifications of the District, accept the sewer construction upon receipt of: 1) a bond or deposit in the amount of 25 percent of the construction cost guaranteeing the sewer construction against any defects in labor and materials for a period of one year from the date of acceptance by the District; 2) a sufficient bill of sale or other conveyancing document in the form approved by the District (or on a District supplied form) transferring all rights, title and interest in and to the sewer construction to the District; 3) a document conveying any easements required and in a form approved by the District, providing that the District have a perpetual right to maintain, repair and replace the sewer construction; 4) a certificate of completion, certifying in writing that the work was done under the engineer's supervision or inspection and is in conformance with the approved plans and specifications and meets all required tests; 5) a complete and stamped sewer service connection record form for each service connection; 6) blackline mylar As-Built drawings capable of being reprinted with all details legible, showing the connection size, station length and depth at the property line on a 22" x 34" or 24" x 36" plan sheet at the scale of 1" = 50 feet; 7) CAD As-Built drawings on a 3 1/2" IBM compatible floppy disk formatted for 1.44 MB capacity, using native Auto Cad (DWG or DXF Data exchange file format) with layer data as provided by District personnel; and 8) construction and engineering cost data on District forms.

SECTION 8 [RESERVED]

SECTION 9 CHARGES AND RATES FOR SEWAGE SERVICES

9.1 SYSTEM DEVELOPMENT CHARGES

9.1.1 Purpose

Section 9.1 is intended to provide authorization for system development charges for capital improvements pursuant to ORS 223.297-223.314 for the purpose of creating a source of funds to pay for existing system capacity and/or the installation, construction and extension of capital improvements to accommodate new connections to the system. These charges shall be due and payable at the time of permitted increased improvements by new development whose impacts generate a need for those facilities. The system development charges imposed by Section 9.1 are separate from and in addition to any applicable tax, assessment, charge or fee otherwise provided by law or imposed as a condition of development.

9.1.2 System Development Charge Imposed; Method for Establishment Created

Unless otherwise exempted by the provisions of these Rules and Regulations or other local or state law, a system development charge is hereby imposed on all development within the District that increases usage upon the sanitary sewer facilities for each equivalent dwelling unit as defined in the Table I. System development charges shall be established and may be revised by resolution or order of the Board. The resolution or order shall set the methodology and amount of the charge.

9.1.3 Methodology

- (c) The methodology used to establish the reimbursement fee shall consider the cost of the then-existing facilities, prior contributions by then-existing system users, the value of unused capacity, ratemaking principles employed to finance publicly-owned capital improvements, and other relevant factors identified by the board. The methodology shall promote the objective that future system users shall contribute not more than an equitable share of the cost of then-existing facilities.
- (d) 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 and other relevant factors identified by the Board.
- (e) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be adopted by resolution or order of the Board.

9.1.4 Authorized Expenditure

- (a) 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.
- (b)(1) 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.

- (2) A capital improvement being funded wholly or in part from the revenues derived from the improvement fee shall be included in the Capital Improvement Program adopted by the Board; and
- (c) Notwithstanding 9.1.4(a) and (b), system development charge revenues may be expended on the direct costs of complying with the provisions of this ordinance, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge funds.

9.1.5 System Development Charge Project Plan

- (a) The Board has adopted by resolution or order the Tri-City Service District System Development Charge Report. This Report:
 - (1) Lists existing facilities and the capacity available for new development;
 - (2) Lists the planned capital improvements that may be funded with improvement fee revenues; and
 - (3) Lists the estimated cost and time of construction of each improvement.
- (b) In adopting this Report, the Board may incorporate by reference all or a portion of any Public Facilities Plan, Master Plan, Capital Improvements Plan or similar plan that contains the information required by this section. The Board may modify the projects listed in that Report at any time through the adoption of an appropriate resolution.

9.1.6 Collection of Charge

- (a) As a condition to connection of the sanitary sewer system, the applicant shall pay all applicable charges to the District and the City. Except as allowed in Section 9.1.7, the system development charge is payable at the time of permitted increased usage upon issuance of:
 - (1) A building permit; or
 - (2) A development permit for development not requiring the issuance of a building permit; or
 - (3) Increased usage of the system or systems provided by the District.
- (b) The resolution which sets the amount of the charge shall designate the permit or systems to which the charge applies.

- (c) If development is commenced or connection is made to the systems provided by the District within an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required or increased usage occurred.
- (d) The Director of Water Environment Services or his/her 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 pursuant to Section 9.1.7, or unless an exemption is granted pursuant to Section 9.1.8.
- (e) All moneys collected through the system development charge shall be retained in a separate fund and segregated by type of system development charge and by reimbursement versus improvement fees.
- (f) In addition, each person making an application for connection shall pay an inspection charge equal to the average costs incurred by the District in providing sewer system construction inspection and testing for the type of service for which the application has been submitted and the permit to be reasonably calculated. The applicant shall pay an estimated inspection charge which may be adjusted as follows:
 - (1) 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.
 - (2) 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.

9.1.7 Installment Payment of District's System Development Charges

- (a) Where the District's share of system development charges is greater than two times the amount of a system development charge for a single family residential unit, the applicant may, at the time of application, with the consent of the District, make a one-time election to pay the charge in installments. If approved, payment in 20 semi-annual installments, secured by a lien on the property upon which the development is to occur or to which the connection is to occur or to which the connection is to be made, to include interest on the unpaid balance.
- (b) The District shall provide application forms 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.
- (c) The District reserves the right to reject any application for installment payments. Requirements and procedures for installment payments of the District's share of the system development charge shall be in accordance with the following:
 - (1) A person requesting 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.

- (2) Any eligible property owner requesting the installment shall at the time of the application for connection submit to the District an application for deferral on a form provided by the District.
- (3) Upon receipt of an application, the applicant, at his expense, shall order a preliminary title report from a title insurance company doing business in Clackamas County, Oregon, and provide it to the District.
- (4) The applicant, at his expense, shall furnish the District with a current statement of amount due to each lienholder disclosed by the preliminary title report, the tax assessor's statement of true cash value, and, for property proposed for improvement, an MAI appraisal, certified by the appraiser, as to the estimated fair market value upon completion of the proposed improvement. The applicant shall answer such questions as the District deems proper regarding the applicant's ability to make the installment payments, as well as any other lienholder. The applicant also authorizes the District to contact other lienholders regarding applicant's payment history.
- (5) If, upon examination of the title to the property and other information, the District is satisfied:
 - (i) That the total unpaid amount of all liens disclosed, together with the amount of the system development charge sought to be paid by installments, does not exceed (1) the appraised value of the property as determined by the current appraisal of the County Assessor or (2) if the District elects, based upon the appraisal or other evidence of value acceptable to the District, the amount does not exceed the estimated fair market value of the property; and
 - (ii) The District, in its discretion, upon review of the applicant's ability to make payments as required under the proposed mortgage or trust deed and other debt obligations and the status of applicant's title to the property, consents to execution of the mortgage or trust deed; then
 - (iii) 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 20 equal semi-annual installments due January 1 and July 1 of each year, together with interest on the deferred principal balance at the prime rate of interest being charged on each principal payment date by the bank doing business in Oregon and having the largest deposits. 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, title company report and filing fees shall be borne by the

applicant in addition to the system development charge. 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.

- (d) If the District determines that the amount of system development charge, together with all unpaid liens, exceeds the appraised value of the property or that the applicant cannot execute a mortgage or trust deed which will be a valid lien; or if the District believes that it will not have adequate security, or that the applicant cannot make the required payments, it shall so advise the applicant and installment payments shall not be accepted.
- (e) The District shall docket the lien in the lien docket. From that time, the District shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by the Board. The lien shall be enforceable in the manner provided in ORS Chapter 223, and shall be superior to all other liens pursuant to ORS 223.230.

9.1.8 Exemptions

The System Development Charge shall not apply to:

- (a) Structures and uses using the sewerage facilities on or before the effective date of the resolution.
- (b) Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the Uniform Building Code or the City's Zoning Development Ordinance.
- (c) An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the sanitary sewer facilities.

9.1.9 Credits

- (a) A permittee is eligible for credit against the improvement fee element of the system development charge for constructing a qualified public improvement. A qualified public improvement means one that meets all of the following criteria:
 - (1) Required as a condition of development approval by the Board or its designee through the development review process; and
 - (2) Identified in the District's Capital Improvement Plan; and
 - (3)(i) Not located within or contiguous to the property or parcel that is subject to development approval; or

- (ii) 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.
- (4) This credit shall be only for the improvement fee charged for the type of improvement being constructed. Credit under this section may be granted only for the cost of that portion of the improvement that exceeds the facility size or capacity needed to serve the development project and their oversizing provides capital usable by the district.
- (b) Applying the adopted methodology, the District may grant a credit against the improvement charge for capital facilities provided as part of the development that reduces the development's demand upon existing District capital improvements or the need for further District capital improvements or that would otherwise have to be constructed at District expense under the then-existing Board policies.
- (c) 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.
- (d) All credit requests must be in writing and filed with the District before the issuance of a building permit. Improvement acceptance shall be in accordance with the usual and customary practices, procedures and standards of the District. 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 any system development charge imposed against the subject property. The applicant has the burden of demonstrating qualification for a credit.
- (e) Credits shall be apportioned against the property which was subject to the requirements to construct an improvement eligible for credit. Unless otherwise requested, apportionment against lots or parcels constituting the property shall be proportionate to the anticipated public facility service requirements generated by the respective lots or parcels. Upon written application to the District, however, credits shall be reapportioned from any lot or parcel to any other lot or parcel within the confines of the property originally eligible for the credit. Reapportionment shall be noted on the original credit form retained by the District.

- (f) 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 shall only apply against system development charges, are limited to the amount of the fee attributable to the development of the specific lot or parcel for which the credit is sought, and shall not be a basis for any refund.
- (g) Any credit request must be submitted before the issuance of a building permit. The applicant is responsible for presentation of any credit and no credit shall be considered after issuance of a building permit.
- (h) Credits shall be used by the applicant within ten years of their issuance by the District.

9.1.10 Payment of System Development Charges

As a condition of connection to the sewerage system, the applicant shall pay all fees and charges, except as allowed under Section 9.1.7 to the jurisdiction that bills the user.

In addition, each person making an application for connection directly to a District facility shall pay an Inspection Charge equal to the average costs incurred by the District in providing sewer system construction inspection and testing for the type of service for which the application has been submitted and the permit to be reasonably calculated, the applicant shall pay an estimated inspection charge 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.

9.1.11 Changing Class of Service

Whenever a parcel of property shall have become connected to the City or District sewerage system and shall thereafter undergo a change of use so that a different number of dwelling units would be assigned to the property if connection were made after the change, the following shall occur:

- (a) If the change results in the assignment of a greater number of EDU's pursuant to Table I, an additional system development charge shall be levied at the time of such change. The additional charge shall be equal to the net increase of EDU's times the current system development charge by EDU.
- (b) If the change results in the assignment of a lesser number of EDU's pursuant to Table I, there shall be no additional charge or rebate. However, the full number of EDU's originally assigned shall be used as a basis for determining any future system development charges in the event of a further change of use resulting in the assignment of additional EDU's.

9.1.12 Notification/Appeals

The District shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of the system development charge methodology. These persons shall be so notified in writing of any such proposed changes at least 45 days prior to the first hearing to adopt or amend such methodology(ies). This methodology shall be available at least 30 days prior to the public hearing. Any challenge to the system development charge methodology shall be filed not later than 60 days following final adoption by the Board and only pursuant to the provisions of ORS 34.010 to 34.100.

9.1.13 Challenges

Any citizen or interested person may challenge expenditure of system development charge revenues according the Section 11.1 of the Rules and Regulations. Notwithstanding Section 11.1.1, the initial appeal of that Section with respect to an expenditure of system development charge revenues shall be filed within two years of the expenditure complained of. Thereafter, all time limits of Section 11.1 shall apply including Circuit Court review pursuant to ORS 34.010 to 34.100.

9.2 USER CHARGES

9.2.1 Dwelling Unit Monthly User Charge

As shown on Table I, a monthly sewer user charge for each residential dwelling unit is assigned each residential class of service listed in the attached Table I and shall be paid by the property owner or user commencing on the third month following the date of connection to the District or City's sewer system unless the City requires an earlier charge. All nonresidential users shall pay from the date of connection to the system. The Board may set user fees and charges by resolution or order.

9.2.2 Low Income Senior Citizen Monthly User Charge

The monthly user charge for service provided to the principal residence of a person 65 years of age or older, having a maximum income of \$13,616 for a single person residing in the residence or a maximum of \$18,204 for all persons residing in the residence shall be 50% of the monthly sewer service charge. This amount will be automatically adjusted annually commencing July 1, 1998, and thereafter depending upon the poverty level amounts established by the United States of America. In order to be eligible for the reduced user charge, the qualified person 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 rate on a form supplied by the District.

9.3 OTHER CHARGES

9.3.1 Sewer Tap-In Charge

Whenever any property requiring sanitary facilities directly connects to the District sewerage system and there has not been provided a service connection to serve such property, the owner at the time of connection shall pay a tap-in charge. The charge shall be equal to the costs incurred by the District in providing the sewer tap-in and shall be set by resolution or order of the Board.

9.3.2 Other Connecting Charges

Whenever 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, extension of the public sewer, or modification of the public sewer.

9.3.3 Industrial Waste User Charge

An industrial waste user charge will be applied to each class of industrial user as defined in Tables I. The user charge shall be comprised of rates for the customer's proportionate contribution of flow, the suspended solids ("TSS") and biochemical oxygen demand ("BOD") which are in excess of domestic sewage contributions.

Rates for industrial flows shall be based on their Equivalent Dwelling Units 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 sewage treatment plant periodically during the preceding three-month period. Quarterly adjustments may be made to reconcile differences in projected versus actual conditions.

Such user charge shall be payable from the date of connection to the District or City sewage system or from the date on which the property owner is required to connect to the District or City sewage system, whichever occurs first.

9.3.4 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.

9.3.5 Setting Other Charges and Fees

The Board shall create, adopt, and amend charges and fees by resolution or order.

9.4 PAYMENT OF CHARGES

9.4.1 User Charges

Owners of property will be billed by 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 on Table I as amended from time to time. Users will be billed on a monthly or bimonthly basis.

9.4.2 Notification Requirements

In conjunction with a regular bill, the city will provide an annual notification to each user of that portion of the monthly user rate which is attributable to wastewater treatment services. The City shall state separately the portion imposed by it for sewer services.

9.4.3 Charges and Fees

All charges and fees shall be due and payable at the time of service, unless otherwise specifically provided by these Rules.

9.5 ACCOUNT SETUP, BILLING AND COLLECTION POLICY

9.5.1 General

It is the policy of the District that the user (in whose name the account is set up) is primarily responsible for all fees and charges at the service location.

9.5.2 Account Setup

All applications for service shall be on forms provided by the District or City. The account holder shall be considered the user of the service. In the case of a landlord-tenant situation, the tenant shall be the account holder unless the rental agreement (oral or written) provides that the landlord is responsible or the landlord has executed a written document stating that he/she/it is responsible for service. If the landlord is responsible, then both the landlord and the tenant shall be listed as the account holder. While the rental unit is unoccupied, any charges shall be the responsibility of the landlord.

9.5.3 Notices

Regardless of who is listed as the user, the District or City will make all reasonable efforts to provide the landlord 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 to provide notices to enable the landlord and tenant a reasonable opportunity within the time set by the District or City to avoid delinquent charges and discontinuance of service.

9.5.4 Collection of Charges

All invoices or bills for fees and charges shall be sent to the user at the address set forth on the records of the billing entity. If the District or City's records reveal that the user is not the owner and the owner has not executed a document to pay for services, then the District or City may take all reasonable steps to provide the owner with copies of all invoices, bills and notices pursuant to ORS 91.255.

If the owner has executed such an agreement to be bound or if the rental agreement provides, then the landlord and the tenant shall be jointly and severally liable and, following notices to each in accordance with the District or City's procedures, collection practices may ensue or service may be terminated. The District or City may look to either or both parties for payment in addition to the remedies of ORS 91.255.

If the user is different than the owner, the District or City 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 or City not later than 30 days from the time payment is due on the account. Thereafter, in accordance with typical procedures, the District or City 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 District or City may enter into a payment plan in its sole discretion to avoid hardship to the user and leave the ultimate resolution between landlord and tenant.

The District or City may also 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 to obtain payment to the District and avoid hardship and inequities.

Nothing herein shall limit the City from undertaking those procedures or actions authorized by statute, charter or ordinance and using any collection or method available, including but not limited to, termination of water service.

9.5.5 Delinquent Charges

All District user charges shall bear interest at 9% per annum from the date of the levy until paid. In addition, the District may certify the amount to the Assessor for inclusion on the property tax statement pursuant to ORS 454.225, and 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 according to the Oregon Revised Statutes. In any action or suit to collect any delinquent user charges, the District shall be entitled to reasonable attorneys fees and costs and disbursements that may be awarded by the trial court, including any appeal therefrom.

9.5.6 Discontinuance of Service

The District may, at any time after any charges or fees hereunder become delinquent, remove or close sewer connections and enter upon any delinquent owner's property for such purpose. In addition, when any property owner fails to cease discharging into the sewerage system prohibitive substances after being notified by the District to do so, sewerage 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.

9.5.7 Restoration of Service

Sewer service which has been discontinued by the District or City shall not be restored until all accrued charges, including the expenses of discontinuance and restoration have been paid and the cause for discontinuance corrected.

9.5.8 Fees and Costs

By resolution, the District shall set fees and charges, for collection efforts, including fees and charges necessary to recover all costs related to insufficient fund 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 as its designee.

SECTION 10 SEPTIC TANK WASTES

10.1 GENERAL STATEMENT

This Section of the Rules and Regulations sets forth uniform requirements for discharges of septic tank wastes at the Tri-City Service District (TCSD) Water Pollution Control Plant, as required by applicable Oregon laws, the federal Clean Water Act, and the Environmental Protection Agency General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this Section of the Rules and Regulations are to prevent the introduction of pollutants into the District's sewerage system which will interfere with the operation of the system or contaminate the resulting biosolids; to prevent the introduction of pollutants into the District's sewerage system which 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 sludges; and to provide for equitable distribution of the cost of the District's sewerage system.

This section provides for the regulation of discharges of septic tank wastes at the TCSD Water Pollution Control Plant 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 District's sewerage system.

10.1 DEFINITIONS

In addition to the definitions provided in Section 2 of the Rules and Regulations, as used in this Section, the following additional words and terms shall have the meanings hereinafter designated:

10.2.1 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.

10.2.2 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.

10.2.3 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.

10.2.4 Operator in Charge

The designated personnel on duty at the TCSD Water Pollution Control Plant responsible for supervising and directing any discharge of septic tank wastes hauled to the Plant.

10.2.5 Septic Tank

A watertight receptacle, which receives domestic sewage from an on-site sanitary drainage system, 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.

10.2.6 Septic Tank Wastes

Septic tank wastes include and are limited to domestic sewage from the sanitary facilities of residences, hotels, motels, and domestic sewage from the sanitary facilities of commercial and industrial property whether collected from septic tanks, cesspools, holding tanks, pumping facilities or chemical toilets. Process wastes from commercial and industrial property are excluded.

10.3 SEPTIC TANK WASTE DISCHARGE PERMITS

10.3.1 Requirements for a Permit

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 TCSD Water Pollution Control Plant. The applicant must obtain a separate charge card for each truck and trailer in order for each truck and trailer to be authorized to discharge septic tank wastes.

Septic Tank Waste Permits for the discharge of septic tank wastes at the TCSD Water Pollution Control Plant will be issued by the District only to those persons possessing a valid Sewage Disposal Service Business License issued by the Oregon Department of Environmental Quality (DEQ), and who have submitted a complete application 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.

10.3.2 Permit Applications

Application for a Septic Tank Waste Discharge Permit to discharge septic tank wastes at the TCSD Water Pollution Control Plant 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.

10.3.3 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 ten thousand dollars (\$10,000.00), which bond shall be forfeited to the District under any of the following conditions:

- (a) The discharge of wastes which are toxic or harmful to the treatment plant operation or process.
- (b) The discharge of septic tank wastes at any unauthorized location within the boundaries of the Tri-City Service District.
- (c) Failure to pay all charges for discharge within 30 days of billing by the District.

10.3.4 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 and trailer will be issued one charge card, which card, after issuance by the District must be presented to the operator in charge before any septic tank wastes may be discharged at the TCSD Water Pollution Control Plant.

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 Oregon 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.

10.3.5 Permit Duration/No Property Interest Acquired

All Septic Tank Waste Discharge Permits shall be issued for a term not to exceed three 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 Septic Tank Waste Discharge Permit, the permittee must file with the District a complete application to renew their permit no later than 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.

10.3.6 Limitations on Permit Transfer

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

10.3.7 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. The District shall conduct enforcement pursuant to and in accordance with Section 11 of these Rules and Regulations. In enforcing any of the requirements of the Rules and Regulations or Septic Tank Waste Discharge Permit, the District may:

1. Take civil administrative action (such as issuance of Notices of Violations, administrative fines or revocation of a permit);
2. Issue compliance orders;
3. Cause an appropriate action (such as civil litigation, criminal prosecution) to be instituted in a court of competent jurisdiction;
4. Terminate service; or
5. Take such other action as the District deems appropriate.

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

- (c) Failure to accurately certify the source or sources of a waste load prior to discharge, and to provide verifiable, complete and accurate information in the manner required by the operator in charge at the TCSD Water Pollution Control Plant.
- (d) Failure to pay all fees and charges for discharging septic tank wastes within thirty (30) days of billing by the District.
- (e) Any act which is named a cause for forfeiture of the surety bond, as outlined in Subsection 10.3.3 of these Rules and Regulations.

10.4 WASTE DISCHARGE REQUIREMENTS

10.4.1 Prohibited Discharges

No septic tank waste hauler shall discharge or cause to be discharged, directly or indirectly, to the TCSD Water Pollution Control Plant, any waste that is not septic tank waste or any pollutant, substances, or wastewater which will interfere with the operation or performance of the District 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) Any process waste from industrial or commercial locations;
- (b) Any wastes containing liquids, solids, or gases that will create a fire or explosion hazard;
- (c) Any wastes containing solid or viscous substances which may cause obstruction to flow such as, but not limited to, oil, grease, sand, rags, or metals;
- (d) Any wastes having a pH lower than 6.0 or higher than 9.0, or having any corrosive property capable of causing damage or hazard to structures, equipment or people;
- (e) Any wastes having a temperature higher than 140 degrees Fahrenheit (60 degrees Celsius) or having temperatures sufficient to inhibit biological activity or cause the influent to the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius); and
- (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.

Any septic tank waste hauler who violates these conditions and discharges wastes with the above characteristics is subject to forfeiture of their surety bond and revocation of their Septic Tank Waste Discharge Permit, in addition to any other penalties, assessments, fines, or damages that may be recoverable.

10.4.2 Discharge Limitations

- (f) The District will accept domestic septic tank wastes originating from within Clackamas, Multnomah, and Washington Counties and hauled to the TCSD Water Pollution Control Plant subject to the provisions of this Section of the Rules and Regulations.
- (g) Discharge of septic tank wastes at the TCSD Water Pollution Control Plant will only be allowed during plant hours established by the Tri-City Service District. The District reserves the right to change the hours and/or days that waste haulers are allowed to

discharge at the TCSD Water Pollution Control Plant.

- (c) Each septic tank waste load hauled to the TCSD Water Pollution Control Plant shall be accompanied by a manifest in a form provided by the District which provides verifiable, complete and accurate information on the source or sources of the septic tank waste load. The permittee shall certify under penalty of law the information provided in the manifest.
- (d) The operator in charge shall have full authority to take any of the following steps 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 TCSD Water Pollution Control Plant exhibits capacity or operational problems:
 - (1) Refuse acceptance of the waste;
 - (2) Limit the volume of discharge; or
 - (3) Establish such restrictions as deemed necessary for the efficient and safe operation of the treatment plant.
- (e) If for reason of lack of capacity or operational problems, the operator in charge is unable to accept any waste material, the operator in charge will notify the Oregon DEQ.
- (f) In the event a load of waste is rejected by the operator in charge, the Oregon DEQ will be notified of such rejection and the reason therefore.
- (g) 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.

10.5 FEES AND CHARGES

10.5.1 Permit Fee

The fee for the initial Septic Tank Waste Discharge Permit and for the renewal thereof is set forth in Table I, payable at the time the permit application or renewal application is filed with the District. The initial and renewal permit fees may be amended at any time by an Order of the Board.

10.5.2 Disposal Charges

The charge for disposing of septic tank wastes at the TCSD Water Pollution Control Plant shall be based upon each gallon discharged as set forth on Table I. This charge rate per gallon may be amended at any time by an Order of the Board.

Determination of the quantity of septic tank wastes discharged shall be made by the operator in charge. Any appeal of the determination of the quantity of wastes discharged must be made before

the wastes are discharged to the TCSD Water Pollution Control Plant.

10.6 COLLECTION AND BILLING

The operator in charge shall retain two copies of every manifest executed by permit holders.

The District's accounting office shall mail a statement of account to each permit holder once per month. The statement shall contain the warning that failure to pay the amount shown therein within thirty (30) days of the date of billing will result in revocation of the Septic Tank Waste Discharge Permit, and the statement will contain a total amount due and payable based on the charges set forth in Subsection 10.5 of these Rules and Regulations.

10.7 PROTECTING THE PUBLIC INTEREST

No provision of this Section of the Rules and Regulations shall be construed to create any right to the disposition of septic tank wastes at a District facility inconsistent with 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, which in the opinion of the District would be inconsistent with the public interest.

SECTION 11 APPEALS

11.1 INTERPRETATION OF THIS ORDINANCE

11.1.1 Appeal

Any person aggrieved by a ruling or interpretation of the provisions of this Ordinance may submit a written appeal to the Director. The appeal shall set forth the events and circumstances leading to the appeal, the nature of the ruling or interpretation from which relief is sought, the nature of the impact of the ruling on appellant's property or business, together with any other reasons for the appeal. This provision shall not apply in cases arising under Section 11.2.

11.1.2 Decision of District

The District shall study the matter, hear testimony if deemed necessary, and issue written findings and reasons for such recommendations to the appellant.

11.1.3 Appeal to Board

If the appellant considers that his grievance has not been handled to his satisfaction, he may apply to the governing body of the District for an independent review of his case within thirty (30) days from the date of the written decision. The Board may make an independent review of the case and hear additional testimony on the matter if it deems necessary. Within thirty (30) days from receipt of the appeal if the Board chooses to review the matter, it will prepare a written decision on the matter, which shall be sent to the applicant. In lieu of a hearing by the Board, a hearing officer may be appointed.

11.1.4 Circuit Court Review

Decisions of the Board 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.

11.2 VIOLATIONS AND CIVIL PENALTIES

11.2.1 Violation of These Rules and Regulations

The District may impose civil penalties, including but not limited to fines, damages, modification or revocation of permit, cessation of services or seek an injunction or other relief provided by law when any user or person violates any condition or provision of this Ordinance or any rule adopted thereto or any final order 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 the District's statutes, 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 by 11.3.1, 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 particular 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.

11.2.2 Definitions for Enforcement

- (a) "Compliance" means meeting the requirements of the District's statutes, rules, permits or orders.
- (b) "Documented Violation" means any violation which the District or other government agency verifies through observation, investigation or data collection.
- (c) "Enforcement" means any documented action taken to address a violation.
- (d) "Flagrant" means any documented violation where the respondent had actual knowledge of the law and had consciously set out to commit the violation.
- (e) "Formal enforcement" means an administrative action signed by the Director or designee which is issued to a respondent on the basis that a violation has been documented, requires the respondent to take specific action within a specified time frame and states consequences for continued noncompliance.
- (f) "Intentional" means respondent consciously and voluntarily took an action or admitted to take an action and knew the probable consequences of so acting or omitting to act.
- (g) "Magnitude of Violation" means the extent and effects of a violator's deviation from the District's statutes, rules, permits or orders. In determining magnitude, the District shall consider all available applicable information, including such factors as, but not limited to, concentration, volume, duration, toxicity or proximity to human or environmental receptors and the extent of the effects of the violation. Deviations shall be classified as major, moderate or minor.
- (h) "Prior Significant Action" means any violation proven pursuant to a contested case hearing or established with or without admission of a violation by payment of a civil penalty, by order or default, or by Stipulated Final Order of the District.
- (i) "Respondent" means the person to whom a formal enforcement action is issued.
- (j) "Risk of Harm" means the level of risk created by the likelihood of exposure, either individual or cumulative or the actual damage either individual or cumulative, caused by a violation to public health or the environment. Risk of harm shall be categorized as major, moderate or minor.
- (k) "Systematic" means any documented violation which occurs on a regular basis.
- (l) "Violation" means a transgression of any statute, rule, order, license, permit or any part thereof and includes both acts and omissions. Violations shall be classified as follows:

- (1.) “Class I” means any violation which poses a major risk of harm to public health or the environment, or violation of any compliance schedule contained in a District permit or a District order:
- (i) Violation of a District Order;
 - (ii) Intentional unauthorized discharges;
 - (iii) Negligent spills which pose a major risk of harm to public health or the environment;
 - (iv) Waste discharge permit limitation violations which pose a major risk of harm to public health or the environment;
 - (v) Discharge or introduction of waste to the publicly owned treatment works as defined in 40 CFR 403.3(o), without first obtaining an Industrial User Waste Discharge Permit;
 - (vi) Failure to immediately notify the District of a spill or upset condition which results in an unpermitted discharge to public waters or to the publicly owned treatment works as defined in 40 CFR 403.3(o);
 - (vii) Violation of a permit compliance schedule;
 - (viii) Failure to provide access to premises or records;
 - (ix) Any other violation related to water quality which poses a major risk of harm to public health or the environment;
 - (x) Two Class II violations or one Class II and two Class III violations or three Class III violations.
- (2.) “Class II” means any violation which poses a moderate risk of harm to public health or the environment, including but not limited to:
- (i) Waste discharge permit limitation violations which pose a moderate risk of harm to public health or the environment;
 - (ii) Negligent spills which pose a moderate risk of harm to public health or the environment;
 - (iii) Failure to submit a report or plan as required by permit or license;
 - (iv) Any other violation related to water quality which poses a moderate risk of harm to public health or the environment.

(3.) "Class III" means any violation which poses a minor risk of harm to public health or the environment, including but not limited to:

- (i) Failure to submit a discharge monitoring report (DMR) on time;
- (ii) Failure to submit a completed DMR;
- (iii) Negligent spills which pose a minor risk of harm to public health or the environment;
- (iv) Violation of a waste discharge permit limitation which poses a minor risk of harm to public health or the environment;
- (v) Any other violation related to water quality which poses a minor risk of harm to public health or the environment.

11.3 PROCEDURE FOR ENFORCEMENT

11.3.1 Prior Notice and Exceptions

Except as otherwise provided, prior to the assessment of any civil penalty, the District shall serve a notice of violation upon the Respondent. The written notice shall be served, either personally, by office or substitute service, as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, specifying the violation and stating that the District will assess a civil penalty if a violation continues or occurs after five days following receipt of the notice.

The above notice shall not be required where the Respondent has otherwise received actual notice of the violation not less than five days prior to the assessment of civil penalty. No advance notice, written or actual, shall be required if (a) the act or omission constituting the violation is intentional; or (b) the water pollution would normally not be in existence for five days.

11.4 ENFORCEMENT ACTION

11.4.1 Notice of Non-Compliance (NON)

A notice of noncompliance (NON) is an enforcement action which: (a) informs a person of the existence of a violation, the actions required to resolve the violations and the consequences of continued noncompliance. The notice may specify the time by which compliance is to be achieved and that the need for formal enforcement action will be evaluated; (b) shall be issued under the direction of the Director or designee; (c) shall be issued for all classes of documented violations; and (d) is consistent with the policy of 11.2.1. Typically a NON will be in the form of a Compliance Telephone Memorandum and may include a request for a written report within five (5) business days. The report shall detail the event, steps taken to correct the problem and steps to prevent future events. 11.4.2 Notice of Violation and Intent to Assess a Penalty (NOV).

11.4.2 Notice of Violation and Intent to Assess a Penalty (NOV)

The Notice of Violation and Intent to Assess a Civil Penalty (NOV) is a formal enforcement action which: (a) is issued pursuant to 11.3.1; (b) may include a time schedule by which compliance is to be achieved; (c) shall be issued by the Director or designee; (d) shall be issued for the first occurrence of a documented Class I violation which is not excepted under 11.3.1 or the repeated or continued occurrence of documented Class II or Class III violations where notice of noncompliance has failed to achieve compliance or satisfactory progress toward compliance.

11.4.3 Notice of Civil Penalty Assessment

A notice of Civil Penalty Assessment is a formal enforcement action which (a) is escalated pursuant to Section 11.5; (b) shall be issued by the District or designee; and (c) may be used for the occurrence of any class of documented violation, for any class of repeated or continuing violations if a person has failed to comply with a Notice of Violation and intent to assess a civil penalty or other order or Stipulated Final Order.

11.4.4 Memorandum of Agreement and Order

A Memorandum of Agreement and Order (MAO) is a formal enforcement action which is in the form of a MAO, stipulated final order or consent order issued by the Director that (a) may be negotiated between the District and the subject party prior to or after any notice set forth above; (b) shall be signed by the Director or designee on behalf of the District and the authorized representative of the subject party; and (c) shall set forth action to be taken and set civil penalties. This may be issued for any class of violations. 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.

11.4.5 Right to Hearing

- (a) A civil penalty shall be due and payable 10 days after the date of service of the Notice of Civil Penalty Assessment. The decision of the Director or the Director's designee to assess a civil penalty or other enforcement action or any violation pertaining to the District's statutes, regulations, permits, or orders shall be served on the user or person (hereinafter "Respondent") by personal service, office or substitute service, as those terms are defined in the Oregon Rules of Civil Procedure or by certified or registered mail, return receipt requested. Service may be made upon any agent, officer or authorized representative of the user or person. The Notice shall specify the violation, the reasons for the enforcement action and the amount of the penalty. It shall comply with ORS 183.090 relating to notice and contested cases. The decision shall be final unless the respondent files a written Notice of Appeal and Request for Hearing with the District within 21 days from the date of the Director's decision. The Notice of Appeal and Request for Hearing shall contain the following:
 - (b) The name of the Respondent and the case file number 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 Notice of Appeal is duly authorized to file such appeal and such person is the contact representative;

- (d) The date that the Notice of Civil Penalty Assessment or other formal enforcement was received by the Respondent;
- (e) The nature of the decision and the specific grounds for appeal. In the Notice of Appeal, the party shall admit or deny all factual matters and shall affirmatively allege any affirmative claim and defense and the reasons therefore.
- (f) The appeal shall be limited to the issues raised in the petition.
- (g) The hearing shall be conducted in accord with ORS Chapter 183. The record of the hearing shall be considered by the District or Hearings Officer, which shall enter appropriate orders , including the amount of any civil penalty assessed. Appeal of such orders may be taken by the Respondent as provided in Section 11.9, below. Notwithstanding the foregoing, nothing shall be construed to prevent the District from taking any other enforcement action or remedy available.

11.5 CIVIL PENALTY SCHEDULE MATRICES

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 statutes, regulations, permits or orders by service of a written notice of assessment of civil penalty upon the respondent as set forth in Paragraph 11.04 above. The amount of any civil penalty shall be determined through the use of the following matrices in conjunction with the formula contained in Section 11.5.3.

11.5.1 Base Penalty Matrix

	Magnitude of Violation		
	Major	Moderate	Minor
Class I	\$5,000	\$2,500	\$1,000
Class II	\$2,000	\$1,000	\$500
Class III	\$500	\$250	\$100

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

11.5.2 Petroleum Spills

Persons causing oil spills to waters of the state within the jurisdiction of the District through intentional or negligent acts shall incur a civil penalty of not less than one hundred dollars (\$100) or more than twenty thousand dollars (\$20,000) per violation. The amount of the penalty shall be determined by doubling the values contained in the matrix in subsection 11.5.1 of this rule in conjunction with the formula contained in 11.5.3. In determining whether to seek a civil penalty, the District shall take into account the circumstances and enforcement efforts of other governmental agencies having jurisdiction.

11.5.3 Civil Penalty Determination Procedure

(a) When determining the amount of civil penalty to be assessed for any violation the Director shall apply the following procedures:

(1) Determine the class of violation and the magnitude of violation;

(2) Choose the appropriate base penalty established by the matrices of Section 11.5.1 based upon the above finding;

(3) Starting with the base penalty (BP), determine the amount of penalty through the application of the formula $BP + [(.1 \times BP) (P + H + E + O + R + C)]$ where:

(i) "P" is whether the Respondent has any prior significant actions relating to statutes, rules, orders and permits pertaining to environmental quality or pollution control. The values for P and the finding which supports each are as follows:

- 0 if no prior significant action or there is insufficient information on which to base a finding;
- 1 if the prior significant action is one Class II or two Class III violations;
- 2 if the prior significant action is one Class I or equivalent;
- 3 if the prior significant actions are two Class I or equivalents;
- 4 if the prior significant actions are three Class I or equivalents;
- 5 if the prior significant actions are four Class I or equivalents;
- 6 if the prior significant actions are five Class I or equivalents;
- 7 if the prior significant actions are six Class I or equivalents;
- 8 if the prior significant actions are seven Class I or equivalents;
- 9 if the prior significant actions are eight Class I or equivalents;
- 10 if the prior significant actions are nine Class I or equivalents.

In determining the appropriate value for prior significant actions as listed above, the District shall reduce the appropriate factor by:

- A value of two if all prior significant actions are greater than three years old, but less than five years old;
- A value of four if all the prior actions are greater than five years old;

In making the above reductions no finding shall be less than zero. Any prior significant action which is greater than ten years old shall not be included in the above determination.

(ii) "H" is past history of the Respondent taking all feasible steps or procedures necessarily appropriate to correct any prior significant actions. The values for H and the findings which support each are as follows:

- Minus 2 if the Respondent took all feasible steps to correct any violation;
- 0 if there is no prior history or insufficient information on which to base a finding;
- 1 if the Respondent took some but not all feasible steps to correct a Class II or III violation;
- 2 if the Respondent took some but not all feasible steps to correct a Class I violation;
- 3 if no action to correct prior significant actions.

(4) "E" is the economic condition of the Respondent. The values for E and the finding which support each are as follows:

- 0 to minus 4 if economic condition is poor, subject to any significant economic benefit gained by Respondent through non-compliance.
- 0 if there is insufficient information on which to base a finding, the Respondent gained no economic benefit through noncompliance, or the Respondent is economically sound;
- 2 if the Respondent gained a minor to moderate economic benefit through noncompliance;
- 4 if the Respondent gained a significant economic benefit through noncompliance.

(5) "O" is whether the violation was a single occurrence or was repeated or continuous during the period resulting in the civil penalty assessment. The values for "O" and the finding which supports each are as follows:

- If a single occurrence;
- If repeated or continuous.

(6) "R" is whether the violation resulted from an unavoidable accident, or a negligent or intentional act of the Respondent. The values for "R" and the finding which supports each are as follows:

- Minus 2 if unavoidable accident;
- 0 if insufficient information to make any other finding;
- 2 if negligent;
- 4 if grossly negligent;
- 6 if intentional
- 10 if flagrant.

(7) "C" is the Respondent's cooperativeness in correcting the violation. The values for "C" and the finding which supports each are as follows:

- Minus 2 if Respondent is cooperative;
- 0 if Respondent is neither cooperative nor uncooperative or there is insufficient information on which to base a finding;
- 2 if violator is uncooperative.

- (b) In addition to the factors listed in 11.5.3(a) of this rule, the Director may consider any other relevant rule or statute and shall state the effect the consideration had on the penalty. On review, the Board of county Commissioners or Hearings Officer shall consider the factors contained in 11.5.3(a) of this rule and any other relevant rule or statute.
- (c) If the District finds that the economic benefit of noncompliance exceeds the dollar value of 4 in subsection 11.5.3(a)(iii) of this section, it may increase the penalty by the amount of economic gain, as long as the penalty does not exceed the maximum penalty allowed by rule and statute.
- (d) In any contested case proceeding or settlement in which Respondent has raised economic condition as an issue, Respondent has the burden of providing documentary evidence concerning its economic condition. In determining whether to mitigate a penalty based on economic condition, the Hearings Officer or District may consider the causes and circumstances of Respondent's economic condition.

11.6 COMPROMISE OR SETTLEMENT OF CIVIL PENALTY BY DIRECTOR

11.6.1 Any time subsequent to service of a written notice of assessment of civil penalty the Director may compromise or settle any unpaid civil penalty at any amount that the Director deems appropriate. Any compromise or settlement executed by the Director shall be final.

11.6.2 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 which 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 set forth in Section 1.1 of these Rules and Regulations.
- (f) The relative strength or weaknesses of the District's case.

11.7 STIPULATED PENALTIES

Nothing herein shall affect the ability of the District to include stipulated penalties in a Stipulated Final Order or any other agreement.

11.8 APPOINTMENT OF HEARINGS OFFICER

For any contested case hearing, the District, through the Director, may appoint a hearings officer to determine all issues.

11.9 APPEALS

The decision of the District or the Hearings Officer shall be sent to the user or person by certified mail, return receipt requested. This decision shall be final unless a notice of intent to file a writ of review in the Circuit Court from the user or person is received by the District or the Hearings Officer within ten (10) days after the decision of the District or the Hearings Officer was sent to the user or person. Upon filing of the notice of intent to seek writ of review in the Circuit Court, the user or person shall comply with ORS Chapter 34 relating to writ of review procedures.

Every notice of intent to file a writ of review shall contain (a) a reference of the matter to be reviewed; (b) a statement of the interest of the appellant/user or person; (c) the specific ground relied upon as to why the decision being appealed is improper or erroneous; and (d) the date of the decision of the initial action.

11.10 COLLECTION OF CIVIL PENALTY

Procedures for the enforcement of the civil penalty shall be as follows:

11.10.1 Time Limit

Any civil penalty imposed shall be a judgment and lien and may be registered with the Court Clerk. The penalty shall be paid in full within fifteen (15) days of the date the decision is final. Payment shall be made either in cash or by certified check made payable to the District.

11.10.2 Relief in Circuit Court

If full payment is not made, the District may take further action for collection and/or cause sewer service to be terminated. Alternatively, counsel for the District may, following the authorization of such action by the District, commence an action for appropriate legal and/or equitable relief in the Circuit Court. Notwithstanding the foregoing administrative hearing processes, nothing in this Subsection shall prohibit the District from commencing civil action in the Circuit Court for injunction or other relief or seeking imposition of civil penalties described above by the court.

11.11 ENFORCEMENT

Nothing shall prevent enforcement of this ordinance or applicable Federal or State statutes or rules or regulations in Federal and State Courts.

SECTION 12 SUPPLEMENTARY RULES

12.1 COMPLIANCE WITH LAWS

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

12.2 REGULATIONS AND RULES AS CONTRACT

The terms and conditions contained in this Ordinance, the ordinances of the Cities, and all resolutions and orders adopted pursuant hereto, shall constitute a contract between the District, Cities, and all users, contractors, and connectors to the system. The consideration for the conditions imposed upon such users and connectors shall be the privilege of the use of, and connection to, the sewerage system.

12.3 NO PROPERTY INTEREST ACQUIRED BY PURCHASE OF PERMIT OR CONNECTION TO SYSTEM

A user or connector to the sewerage system does not thereby acquire a vested property interest in continued use or connection to the system. Such use or connection is conditioned always upon such user or connector complying with all applicable terms and conditions contained in this Ordinance, and all regulations and orders adopted pursuant hereto and, further, upon compliance with all federal, state or local requirements which are, or may hereafter be, imposed upon such user or connector.

Nothing contained herein shall require the District to provide service or access to the system to such user 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.

12.4 CONFLICTS WITH EXISTING AND FUTURE REGULATORY REQUIREMENTS OF OTHER AGENCIES

Any provision or limitations of this Ordinance and any regulation and order adopted pursuant hereto are superseded and supplemented by any applicable federal, state, or local requirements existing or adopted subsequent hereto which are more stringent than the provisions and limitations contained herein provided, always, that any provision of this Ordinance and resolution and order adopted pursuant hereto which are more stringent than any such applicable federal, state or local requirement shall prevail and shall be the standard for compliance by the users of and connectors to the sewerage system.

12.5 PREVIOUS ORDINANCES, RESOLUTIONS REPEALED

Any portion of any Ordinance, regulation and minute order heretofore adopted by the District or its predecessor agencies or City is hereby repealed to the extent that such portion is inconsistent with this Ordinance and any regulation and order adopted pursuant hereto.

12.6 ADMINISTRATION OF THIS ORDINANCE

The District, through its Director or other authorized designee or representative, shall have the authority to do all things necessary to administer the provisions of this Ordinance and any rules adopted pursuant thereto.

12.7 SEVERABILITY

If any section, subsection, provision, clause, or paragraph of this Ordinance or rules adopted pursuant hereto shall be adjudged or declared to be unconstitutional or invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of this Ordinance or such rules, and it is hereby declared that every other section, subsection, provision, clause, or paragraph is, and shall remain, irrespective of the validity of any other provision.

12.8 EFFECTIVE DATE

The provisions of this Ordinance and the rules herein adopted shall be effective on the date of enactment.

**TABLE 1
SEWER USER CHARGES AND SYSTEM DEVELOPMENT CHARGE/
EQUIVALENT DWELLING UNIT (EDU)
ASSIGNMENT FOR CLASSES OF SERVICE
TRI-CITY SEWER SERVICE AREA**

CLASS OF SERVICE	SYSTEM DEVELOPMENT CHARGE	SEWER USER CHARGE
<u>RESIDENTIAL</u>		
01. Single Family Dwelling	1 EDU	1 EDU per dwelling unit
02. Duplex	.8 EDU per dwelling unit	1 EDU per dwelling unit
03. Triplex	.8 EDU per dwelling unit	
04. Multi-Family (4=plex & Up)	.8 EDU per dwelling unit	
05. Trailer/Mobile Home Parks provided sewer service	.8 EDU per dwelling unit	1 EDU per rental space provided sewer service
06. Adult Forster Care Homes ¹	1 EDU	1 EDU
<u>INSTITUTIONAL</u>		
10. High Schools	1 EDU per 29 students (A.D.A) ²	1 EDU per 1,000 cu ft. or fraction thereof per month of metered water consumption
11. Junior High	1 EDU per 29 students (A.D.A)	
12. Elementary schools and Pre-schools	1 EDU per 65 students (A.D.A)	
13. Community Colleges	1 EDU per 29 students (A.D.A.)	
14. Churches	1 EDU per 180 seats*	
- if parsonage	1 EDU, additional	
- if weekday child care or church school	1 EDU per 65 students, additional	
- if full time business office	1 EDU per 1,900 sq. ft. office additional	
- if evening programs conducted 3 nights or more per week	1 EDU per 1,900 sq. ft. meeting area, additional	
15. Hospitals – general	1 EDU per bed	
16. Convalescent/rest homes	1 EDU per two beds	
17. Adult Foster Care Homes ⁴	1 EDU per 2 beds	
<u>COMMERCIAL</u>		
20. Hotels, Motels	1 EDU per two rooms	
- if quality restaurant	1 EDU per 10 seats, additional	
21. Quality Restaurants	1 EDU per 10 seats	
22. Fast Food	1 EDU per 11 seats	
23. Tavern/Lounge	1 EDU per 18 seats	
24. Service stations (w/o car wash)	1.7 EDUs	1 EDU per each 1,000 cu ft <u>or fraction thereof</u> per month of metered water consumption
25. Car wash – Wand	1.2 EDUs per stall	
26. Rollover (w/service station)	5.6 EDUs	
27. Tunnel (w/service station)	16 EDUs	
28. Laundromats	1 EDU per machine	

**TABLE 1
TRI-CITY SERVICE DISTRICT
ASSIGNMENT OF EQUIVALENT DWELLING UNITS TO CLASSES OF SERVICE**

CLASS OF SERVICE	SYSTEM DEVELOPMENT CHARGE	SEWER USER CHARGE
<u>COMMERCIAL</u> (Continued)		
29. Other Commercial (shall include all classes not otherwise included on this table)	The lesser of a) 1 EDU per 1,900 sq. ft. or less of floor space or b) 1 EDU per quarter acre or fraction thereof of land acre but not less than 50% of maximum charge resulting from a) or b) above	
<u>INDUSTRIAL</u>		
30. Light industrial waste with a) 30 lbs to 200 lbs of S.S. per day b) 30 lbs to 200 lbs of B.O.D. per day, and c) less than 10,000 gallons per day		1 EDU per each 1,000 cu. ft. or fraction thereof per month of metered water consumption and actual cost to District for removal of SS and BOD per pound for amount resulting from sewage strength in excess of domestic sewage strength. Based on District cost per pound for removal of BOD and SS and cost per gallon for processing sewage flow.
31. Heavy industrial waste More than a) 200 lbs of S.S. per day or b) 200 lbs of B.O.D. per day of c) 10,000 gallons or more per day	Based on actual cost to District but not less than Class 29	
<u>Public Authorities</u>		
40. Cities	see applicable agreements	see applicable agreements
NOTE: For the purpose of Equivalent Dwelling Units for connection charge purposes, the quotient will be carried to two decimal places.		

¹Adult Foster Care Homes having an occupancy capacity of 5 or fewer persons for whom the owner/operator of the facility receives remuneration of any kind shall be charged for one EDU.

²A.D.A. = Average Daily Attendance

⁴Adult Foster Care Homes having an occupancy capacity in excess of 5 persons for whom the owner/operator of the facility receives remuneration of any kind.

**TABLE 1
(Continued)**

**PROCEDURE FOR CALCULATING MONTHLY RATE FOR
INDUSTRIAL/HIGH STRENGTH CUSTOMERS**

PROCEDURE:

1. Monitor BOD and SS concentrations simultaneously at the customer site and at the District sewerage treatment plant periodically throughout the three (3) months preceding the quarterly rate adjustment.
2. Compute the net "excess" customer contribution of BOD and SS in lb/cu. Ft. by deducting average concentrations observed in the sewage treatment plant influent from the customer's average concentration during this same time period.
3. Obtain water consumption and flow records for this period and compute the pounds of BOD and SS removed at the plant which are in "excess" of that paid by a single family residence in their flat monthly rate.
4. Compute the unit cost of BOD and SS treatment and removal, by allocating expenses to BOD and SS removal functions during that same preceding three (3) month period.
5. Calculate total BOD and SS costs to the customer by multiplying the result of Steps 3 and 4.
6. Calculate the flow-related portion of the rate by computing the number of EDUs from water consumption records and multiplying them by the flat rate per EDU, which includes costs related to collection system O&M, capital improvements, engineering, administration, and treatment costs.

TABLE II
TOXIC POLLUTANTS

1. Acenaphthene
2. Acrolein
3. Acrylonitrile
4. Benzene
5. Benzidine
6. Carbon Tetrachloride
7. Chlorobenzene
8. 1,2,4-Trichlorobenzene
9. Hexachlorobenzene
10. 1,2-Dichloroethane
11. 1,1,1-Trichloroethane
12. Hexachloroethane
13. 1,1-Dichloroethane
14. 1,1,2-Trichloroethane
15. 1,1,2,2-Tetrachloroethane
16. Chloroethane
17. Bis (2-Chloroethyl) Ether
18. 2-Chloroethyl Vinyl Ether (mixed)
19. 2-Chloronaphthalene
20. 2,4,6-Trichlorophenol
21. Parachlorometa Cresol
22. Chloroform (Trichloromethane)
23. 2-Chlorophenol
24. 1,2-Dichlorobenzene
25. 1,3-Dichlorobenzene
26. 1,4-Dichlorobenzene
27. 3,3-Dichlorobenzidine
28. 1,1-Dichloroethylene
29. 1,2-Trans-dichloroethylene
30. 2,4-Dichlorophenol
31. 1,2-Dichloropropane
32. 1,2-Dichloropropylene (1,3-Dichloropropene)
33. 2,4-Dimethylphenol
34. 2,4-Dinitrotoluene
35. 2,6-Dinitrotoluene
36. 1,2-Diphenylhydrazine
37. Ethylbenzene
38. Fluoranthene
39. 4-Chlorophenyl Phenyl Ether
40. 4-Bromophenyl Phenyl Ether
41. Bis (2-Chloroisopropyl) Ether

TABLE II
TOXIC POLLUTANTS
(Continued)

42. Bis (2-Chloroethoxy) Methane
43. Methylene Chloride (Dichloromethane)
44. Methyl Chloride (Chloromethane)
45. Methyl Bromide (Bromomethane)
46. Bromoform (Tribromomethane)
47. Dichlorobromomethane
48. Chlorodibromomethane
49. Hexachlorobutadiene
50. Hexachlorocyclopentadiene
51. Isophorone
52. Naphthalene
53. Nitrobenzene
54. 2-Nitrophenol
55. 4-Nitrophenol
56. 2,4-Dinitrophenol
57. 4,6-Dinitro-o-cresol
58. N-nitrosodimethylamine
59. N-nitrosodiphenylamine
60. N-nitrosodi-n-propylamine
61. Pentachlorophenol
62. Phenol
63. Bis (2-Ethylhexyl) Phthalate
64. Butyl Benzyl Phthalate
65. Di-n-butyl Phthalate
66. Di-n-octyl Phthalate
67. Diethyl Phthalate
68. Dimethyl Phthalate
69. Benzo (a) Anthracene (1,2-Benzanthracene)
70. Benzo (a) Pyrene (3,4-Benzo-pyrene)
71. 3,4-Benzofluorathene (Benzo (b) Fluoranthene)
72. Benzo (k) Fluoranthene (11,12-Benzofluoranthene)
73. Chrysene
74. Acenaphthylene
75. Anthracene
76. Benzo (ghi) Perylene (1,12-Benzoperylene)
77. Fluorene
78. Phenanthrene
79. Dibenzo (ah) Anthracene (1,2,5,6-Dibenzanthracene)
80. Indeno (1,2,3-cd) Pyrene (2,3-o-Phenylene-pyrene)
81. Pyrene

TABLE II
TOXIC POLLUTANTS
(Continued)

82. Tetrachloroethylene
83. Toluene
84. Trichloroethylene
85. Vinyl Chloride (Chloroethylene)
86. Aldrin
87. Dieldrin
88. Chlordane (Technical Mixture & Metabolites)
89. 4,4-DDT
90. 4,4-DDE (p,p-DDX)
91. 4,4-DDD (p,p-TDE)
92. Alpha Endosulfan
93. Beta Endosulfan
94. Endosulfan Sulfate
95. Endrin
96. Endrin Aldehyde
97. Heptachlor
98. Heptachlor Epoxide (BHC-Hexachlorocyclohexane)
99. Alpha-BHC
100. Beta-BHC
101. Gamma-BHC (Lindane)
102. Delta-BHC (PCB-Polychlorinated Biphenyl)
103. PCB-1242 (Arochlor 1242)
104. PCB-1254 (Arochlor 1254)
105. PCB-1221 (Arochlor 1221)
106. PCB-1232 (Arochlor 1232)
107. PCB-1248 (Arochlor 1248)
108. PCB-1260 (Arochlor 1260)
109. PCB-1016 (Arochlor 1016)
110. Toxaphene
111. Antimony (Total)
112. Arsenic (Total)
113. Asbestos (Total)
114. Beryllium (Total)
115. Cadmium (Total)
116. Chromium (Total)
117. Copper (Total)
118. Cyanide (Total)
119. Lead (Total)
120. Mercury (Total)
121. Nickel (Total)

TABLE II
TOXIC POLLUTANTS
(Continued)

- 122. Selenium (Total)
- 123. Silver (Total)
- 124. Thallium (Total)
- 125. Zinc (Total)
- 126. 2,3,7,8-Tetrachlorodibenzo-o-dioxin (TCDD)

**TABLE IV
LOCAL LIMITS**

Expressed as daily maximum concentrations:

0.3 mg/l	arsenic (As)
0.5 mg/l	cadmium (Cd)
2.0 mg/l	copper (Cu)
0.2 mg/l	cyanide (total)
1.5 mg/l	lead (Pb)
0.05 mg/l	mercury (Hg)
1.5 mg/l	nickel (Ni)
0.4 mg/l	silver (Ag)
2.0 mg/l	zinc (Zn)
2.0 mg/l	total chromium (Cr)
3.0 mg/l	phenolic compounds or any amount which cannot be removed by the District's wastewater treatment processes.
2.1 mg/l	Total Toxic Organics (TTO) which is the summation of all quantifiable values greater than 0.01 mg/l for the toxic organics in Table II

CHAPTER 3
SURFACE WATER MANAGEMENT RULES AND REGULATIONS FOR
RATE ZONE 3

**SURFACE WATER MANAGEMENT AGENCY
OF
CLACKAMAS COUNTY**

RULES AND REGULATIONS

December 15, 2002



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SECTION 1 – DECLARATION OF POLICY

1.1 PURPOSE AND OBJECTIVES

The objective of this ordinance is: (a) to prevent or minimize the introduction of pollutants to surface waters; (b) to meet Federal National Pollutant Discharge Elimination System (NPDES) permit requirements; (c) to establish policies which prevent future pollution and erosion through implementation of Best Management Practices; (d) to provide for the equitable distribution of the costs of the surface water management program; and (e) to better manage and control surface water within the Lower Tualatin Basin.

1.2 ADOPTION OF NEW OR AMENDED RULES AND REGULATIONS

The Board of County Commissioners of Clackamas County, Oregon, acting as the governing body of the District, may promulgate new or amended rules pertaining to these rules or regulations in accordance with ORS Chapters 198 and 451.

SECTION 2 – DEFINITIONS

2.1 WORDS AND TERMS

Unless the context specifically indicates otherwise, the following words and terms, as used in this Ordinance, shall have the meanings hereinafter designated:

2.1.1 Advanced Sedimentation and/or Filtration Process.

Any process that through correct application/implementation brings effluent discharge from the site into compliance with local, state and federal requirements. Polymers and electrolytic processes are two possible examples.

2.1.2 Bond.

As required by SWMACC, a surety bond, cash deposit or escrow account, assignment of savings, irrevocable letter of credit or other means acceptable to or required by SWMACC to guarantee that work is completed in compliance with project's surface water plan and in compliance with all SWMACC's requirements and for a maintenance period of one year thereafter.

2.1.3 Bioswale. (See Water Treatment/Bioswale)

2.1.4 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 flows from surface water runoff and precipitation, and erosion control.

2.1.5 Civil Penalty.

A civil penalty is a monetary sanction for violation of these Rules and Regulations, levied pursuant to Section 8 below, whereby SWMACC 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 storm sewer system, and contracts or health studies necessitated by the violation.

2.1.6 Contractor.

A person duly licensed or approved by the State of Oregon to perform the type of work to be done under a permit or contract issued by SWMACC.

2.1.7 County. Clackamas County, Oregon.

2.1.8 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.

2.1.9 Developed parcel. See "Development."

2.1.10 Development.

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving excavation or any other activity which results in the removal of substantial amounts of vegetation (either over half the site or such that soil movement occurs) or in the alteration of natural site characteristics.

2.1.11 Discharge.

Any addition of water, storm water, 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 storm system or natural drainage conveyance.

2.1.12 Drainageway.

A channel such as an open ditch that carries surface water.

2.1.13 Drywell.

An approved receptacle used to receive storm, surface and other water, the sides and bottom being porous, permitting the contents to seep into the ground. A drywell must conform to SWMACC's current standards.

2.1.14 Easement.

An interest or right to use or occupy real property for construction and maintenance of facilities.

2.1.15 Engineer.

A registered professional engineer licensed to practice in the State of Oregon.

2.1.16 Equivalent Service Unit (ESU).

A configuration of development resulting in impervious surfaces on a parcel, estimated to contribute an amount of runoff to the storm water system which is approximately equal to that created by the average single family residential parcel. One ESU is equal to 2500 square feet of impervious surface area.

The number of ESU attributable to a user's area 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.

2.1.17 Erosion.

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

Visible or measurable erosion includes, but is not limited to:

2.1.17.1 Deposits of mud, dirt, sediment or similar material exceeding ½ cubic foot in volume 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.

2.1.17.2 Evidence of concentrated flows of water over bare soils; turbid or sediment-laden flows; or evidence of onsite erosion such as rivulets or bare soil slopes, where the flow of water is not filtered or captured on the site.

2.1.17.3 Earth slides, mud flows, earth sloughing, or other earth movement which results in material leaving the property.

2.1.18 Erosion Control Plan.

A plan containing a list of best management practices to be used during construction to control and limit soil erosion in accordance with the District's current erosion control manual.

2.1.19 FEMA.

Federal Emergency Management Agency.

2.1.20 Fences.

Structures which consist of concrete, brick, wood, plastic, or metal posts located in the ground, connected by wood, metal, or plastic, and capable of allowing passage of water.

2.1.21 Government Agency.

Any municipal or quasi-municipal jurisdiction, state or federal agency.

2.1.22 Grab Sample.

A sample which is taken from a surface flow, such as a stream, on a one-time basis without consideration of time.

2.1.23 Hazardous Materials.

Materials described as hazardous by the Department of Environmental Quality, including any toxic chemicals listed as toxic under Section 307(a) of the Clean Water Act or Section 313 of Title III of SARA.

2.1.24 Hearings Officer.

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

2.1.25 Highly Erodible.

Soils with erosion (K) factors greater than 0.25, as listed in the Soil Survey of Clackamas County Area, Oregon, developed by the Soil Conservation Service.

2.1.26 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 an NPDES permit.

2.1.27 Impervious Surface.

That hard surface area which either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate. Impervious surfaces may include, but are not limited to, rooftops, concrete or asphalt paving, walkways, patios, driveways, parking lots, oiled macadam, gravel, or other surfaces which similarly resist infiltration or absorption of moisture.

2.1.28 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 State Department of Environmental Quality or the United States Environmental Protection Agency, exclusive of domestic sewage.

2.1.29 Infiltration System.

A drainage facility designed to use the hydrologic process of surface and storm water runoff soaking into the ground, commonly referred to as recharge, to dispose of surface and stormwater runoff.

2.1.30 In-Line Detention.

Detention located in a stream channel, a drainageway, or in a regional or subregional piped system. In-line detention mixes flows to be detained with flows from other areas.

- 2.1.31 Inspector.
A person authorized to inspect construction sites and activities affecting surface water.
- 2.1.32 Intermittent Stream.
A stream with no visible surface flows for a period of 30 or more continuous days per year.
- 2.1.33 Mean High Water Line.
The bank of 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.
- 2.1.34 National Pollutant Discharge Elimination System, or NPDES, Permit
A permit issued pursuant to Chapter 402 of the Clean Water Act (40 CRF 122, 123, 124, and 504).
- 2.1.35 Open Spaces.
Land within a development which has been dedicated in common to the ownership within the development or to the public specifically for the purpose of providing places for recreational uses or scenic purposes.
- 2.1.36 Owner.
The owners of record title or the purchasers under a recorded sale agreement and other persons having an interest of record in the described real property.
- 2.1.37 Parcel of Land.
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.
- 2.1.38 Perennial Stream.
A permanently flowing (non-intermittent) stream.
- 2.1.39 Permit.
Any authorization required by SWMACC pursuant to this or any other regulation.
- 2.1.40 Permittee.
The person to whom a building permit, development permit or any other permit described in this ordinance is issued.
- 2.1.41 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.
- 2.1.42 Pollutant.
Any of the following, but not restricted to: oil, grease, soil, mining waste, spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, heavy metals, asbestos, wrecked or discharged equipment, cellar dirt and untreated industrial, municipal and agricultural discharges into water.
- 2.1.43 Post-developed.

Conditions after development.

2.1.44 Pre-developed.

Conditions at the site immediately before application for development. Man-made site alterations or activities made without an approved development permit will not be considered as pre-developed conditions.

2.1.45 Pretreatment or Treatment.

The reduction of the amount of pollutants, the elimination of pollutants, or the alternation of the nature of pollutant properties in water to a less harmful state prior to discharging to Waters of the State.

2.1.46 Private Storm System.

That portion of the storm system owned and/or maintained by any person or entity other than SWMACC outside the public right-of-way, except as otherwise approved by SWMACC.

2.1.47 Property (or the site).

The property or the site shall mean the real property undergoing development.

2.1.48 Public Stormwater System.

Those portions of the stormwater system that are accepted for repair and maintenance responsibilities by SWMACC. Natural waterways are defined under State and Federal regulations.

2.1.49 Public Right-of-Way.

Any public highway, road, street, avenue, alleyway, public place, public easement, or public right-of-way.

2.1.50 Qualified Public Improvement.

A capital improvement that is:

- a) Required as a condition of development approval;
- b) Identified in the plan adopted pursuant to Section 6.3.5; and
- c) Not located on or contiguous to a parcel of land that is the subject of the development approval.

2.1.51 Rational Method.

A formula for estimating maximum discharge of runoff at a point, using flow (Q), runoff coefficient (C), rainfall intensity (I) for selected recurrence interval, and area (A), in the formula: $Q=CIA$.

2.1.52 Recharge.

The flow to ground water from the infiltration of surface and storm water.

2.1.53 Redevelopment.

A project that proposes to add, replace, and/or alter impervious surface (for purposes other than routine maintenance, resurfacing, regrading, or repair) on a site that is already developed. Requirements related to redevelopment shall be met when the project impacts greater than 800 square feet of impervious surface area. Single family developments on a lot of record are not required to implement water quality and quantity improvements.

2.1.54 Retention.

The process of collecting and holding surface water runoff with no surface outflow.

2.1.55 Sensitive Areas.

Sensitive Areas are:

- 2.1.55.1 Existing or created wetlands, including all mitigated wetlands; limits defined by wetlands reports approved by both the Division of State Lands and SWMACC.
- 2.1.55.2 Rivers, streams, sloughs, swamps, creeks, drainageways and open conveyances draining 50 acres or more; limits defined by the top of the bank or first break in slope measured upland from the mean high water line;
- 2.1.55.3 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.
- 2.1.54.4 Sensitive Areas do not include a constructed wetland, an undisturbed buffer adjacent to a sensitive area, or a water feature, such as a lake, constructed during an earlier phase of a development for specific purposes not including water quality, such as recreation.

2.1.56 Stop Work Order.

An Order issued by SWMACC for violation of the Rules and Regulations. 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 in writing.

2.1.57 Storm Drainage/Storm Sewer.

A pipe, or any method of conveyance that carries stormwaters, surface runoff, or drainage.

2.1.58 Stormwater.

Waters on the surface of the ground or underground resulting from precipitation.

2.1.59 Stormwater Management.

A program to provide surface water quality and quantity controls through nonstructural methods and capital improvement projects. Nonstructural controls include maintenance of surface water facilities, public education, water quality monitoring, implementation or intergovernmental agreements to provide for regional coordination, and preparation of water quality control ordinances and regulations.

2.1.60 Stormwater Quality Treatment Facility.

Stormwater Quality Treatment Facility refers to any structure or drainageway that is designed, constructed, and maintained to collect, filter, retain, or detain surface water runoff during and after a storm event for the purpose of water quality improvement. It may include, but is not limited to constructed wetlands, water quality swales, and ponds.

2.1.61 Stream.

A drainageway that is determined to be jurisdictional by the Oregon Division of State Lands or the U. S. Army Corps of Engineers.

2.1.62 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, but the receipt and payment of utility bills regularly issued in his/her/its name. A user, under this system and structure of rates, is either single family or non-single family.

2.1.63 User – Non-Single Family.

Any user whose impervious surface results from the development of land for purposes of operating a dwelling unit for occupancy by more than one single family or for other business, industrial, commercial or institutional purposes and to whom utility services are provided at a distinct service location.

2.1.64 User – Single Family.

Any user whose impervious surface results from the development of land for purposes of establishing a dwelling unit for occupancy by a single family and to whom utility services are provided at a distinct service location.

2.1.65 User Charge.

The periodic charges applied to all users for the cost of operation, maintenance, and replacement of the public stormwater quality and quantity systems, including any other costs, such as, but not limited to, debt service, capital improvements, regulatory compliance, program administration, etc.

2.1.66 Variance.

A discretionary decision to permit modification of the terms of any part of this ordinance based on a demonstration of unusual hardship or exceptional circumstance unique to a specific property.

2.1.67 Water Quality Facility.

A facility specifically designed for pollutant removal.

2.1.68 Water Quality Resource Areas.

Areas as defined on the Water Quality and Flood Plain Management Areas Map adopted by Metro or Clackamas County and amended.

2.1.69 Water Treatment Bioswale/Water Quality Swale.

A vegetated natural depression, wide shallow ditch, or similar constructed facility used to filter runoff for the purpose of improving water quality.

2.1.70 Waters of the State.

Those waters defined in ORS Chapter 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.

2.1.71 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/COE 404 permit. Wetlands may also consist of:

- 2.1.71.1 Constructed Wetlands. As defined in Section 404 of the Clean Water Act, constructed wetlands are those areas developed as a water quality or quantity facility, subject to maintenance as such. These areas must be clearly separated from existing or created wetlands.
- 2.1.71.2 Created Wetlands. Created wetlands are those wetlands developed in an area previously identified as a non-wetland to replace or mitigate wetland destruction or displacement.
- 2.1.71.3 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.

2.1.72 Wet Weather Measures.

Erosion prevention and sediment control methods deemed necessary to meet the types of conditions that occur during the wet weather season, as identified in the District's current erosion control manual.

2.1.73 Wet Weather Season.

The portion of the year when rainfall amounts and frequency tend to have the most significant effect on erosion prevention and sediment control (October 1 to April 30).

2.1.74 Work Area.

Areas of disturbance for activities defined under "Development". Work Area includes areas used for storage of equipment or materials that are used for these activities.

SECTION 3 – DISCHARGE REGULATIONS

3.1 DISCHARGE PROHIBITIONS

3.1.1 Discharge to Public Storm Water System

No person shall discharge or cause to be discharged, directly or indirectly, to the public storm system any quantity of stormwater or any pollutant, substance, stormwater, or wash water, that will violate the NPDES permit, this Ordinance or any environmental law or regulation, or water quality standard. Prohibited activities include, but are not limited to, the following:

- 3.1.1.1 Introduction of pollutants or waters to the public stormwater system containing pollutants or concentrations at levels equal to or in excess of those necessary to protect waters of the State.
- 3.1.1.2 Failure to abide by the terms of any NPDES permit, statute, administrative rule, ordinance, stipulated and final order or decree or other permit or contract.
- 3.1.1.3 Discharges of non-stormwater or spills or dumping of materials other than stormwater into public storm system unless pursuant to a conditional permit approved by SWMACC and in compliance therewith.
- 3.1.1.4 Illegal or unpermitted connection or methods of conveyance to the public stormwater system.
- 3.1.1.5 Any discharge that will violate water quality standards.

3.1.2 Discharge to Creeks or Drainageways

Storm drains and roof drains are not allowed to drain to creeks or drainageways or encroach into the buffer unless approved in writing by SWMACC. Encroachment into buffer areas must be approved in writing and will require mitigation. Existing and replacement storm drains shall be constructed according to State and Federal Regulations. Non-single family development shall provide an approved water quality facility prior to any discharge from the site to a storm drain system, a creek or drainageway, as approved by SWMACC.

3.2 PRETREATMENT FACILITIES

- 3.2.1 If it is determined by SWMACC that pretreatment facilities, in addition to on-site facilities described in Section 6, are necessary to comply with water quality standards, SWMACC may require that such facilities be constructed or modifications made within the shortest reasonable time, taking into consideration the construction time, impact of the surface water on the surface water system, economic impact on the facility and any other appropriate factor. All such facilities shall be constructed and operated under a permit issued by SWMACC.

3.3 PERMIT REQUIREMENTS

3.3.1 Connection Permit

A permit is required to connect to any storm drain facility, including but not limited to pipes, pollution reduction manholes, and detention facilities, whether constructed or natural. Before connecting to any storm drain facilities, a permit authorizing such connection shall first be secured in writing from SWMACC and fees paid.

SECTION 4 – ENVIRONMENTAL PROTECTION AND EROSION CONTROL RULES

4.1 GENERAL POLICY

The policies of this section shall apply during construction and until permanent measures are in place following construction as described herein, unless otherwise noted.

4.1.1 It is the policy to require temporary and permanent measures for all construction projects to lessen the adverse effects of site alteration on the environment. The owner or his/her agent, contractor, or employee, shall properly install, operate and maintain both temporary and permanent works as provided in this section or in an approved plan, to protect the environment during the useful life of the project. These erosion control rules apply to all parcels within the authority of SWMACC.

Nothing in this section shall relieve any person from the obligation to comply with the regulations or permits of any federal, state, or local authority.

4.1.2 Maintenance and repair of existing facilities shall be the responsibility of the owner of record as shown in the real property records.

4.2 EROSION CONTROL

4.2.1 It is SWMACC's policy to prevent erosion and to minimize the amount of sediment and other pollutants reaching the public storm and/or surface water system resulting from development, construction, grading, filling, excavating, clearing, and any other activity which accelerates erosion as required by water quality standards set forth in OAR 340-41-445 through 340-41-470.

4.2.2 Erosion Prohibited.

No visible or measurable erosion shall leave the property during construction or during activity described in Section 4.2.1. 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 clean up, fines, and damages. Clean up responsibilities include clean up of creeks, drainageways, or wetlands impacted by a project.

4.2.3 General Requirements.

Site Plans for storm drainage, grading and erosion control will be required for all development, construction, grading, filling, excavating, clearing, and any other activity which accelerates erosion as required by water quality standards set forth in OAR 340-41-445 through 340-41-470. Such activities impacting areas of 800 square feet or greater must obtain an erosion control permit. Activities impacting areas less than 800 square feet which result in erosion from a site do not need to obtain an erosion control permit but still must comply with the requirements of Section 4.2.2. All sites shall submit an erosion control plan for review, regardless of size. The plans shall use the techniques and methods prescribed in the current WES erosion prevention manual. If the applicant desires to use erosion prevention and sediment control measures different than those contained in the manual, supporting calculations and/or information must be submitted to WES for approval prior to construction. At a minimum the Erosion Control Plan shall include:

- 4.2.3.1 The methods and/or facilities to be used to prevent erosion and pollution created from the activity both during and after construction. Site-specific considerations shall be incorporated.
- 4.2.3.2 Limits of clearing by flagging boundaries in the field before starting site grading or construction. Staging areas shall be included.

- 4.2.3.3 An analysis of source controls such as detention and storage techniques during construction showing existing contours as an alternative method to control erosion from storm water runoff.
- 4.2.3.4 A drainage plan during construction.
- 4.2.3.5 Show existing contours as well as all sensitive areas, creeks, streams, wetlands, and open areas.
- 4.2.3.6 A description of historic localized flooding problems resulting from surface water runoff, FEMA or flooding problems known to the community or SWMACC.
- 4.2.3.7 Erosion control plan shall include a schedule for implementation of erosion control measures. The schedule shall include:
 - measures to cover exposed soil if unworked for 14 days or more
 - Implementation of wet weather measures between October 1st and April 30th, unless otherwise approved by the District.
- 4.2.3.8 On sites where vegetation and ground cover have been removed, District approved ground cover shall be re-established by seeding and mulching on or before September 1 with the ground cover established by October 15. As an alternative to seeding and mulching, or if ground cover is not established by October 15, the open areas shall be protected through the wet season with straw mulch, erosion blankets, or other approved method, where appropriate, with long term site plan.
- 4.2.3.9 Water containing sediment shall not be discharged into the surface water management system, wetlands or streams without first passing through an approved sediment filtering facility or device. Discharge from temporary sedimentation ponds or detention facilities used for sedimentation during construction shall be constructed to District standards to provide adequate sediment filtration.
- 4.2.3.10 Re-inspection fees may be charged for those sites that are notified of deficiencies and fail to complete corrective actions in full by the time of the next inspection.

4.2.4 Site Plan.

A site-specific plan prepared by an engineer shall be required and additional erosion control measures may be required for sites having one or more of the following characteristics:

- 4.2.4.1 Sites greater than five (5) acres disturbed;
- 4.2.4.2 Sites with slopes greater than 15 percent on any portion of the site;
- 4.2.4.3 Sites with highly erodible soils;
- 4.2.4.4 Sites adjacent to sensitive areas;
- 4.2.4.5 Sites where grading and clearing activities are likely between October 1 and April 30.

Refer to the current WES erosion prevention manual for additional measures required. Additional measures may include, but are not limited to, one or more of the following:

1. Limited area cleared at any one time;

2. Additional drainage requirements during construction;
3. Additional water quality treatment, including filtering or treatment of runoff;
4. Cover portions of the site;
5. Maintain a vegetated buffer strip between site and sensitive area;
6. Additional facilities to reduce volume and velocity of water runoff;
7. If there are no workable alternatives, limit clearing and grading in some areas between October 1 and April 30.

4.2.5 No soils shall remain exposed for more than 14 days in the wet weather season unless an advanced sedimentation or filtration process is used. WES must approve such process prior to implementation.

4.2.6 All construction activities disturbing an area that is five (5) or more acres of land shall obtain an NPDES 1200C erosion control permit from SWMACC for construction activities.

4.2.7 Performance.

The Applicant may be required to submit a bond, cashier's check or irrevocable letter of credit from an acceptable financial institution to secure performance of the requirements of this section. Upon default, SWMACC may perform work or remedy violations and draw upon the bond or fund. If SWMACC does not require a bond and the Developer does not perform the erosion control plan in whole or in part, SWMACC may, but shall not be obligated to, perform or cause to be performed corrective work and charge the Developer. Such amount shall bear interest at 9% per annum and shall be a lien upon the property foreclosable in accordance with ORS Chapter 88.

4.2.8 Erosion Control Certification.

1. All building activities requiring erosion control permits or approvals shall identify an individual, with authority over erosion control, to be responsible for erosion control of the site. In the event the individual responsible for erosion control is certified for erosion control, the development is eligible for a discount in erosion control fees, see Section 9.
2. Certification shall involve training in erosion control techniques, issues, and implementation strategies. A minimum of 4 hours of classroom instruction shall be required every 2 years.

4.2.9 Maintenance. The applicant shall maintain the facilities and techniques contained in the approved Erosion Control Plan so as to continue to be effective 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 SWMACC's site inspector, the permittee shall submit a revised plan within three working days of written notification. In cases where erosion is occurring, SWMACC may require the applicant to implement interim control measures prior to submittal of a revised Erosion Control Plan and without limiting SWMACC's right to undertake enforcement measures. Upon approval of the revised plan by SWMACC, the permittee shall immediately implement the revised plan. The developer shall implement fully the revised plan within 3 working days of approval by the Director, or their designee.

4.2.10 Inspection.

The erosion control measures necessary to meet the requirements of Section 4.2.2 shall be installed by the owner or their representative and shall be inspected by SWMACC prior to the start of any excavation work.

4.2.11 Deposit of Sediment.

No person shall drag, drop, track, or otherwise place or deposit, or permit to be deposited, mud, dirt, rock or other such debris upon a public street or into any part of the public storm and surface water system, including natural drainage systems, or any part of a private storm and surface water system which drains or connects to the public storm and surface water system, with the exception of sanding for ice and snow and maintenance such as crack or chip sealing. Any such deposit of material shall be immediately removed using hand labor or mechanical means. No material shall be washed or flushed into the road/street or any part of the storm and surface water system without erosion control measures installed to the satisfaction of SWMACC, and any such action shall be an additional violation.

4.2.12 Permit Fee

SWMACC may collect all fees for the review of plans, administration, enforcement, and field inspection(s) to carry out the rules contained herein as established and amended by SWMACC.

4.2.13 Permit Duration

4.2.13.1 Development or construction must be initiated as per the approved final development plans within one (1) year of the date of erosion control permit issuance or the permit will be null and void. When the Hearings Officer or Board of County Commissioners specify a time period for commencement of a development, that time period shall supersede.

4.2.13.2 Erosion Control permits (excluding 1200-C permits) shall expire and become null and void 24 months after the date of permit issuance unless extended by the Director. 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 Director, 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. The Director may extend the time for action by the permittee for a period not exceeding 12 months on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. Failure on the part of WES to notify the permittee by mail prior to the original date of expiration shall result in an automatic 12-month extension. No permit shall be extended more than once.

4.2.13.3 1200-C 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 Oregon Department of Environmental Quality (DEQ).

4.3 AIR POLLUTION

4.3.1 Dust.

Dust and other particulate matters containing pollutants may 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, including, but not limited to:

4.3.1.1 Sprinkling haul and access roads and other exposed dust producing areas with water.

4.3.1.2 Establishing temporary vegetative cover.

4.3.1.3 Placing wood chips or other effective mulches on vehicle and pedestrian use areas.

4.3.1.4 Maintaining the proper moisture condition on all fill surfaces.

4.3.1.5 Pre-wetting cut and borrow area surfaces.

4.3.1.6 Use of covered haul equipment.

4.4. MAINTAINING WATER QUALITY

4.4.1 Construction of new facilities between stream banks shall be pursuant to permits issued by state and federal agencies having jurisdiction and applying their regulations.

4.4.2 Pollutants such as, but not limited to, fuels, lubricants, asphalt, concrete, bitumens, raw sewage, and other harmful materials shall not be discharged into rivers, wetlands, streams, impoundments, undisturbed buffers or any storm drainage system, or at such proximity that the pollutants flow to these watercourses.

4.4.3 The use of water from a stream or impoundment, wetland or sensitive area, shall not result in altering the temperature or water quality of the water body in violation of Oregon Administrative Rules, and shall be subject to water rights laws.

4.4.4 All sediment-laden water from construction operations shall be either routed through sedimentation basins, filtered, or otherwise treated to remove the sediment load before release into the surface water system.

4.5 FISH AND WILDLIFE HABITAT

4.5.1 Construction shall be done in a manner to minimize adverse effects on wildlife and fishery resources pursuant to the requirements of local, state, and federal agencies charged with wildlife and fish protection.

4.6 NATURAL VEGETATION

4.6.1 As far as is practicable, natural native vegetation shall be protected and left in place in undisturbed buffer areas. Work areas shall be carefully located and marked to reduce potential damage. Trees shall not be used as anchors for stabilizing working equipment.

4.6.2 During clearing operations, trees shall not be permitted to fall outside the work area. In areas designated for selective cutting or clearing, care in falling and removing trees and brush shall be taken to avoid injuring trees and shrubs to be left in place.

4.6.3 Where natural vegetation has been removed, or the original land contours disturbed, the site shall be revegetated per a submitted and approved seeding and maintenance plan from a list approved by SWMACC as soon as practicable after construction has commenced, not later than October 15. After that date a reseeding and stabilization plan approved by SWMACC must be used.

4.7 PESTICIDES, FERTILIZERS, CHEMICALS

4.7.1 The use of hazardous chemicals, pesticides, including insecticides, herbicides, defoliants, soil sterilants, and the use of fertilizers, must strictly adhere to federal, state, county, and local restrictions.

4.7.2 All materials defined in Section 4.7.1 delivered to the job site shall be covered and protected from the weather. None of the materials shall be exposed during storage. Waste materials, rinsing fluids, and other such material shall be disposed of in such a manner that pollution of groundwater, surface waste, or the air does not occur. In no case shall toxic materials be dumped into drainageways.

4.8 CONTAMINATED SOILS

In the event the construction process reveals soils contaminated with hazardous materials or chemicals, all parties shall stop work immediately to ensure no contaminated materials are hauled from the site, remove work forces from the contaminated areas, leaving all machinery and equipment, and secure the areas from access by the public until such time as a mitigation team has evaluated the situation and identified an appropriate course of action. The Owner and the Contractor shall notify OSHA and DEQ of the situation upon discovery. The Owner and the Contractor must comply with OSHA and DEQ statutes and rules.

SECTION 5 – ADDITIONAL SURFACE WATER MANAGEMENT STANDARDS

5.1 GENERAL STANDARDS

- 5.1.1 All development shall be planned, designed, constructed and maintained to:
- 5.1.1.1 Protect and preserve existing streams, creeks, natural drainage channels and wetlands to the maximum practicable extent, and to meet state and federal requirements.
 - 5.1.1.2 Protect property from flood hazards. Provide a flood evacuation route if the system fails.
 - 5.1.1.3 Provide a system by which storm/surface water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons.
- 5.1.2 All stream crossings must be approved by the Oregon Division of State Lands, US Army Corps of Engineers, and any other authorized federal, state, or local agency.
- 5.1.3 In the event a development or any part thereof is traversed by any water course, channel, stream or creek, gulch or other natural drainage channel, adequate easements for surface water drainage purposes shall be provided to SWMACC. This does not imply a maintenance obligation by SWMACC.
- 5.1.4 Channel obstructions are not allowed except with approval from SWMACC.
- 5.1.5 Facilities developed on site shall be constructed in a manner consistent with basin-wide or sub-basin drainage management plans.
- 5.1.6 All storm conveyance pipes, vaults, detention facilities or other water quality or quantity facilities shall be built to specifications required by SWMACC.
- 5.1.7 All surface water facilities shall be constructed per SWMACC specifications.
- 5.1.8 Inspection of surface water facilities and approval of shop drawings shall be provided by the developer's engineer.
- 5.1.9 Following completion of construction, the engineer shall submit a document, stamped by a professional engineer, indicating all surface water systems have been inspected and installed per approved plans and approved changes.
- 5.1.10 Maintenance is required for all on-site surface water facilities. The maintenance program must be approved by SWMACC.
- 5.1.11 As-built plans of facilities, easements for all facilities, and approved maintenance plans shall be provided to SWMACC upon completion of construction.
- 5.1.12 Each surface water system shall have adequate easements and access for construction, operation and maintenance. A commercial or industrial user having ownership or control of onsite detention facilities shall maintain such facilities in compliance with these Rules and Regulations and provide documentation of annual maintenance.
- 5.1.13 All surface water facilities shall be maintained as needed and as approved by SWMACC. Proof of maintenance shall be annually submitted in accordance with a schedule approved by SWMACC. If the facility is not maintained, SWMACC may perform the maintenance and charge the owner of the facility.
- 5.1.14 Plan Review.

All plans and calculations must be stamped and signed by a civil engineer licensed by the State of Oregon and meet the standards of SWMACC.

5.1.15 Bonds.

Developers or owners shall provide a performance bond or other surety acceptable to the District prior to recording of the plat for residential developments or the issuance of building permits for commercial or industrial developments. A maintenance bond shall be provided to the District prior to release of the performance bond. The maintenance bond shall be in favor of the District, in the amount of 25% of the actual construction cost, for a period of one year from the date of final District inspection and acceptance of all completed buffer mitigation and public surface water facilities. During construction and the guarantee period, the District may perform work if the owner fails to do so, and charge the Bond. At the end of the one year guarantee period, the residual bond amount shall be released and remitted to the owner. Nothing herein shall limit the owner's responsibility for repair and maintenance to the amount of the bond.

5.1.16 All activities must meet State and Federal regulations.

5.1.17 All developments and re-developments shall provide water quantity, water quality and infiltration systems to meet requirements of these Rules and Regulations.

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

5.2 WATER QUANTITY STANDARDS

5.2.1 Surface water collection systems with the potential to serve areas up to 10 acres of land must be sized for the post-developed 10-yr storm, using the Rational Method. All other surface water conveyance systems shall be sized for post-developed conditions in accordance with the following criteria:

5.2.1.1 Storm sewer and outfall pipes draining less than 640 acres: 25-yr, 24-hr design storm

5.2.1.2 Storm sewer and outfall pipes draining greater than 640 acres: 50-year, 24-hour design storm

5.2.1.3 Creek or stream channels draining less than 250 acres: 25-year, 24-hour design storm

5.2.1.4 Creek or stream channels draining greater than 250 acres: 50-year, 24-hour design storm

5.2.1.5 Creek or stream channels draining greater than 640 acres: 100-year, 24-hour design storm

Conveyance calculations shall use the Rational Method for analysis. Areas draining greater than 10 acres of land may use alternate methods such as SBUH, HEC 1, or SWMM, or as approved by the District.

Exceptions must be documented and approved by SWMACC.

In-stream or in-line detention can only be used in locations approved by the Oregon Division of State Lands and US Army Corps of Engineers, and any other authorized federal, state, or local agency.

5.2.2 It shall be the responsibility of the owner to provide a drainage system for all water on site and for water entering the property from off-site. Surface water, springs, and groundwater shall be incorporated into the drainage design. The owner is also

responsible for springs and groundwater that surface during construction and within the warranty period of the drainage system.

5.2.3 Where a drainage system of catch basins and pipes is available, all drains that extend to the curb must be directly connected to the storm system for SWMACC. No drainage will be allowed into the street or roadway where a drainage system is available.

5.2.4 Onsite Detention Design Criteria

Onsite storm quantity detention facilities shall be designed to capture and detain runoff as follows:

- 2 year, 24-hour post-developed runoff rate to a ½ of the 2 year, 24-hour pre-developed discharge rate;

Downstream analysis shall demonstrate adequate conveyance capacity where the project site contributes less than 15% of the upstream drainage area OR a minimum of 1,500 feet downstream of the project, whichever is greater. If the downstream analysis crosses the jurisdictional boundary of another surface water management agency, that agency must be notified by the Developer or Owner and given the opportunity to review and comment on the analysis.

For residential subdivisions and partitions of parcels with the potential to create more than two lots as currently zoned, and for developments having more than 5,000 square feet of impervious surface, on-site stormwater detention, treatment, and infiltration facilities shall be required. For 2- and 3-lot partitions that cannot be further partitioned under current zoning, detention and treatment facilities are not required if there are no downstream impacts. All subdivisions and partitions must include a drainage plan for each proposed lot. Infiltration facilities are required where soil conditions permit.

Open detention facilities shall be planted with vegetation as per the Metro Water Quality Treatment Facility Plant List (in the Metro Native Plant List, October 1998), available from the District. See Standards for details. Planting schedule and maintenance of vegetation shall be approved by the District.

5.2.5 Onsite Detention Design Method

The procedure for determining the detention quantities is set forth in Chapter 4.4, Retention/Detention Facility Analysis and Design, King County, Washington, Surface Water Design Manual Version 4.21 (ibid), except subchapters 4.4.5 Tanks, 4.4.6 Vaults and Figure 4.4.4G Permanent Surface Water Control Pond Sign. This reference shall be used for procedure only. Local rainfall data and information shall apply. The design criteria shall be as noted herein. Engineers desiring to utilize a procedure other than that set forth herein shall obtain the approval of SWMACC prior to submitting calculations utilizing the proposed procedure.

For all developments other than single family and duplex, the sizing of stormwater quantity detention facilities shall be based on the impervious area to be created by the development, including structures and all roads and impervious areas.

For single family and duplex residential subdivisions or partitions, stormwater quantity detention facilities shall be sized for the impervious areas to be created by the subdivision or partitions, including all residences on individual lots at a rate of one ESU of impervious surface area per dwelling unit, plus all roads. If actual impervious area is to be greater than one ESU per dwelling unit, then the actual impervious numbers shall be used. Such facilities shall be constructed as a part of the subdivision or partition.

Redevelopment of sites shall require detention for the areas impacted by construction.

Subregional detention and water quality facilities are encouraged. Where topographically feasible, detention and water quality facilities may be sized and constructed to provide detention and treatment for more than one development. Maintenance must be provided for the facility. Easements and access must also be provided.

Each development shall address drainage for groundwater and springs. Existing problems shall be addressed in plans submitted for review and approval. Groundwater and springs that are encountered during development shall be the responsibility of the developer to address. Plans for drainage of these waters shall be submitted to SWMACC for review and approval prior to construction.

5.2.6 Infiltration systems are required for all new developments and re-developments to infiltrate all runoff from storm events up to one-half inch of rainfall in 24 hours. Treatment shall occur prior to or concurrent with infiltration systems in accordance with Section 6. Infiltration system capacity may be incorporated into the detention system design, in order to reduce the required detention volume. Infiltration facilities shall be sized to infiltrate the design runoff volume within a maximum of 96 hours. Infiltration requirements may be waived, or reduced, if it can be demonstrated by a registered professional engineer that infiltration will destabilize the soil, cause adverse structural problems or environmental impacts, or provide negative impacts to the environment, or due to site constraints such as high groundwater, springs, or impermeable soils.

5.2.7 Development shall conform to SWMACC standards.

5.3 NATURAL RESOURCE PROTECTION

5.3.1 Study

The applicant shall be required to provide a study identifying areas on the parcel which are or may be sensitive areas when, in the opinion of the District:

5.3.1.1 An area or areas on a parcel may be classified as a sensitive area;

5.3.1.2 The parcel has been included in an inventory of sensitive areas adopted by the District and more site specific identification of the boundaries are needed.

5.3.2 Undisturbed Buffer Required

New development or a division of land adjacent to sensitive areas shall preserve and maintain an undisturbed buffer wide enough to protect the water quality functioning of the sensitive area. The undisturbed buffer is a facility required to prevent damage to the sensitive area caused by the development. The width of the undisturbed buffer shall be as specified in Table 5.1.

Undisturbed buffers shall be protected, maintained, enhanced or restored as follows: Vegetative cover native to the region shall be maintained or enhanced, or restored, if disturbed in the buffer. Invasive non-native vegetation may be removed from the buffer and replaced with native vegetation. Only native vegetation shall be used to enhance or restore the buffer. This shall not preclude construction of energy dissipaters at outfalls consistent with watershed enhancement, and as approved by the District. Any disturbance of the buffer requires prior District approval.

Uncontained areas of hazardous materials as defined by DEQ are prohibited in the buffer. Starting point for measurements from the Sensitive Area begin at:

- Either the edge of bankfull stage or 2-year storm level for streams; and
- An Oregon Division of State Lands approved delineation marking the edge of the wetland area.

5.3.2.1 Where no reasonable and feasible option exists for not encroaching within the minimum undisturbed buffer, such as at a road crossing or where topography limits options, then onsite mitigation on the intrusion of the buffer will be on a ratio of 1.5 to 1 (one). All encroachments into the buffer, except those listed in 5.4.3, require a written variance from the District. The Surface Water Manager may grant a variance. The District shall give notice by First Class mail of its decision to grant or deny a variance to the applicant and to owners of property within 250 feet of the affected property.

Table 5.1 – Undisturbed Buffers

Sensitive Area	Upstream Drainage Area	Slope Adjacent to Sensitive Area	Width of Undisturbed Buffer
Intermittent Creeks, Rivers, Streams	Less than 50 acres	Any slope	25 feet
Intermittent Creeks, Rivers, Streams	50 to 100 acres	<25%	25 feet
Intermittent Creeks, Rivers, Streams	50 to 100 acres	≥25%	50 feet
Intermittent Creeks, Rivers, Streams	Greater than 100 acres	<25%	50 feet
Intermittent Creeks, Rivers, Streams	Greater than 100 acres	≥25%	100 to 200 feet
Perennial Creeks, Rivers, Streams	Any upstream area	<25%	50 feet
Perennial Creeks, Rivers, Streams	Any upstream area	≥25%	100 to 200 feet
Wetlands, lakes (natural), and springs.	Any drainage	<25%	50 feet
Wetlands lakes (natural), and springs.	Any drainage	≥25%	100 to 200 feet

Note: See Administrative Procedures for details for application of undisturbed buffer.

5.3.3 Design Standards for the Undisturbed Buffer

No future structures, development, or other activities shall be allowed which otherwise detract from the water quality protection provided by the buffer, as required by state and federal regulations, except as allowed below:

- 5.3.3.1 A road crossing the undisturbed buffer to provide access to the sensitive area or across the sensitive area.
- 5.3.3.2 Utility construction or approved plans by a governmental agency or public utility subject to Public Utility Commission regulation, providing the buffer is restored and a restoration plan approved by the District.
- 5.3.3.3 A walkway or bike path not exceeding eight feet in width, only if it is part of a regional system of walkways and trails managed or adopted by a public agency.
- 5.3.3.4 A pervious walkway or bike path, not exceeding eight feet in width that does not provide access to the sensitive areas or across the sensitive areas. If the walkway or bike path is impervious, then the buffer must be widened by the width of the path. The average distance from the path to the sensitive area must be at least 60% of the total buffer width. At no point shall a path be constructed closer than ten feet from the boundary of the sensitive area, unless approved by the District.
- 5.3.3.5 Measures to remove or abate hazards, nuisances, or fire and life safety violations.

5.3.3.6 Homeowners are allowed to take measures to protect property from erosion, such as protecting river banks from erosion, within limits allowed by State and Federal regulations.

5.3.3.7 The undisturbed buffer shall be left in a natural state. Gardens, lawns, or other landscaping shall not be allowed except with a plan approved by the District. The proposal shall include information to demonstrate that improvement and maintenance of improvements will not be detrimental to water quality.

5.3.3.8 Fences: The District may require that the buffer be fenced, signed, delineated, or otherwise physically set apart from parcels that will be developed.

5.3.4 Location of Undisturbed Buffer

In any new development or redevelopment, the undisturbed buffer shall be contained in a tract, and shall not be a part of any parcel to be used for the construction of a dwelling unit. The District reserves the right to require separate tracts for undisturbed buffers; however, conservation easements will be considered and allowed if the developer can demonstrate that restrictions for activities on the parcel will protect the resource associated with the buffer. Restrictions may include permanent signage, fencing, documentation with the title of the property, or other acceptable methods. All methods shall be approved by the District.

5.3.5 Construction in Undisturbed Buffer

5.3.5.1 With approval of the District and an approved plan, noxious vegetation may be removed and replaced with native vegetation.

5.3.5.2 Any disturbance of the buffer shall be replaced with native vegetation and with the approval of the District.

SECTION 6 - PERMANENT ONSITE WATER QUALITY FACILITIES

6.1 PURPOSE OF SECTION

The purpose of this Section is to require new development and other activities which create impervious surfaces to construct or fund onsite or offsite permanent water quality facilities to reduce the amount of phosphorous entering the storm and surface water system.

6.2 APPLICATION OF SECTION

The provisions of Section 6 shall apply to all activities which create new or additional impervious surfaces, except as provided in Section 6.03.

6.3 EXCEPTIONS

6.3.1 Construction of single family and two family (duplex) dwellings.

6.3.2 Sewer lines, water lines, utilities or other land development that will not directly increase the amount of storm water runoff or pollution leaving the site once construction has been completed and the site is either restored to or not altered from its approximate original condition.

6.4 PERMIT REQUIRED

Except as provided in Section 6.3, no person shall cause any change to improved or unimproved real property that will, or is likely to, increase the rate or quantity of runoff or pollution from the site, without a permit from the District.

6.5 STORM WATER QUALITY FACILITIES REQUIRED

For new development, subject to the exemptions of Section 6.3, no permit for construction, or land development, or plat or site plan shall be approved unless the conditions of the plat, plan, or permit approval require permanent storm water quality control facilities in accordance with this Section.

Permanent water quality control facilities shall be designed in accordance with the "Surface Water Quality Facilities Technical Guidance Handbook", developed by Portland, Lake Oswego, Clackamas County, and the Unified Sewerage Agency, now known as Clean Water Services.

6.6 PHOSPHOROUS REMOVAL STANDARD

The storm water quality control facilities shall be designed to remove 65 percent of the phosphorous from the runoff from 100 percent of the newly constructed impervious surfaces. Impervious surfaces shall include pavement, buildings, public and private roadways, and all other surfaces with similar runoff characteristics.

6.7 DESIGN STORM

The storm water quality control facilities shall be designed to meet the removal efficiency of Section 6.6 for events up to 2/3 of a 2-year, 24-hour storm in post-developed conditions.

6.8 DESIGN REQUIREMENTS

The removal efficiency in Section 6.6 specifies only the design requirements and are not intended as a basis for performance evaluation or compliance determination of the storm water quality control facility installed or constructed pursuant to this Section.

6.9 FACILITY PERMIT APPROVAL

A storm water quality control facility permit shall be approved only if the following are met:

A. The plat, site plan, or permit application includes plans and a certification prepared by an Oregon registered, professional engineer that the proposed storm water quality control facilities have been designed in accordance with criteria expected to achieve removal efficiencies for total phosphorous required by this Section.

B. A financial assurance, or equivalent security acceptable to the District, is provided by the applicant which assures that the storm water quality control facilities are constructed according to the plans established in the plat, site plan, or permit approval. The financial assurance shall be equivalent to the value of the constructed facility. The financial assurance may be combined with other financial assurance requirements deemed appropriate by the District.

6.10 ENFORCEMENT

Failure to comply with any provision of this Section shall be deemed a violation of this Ordinance. In such event, the District may take enforcement action pursuant to applicable Rules and Regulations.

6.11 PERMIT FEE

The District shall collect a fee in accordance with Table 1 for the review of plans, administration, enforcement, and field inspection/s to carry out the rules contained herein.

6.12 RESIDENTIAL DEVELOPMENTS

The permanent storm water quality control facilities for the construction of any single family and duplex subdivision shall be adequately sized for the public improvements of the subdivision and for the future construction of single family and duplex houses on the individual lots at a rate of 2,500 square feet of impervious surface per dwelling unit.

6.13 PLACEMENT OF WATER QUALITY FACILITIES

No water quality facilities shall be constructed within the defined area of existing or created wetlands unless a mitigation action is approved by the District, and is constructed to replace the area used for water quality.

6.14 OPERATION AND MAINTENANCE

Owners of water quality facilities shall provide operation and maintenance manuals to the District and DEQ. Manuals shall indicate maintenance activities and schedules. Owners of facilities are responsible for maintenance.

SECTION 7 - RATES FOR SURFACE WATER SERVICE

7.1 CUSTOMER CHARGES

7.1.1 Equivalent Service Unit Rate Structure

Except as specifically provided below, a monthly surface water charge shall be paid by the User. The rate is set according to the surface water service area, as follows:

Lower Tualatin Basin Surface Water Service Area.

There is hereby imposed a system of rates for users for surface water services established by this ordinance. The rates are set and amended from time to time to fund the administration, planning, design, construction, water quality and quantity programming, operation, maintenance and repair of surface water facilities. The following rates are hereby established for all users within the Lower Tualatin Basin Surface Water Service Area as set forth on Table 2, attached hereto and incorporated by reference. The Table may be amended by Resolution or Order of the Board of County Commissioners.

The District has determined through its review of hydrologic data and computer modeling of storm water quantity and quality events that impervious surface area is, without appropriate mitigation measures, the primary cause of a change in the quantity, quality and timing of the surface water leaving such sites and impacting waters of the state within the boundaries of the District. The following rates are hereby established for all customers within the District's service area.

7.1.2 Rate Calculation.

A monthly customer charge, in accordance with Table 2, shall be paid by each user. All non-single family customers shall pay for the total number of equivalent service units (ESUs) attributable to their sites. The total ESUs shall be calculated by dividing the total impervious on the site by the average amount of impervious area for a single family customer within the service area. The resulting figure, when rounded to the nearest whole number, is multiplied by the monthly base customer charge applied to single-family customers.

7.1.3 Rate Application to Rural Residential and Commercial Agriculture.

All developed rural residential parcels shall be treated as single family parcels if the parcels are used primarily for single-family residence purposes, regardless of secondary activities conducted on such rural residential parcels.

Those developed parcels on which the primary activity is that of commercial agricultural and/or farming shall be treated as non-single family parcels, but measured impervious areas shall reflect only paved areas and rooflines of buildings. Such commercial agricultural and/or farming activities shall be eligible to apply for the onsite mitigation credit delineated in the Surface Water Management Agency's Administrative Policies.

7.1.4 Mitigation Reduction Factor.

The amount of surface water service for sites can be controlled through provision of detention and/or other storm water quantity or quality control mitigation facilities. The District's Surface Water Engineer shall determine the appropriate mitigation credit factor for customers who provide such mitigation in a manner consistent with the Administrative Procedures adopted by the District.

7.2 PAYMENT OF CUSTOMER CHARGES

Single family customers will be billed on a bi-annual basis in advance, with payment due within fifteen (15) days of the billing date. Non-single family customers will be billed on a monthly basis in advance, with payment due within fifteen (15) days of the billing date.

SECTION 8 - COLLECTION PROCEDURES

8.1 ACCOUNT SETUP

All applications for service shall be on forms provided by the District. The account holder shall be considered the user of the service. In the case of a landlord-tenant situation, the tenant shall be the account holder unless the rental agreement (oral or written) provides that the landlord is responsible or the landlord has executed a written document stating that he/she/it is responsible for service. If the landlord is responsible, then both the landlord and the tenant shall be listed as the account holder. While the rental unit is unoccupied, any charges shall be the responsibility of the landlord.

8.2 NOTICES

Regardless of who is listed as the user, the District will make all reasonable efforts to provide the landlord 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 to provide notices to enable the landlord and tenant a reasonable opportunity within the time set by the District to avoid delinquent charges and discontinuance of service.

8.3 COLLECTION OF CHARGES

All invoices or bills for 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 and the owner has not executed a document to pay for services, 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. If the owner has executed such an agreement to be bound or if the rental agreement provides, then the landlord and the tenant shall be jointly and severally liable and, following notices to each in accordance with the District'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 of ORS 91.255.

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 30 days from the time payment is due on the account. Thereafter, in accordance with typical procedures, 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 District may enter into a payment plan in its sole discretion to avoid hardship to the user and leave the ultimate resolution between landlord and tenant.

The District may also 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 to obtain payment to the District and avoid hardship and inequities.

8.4 DELINQUENT CHARGES

All user charges by the District shall be due within twenty (20) days of billing. Thereafter, a charge shall be considered delinquent. All delinquent charges shall bear interest at the legal interest rate from the date of delinquency until paid. 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 Tax Assessor. In addition, 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 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.

In any action or suit to collect any delinquent user charges, the District shall be entitled to its reasonable attorney's fees, costs and disbursements as may be awarded by the trial court, including any appeal therefrom.

8.5 DISCONTINUANCE OF SERVICE

The District may, at any time after any charges or fees hereunder become delinquent, 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 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.

8.6 RESTORATION OF SERVICE

Service which 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.

8.7 CERTIFICATION TO TAX ASSESSOR

Pursuant to ORS 454.225, the District may certify all delinquent charges to the Clackamas County Assessor for inclusion in the real property tax statement and collected in accordance therewith.

8.8 FEES AND COSTS

By resolution, the District shall set fees and charges, for collection efforts, including fees and charges necessary to recover all costs related to insufficient fund 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.

SECTION 9 - ENFORCEMENT

9.1 VIOLATIONS AND CIVIL PENALTIES

9.1.1 Violation of These Rules and Regulations

The District may impose civil penalties, including but not limited to stop work orders, fines, 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 this ordinance or any rule adopted thereto 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, the District's NPDES permit, 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 by 9.3.1, 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 particular 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.

9.1.2 Definitions for Enforcement

9.1.2.1 "Compliance" means meeting the requirements of the District's statutes, rules, permits or orders.

9.1.2.2 "Documented Violation" means any violation which the District or other government agency verified through observation, investigation or data collection.

9.1.2.3 "Enforcement" means any documented action taken to address a violation.

9.1.2.4 "Flagrant" means any documented violation where the respondent had actual knowledge of the law and had consciously set out to commit the violation.

9.1.2.5 "Formal enforcement" means an administrative action signed by the Director or designee which is issued to a respondent on the basis that a violation has been documented, requires the respondent to take specific action within a specified time frame and states consequences for continued non-compliance.

9.1.2.6 "Intentional" means respondent consciously and voluntarily took an action or admitted to take an action and knew the probably consequences of so acting or omitting to act.

9.1.2.7 "Magnitude of Violation" means the extent of a violator's deviation from the District's statutes, rules, permits or orders taking into account such factors as, but not limited to, pollutant or concentration, turbidity, volume, duration, toxicity or proximity to human or environmental receptors. Deviations shall be classified as major, moderate or minor.

9.1.2.8 "Prior Significant Action" means any violation proven pursuant to a contested case hearing or established with or without admission of a violation by payment of a civil penalty, by order or default or a Memorandum of Agreement and Order of the District.

9.1.2.9 "Respondent" means the person to whom a formal enforcement action is issued.

9.1.2.10 "Risk of Harm" means the level of risk created by the likelihood of exposure, either individual or cumulative or the actual damage either individual or cumulative, caused by a violation to public health or the environment. Risk of harm shall be categorized as major, moderate or minor.

9.1.2.11 "Systematic" means any documented violation which occurs on a regular basis.

9.1.2.12 "Violation" means a transgression of any statute, rule, order, license, permit or any part thereof and includes both acts and omissions. Violations shall be classified as follows:

9.1.2.13 “Class I” means any violation which poses a major risk of harm to public health or environment, or violation of any compliance schedule contained in a District permit or a District order:

- (a) Violation of a District Order or approved plan;
- (b) Intentional unauthorized discharges;
- (c) Negligent spills or discharges which pose a major risk of harm to public health or the environment;
- (d) Discharge of waste to surface waters without first obtaining a National Pollutant Discharge Elimination System Permit;
- (e) Failure to immediately notify the District of a spill or upset condition which results in an unpermitted discharge to public waters which pose a major risk of harm to public health or the environment;
- (f) Violation of a permit compliance schedule;
- (g) Failure to provide access to premises or records;
- (h) Any other violation related to water quality which poses a major risk of harm to public health or the environment;
- (i) Two Class II violations or one Class II and two Class III violations or three Class III violations.

9.1.2.14 “Class II” means any violation which poses a moderate risk of harm to public health or the environment, including but not limited to:

- (a) Violation of a District order or approved plan;
- (b) Waste discharge permit limitation violations which pose a moderate risk of harm to public health or the environment;
- (c) Negligent spills which pose a moderate risk of harm to public health or the environment;
- (d) Failure to submit a report or plan as required by permit or license;
- (e) Any other violation related to water quality which poses a moderate risk of harm to public health or the environment.

9.1.2.15 “Class III” means any violation which poses a minor risk of harm to public health or the environment, including but not limited to:

- (a) Violation of a District order or an approved plan;
- (b) Negligent spills or discharges which pose a minor risk of harm to public health or the environment;
- (c) Violation of a waste discharge permit limitation which poses a minor risk of harm to public health or the environment;
- (d) Any other violation related to water quality which poses a minor risk of harm to public health or the environment.

9.2 PROCEDURE FOR ENFORCEMENT

9.2.1 Inspection, Entry, and Sampling

Authorized District representatives may inspect the property and facilities of any person to determine compliance with the requirements of the Ordinance. 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 and storing records, reports, or other documents related thereto.

9.2.1.1 The District is authorized to conduct inspections and take such actions as required to enforce any provisions of this ordinance or any permit issued pursuant to this ordinance whenever the Director has reasonable cause to believe there exists any violation of this ordinance. 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.

9.2.1.2 Where feasible, inspections shall occur at reasonable times of the day. 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 a 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; and
- 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.

9.2.2 Prior Notice and Exceptions

Except as otherwise provided, prior to the assessment of any civil penalty the District shall serve a notice of violation upon the Respondent. The written notice shall be served, either personally, by office or substitute service as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, specifying the violation and stating that the District will assess a civil penalty if a violation continues or occurs after five days following receipt of the notice.

The above notice shall not be required where the Respondent has otherwise received actual notice of the violation not less than five days prior to the assessment of civil penalty. No advance notice, written or actual, shall be required if (a) the act or omission constituting the violation is intentional; (b) the violation would normally not be in existence for five days, (c) the

water pollution might leave or be removed from the jurisdiction of the District.

9.2.3 Notice of Non-Compliance (NON)

A notice of non-compliance (NON) is an enforcement action which: (a) informs a person of the existence of a violation, the actions required to resolve the violations and the consequences of continued non-compliance. The notice may specify the time by which compliance is to be achieved and that the need for formal enforcement action will be evaluated; (b) shall be issued under the direction of the Director or designee; (c) shall be issued for all classes of documented violations; and (d) is consistent with the policy of 9.1.1. Typically a NON will be in the form of a Compliance Telephone Memorandum and a request for a written report within five (5) business days. The report shall detail the event, steps taken to correct the problem and steps to prevent future events

9.2.4 Notice of Violation and Intent to Assess a Penalty (NOV)

The Notice of Violation and Intent to Assess a Civil Penalty (NOV) is formal enforcement action which: (a) is issued pursuant to 9.2.1; (b) may include a time schedule by which compliance is to be achieved; (c) shall be issued by the Director or designee; (d) shall be issued for the first occurrence of a documented Class I violation which is not excepted under 9.2.1 or the repeated or continued occurrence of documented Class II or III violations where notice of non-compliance has failed to achieve compliance or satisfactory progress toward compliance.

9.2.5 Notice of Civil Penalty Assessment

A notice of Civil Penalty Assessment is a formal enforcement action which (a) is issued pursuant to 9.4.5; (b) is calculated pursuant to 9.4; (c) shall be issued by the Director or designee; (d) may be issued for the occurrence of any class of documented violation, for any class of repeated or continuing documented violations or where a person has failed to comply with a notice of violation and intent to assess a civil penalty or other order or Stipulated Final Order.

9.2.6 Memorandum of Agreement and Order (MAO)

A Memorandum of Agreement and Order (MAO) is a formal enforcement action which is in the form of an agreement or consent order issued by the Director that; (a) may be negotiated between the District and the subject party prior to or after any notice set forth above; (b) shall be signed by the Director or designee on behalf of the District and the authorized representative of the subject party; and (c) shall set forth action to be taken and set civil penalties. This may be issued for any class of violations.

9.2.7 Other Remedies

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.

9.2.8 Right to Hearing

A civil penalty shall be due and payable fifteen (15) days after the decision is final. The decision of the Director or the Director's designee to assess a civil penalty or other enforcement action or any violation pertaining to the District's statutes, regulations, permits, or orders shall be served on the user or person (hereinafter 'Respondent' by personal service, office or substitute service, as those terms are defined in the Oregon Rules of Civil Procedure or by certified or registered mail, return receipt requested. The Notice shall specify the violation, the reasons for the enforcement action, and the amount of the penalty. It shall comply with ORS 183.090 relating to notice and contested cases. The decision shall be final unless the respondent files a written Notice of Appeal and Request for Hearing with the District within 21 days from the date of the Director's decision. The Notice of Appeal and Request for Hearing shall contain the following:

9.2.8.1 The name of the Respondent and the case file number or permit number;

9.2.8.2 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 Notice of Appeal is duly authorized to file such appeal and such person is the contact representative;

9.2.8.3 The date that the Civil Penalty Assessment or other formal enforcement was received by the Respondent;

9.2.8.4 The nature of the decision and the specific grounds for appeal.

9.2.8.5 The appeal shall be limited to the issues raised in the petition. In the Notice of Appeal, the Respondent shall admit or deny all factual matters and shall affirmatively allege any affirmative claim and defense and reasons therefore.

9.2.8.6 The hearing shall be conducted in accord with ORS Chapter 183. The record of the hearing shall be considered by the District or Hearings Officer, who shall enter appropriate orders including the amount of civil penalty assessed. Appeal of such orders may be taken by the Respondent as provided in Section 9.8 below.

Notwithstanding the foregoing, nothing shall be construed to prevent the District from taking any other enforcement action or remedy available.

9.3 CIVIL PENALTY SCHEDULE MATRICES

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 statutes, regulations, permits or orders by service of a written notice of assessment of civil penalty upon the Respondent as set forth in Paragraph 9.3 above. The amount of any civil penalty shall be determined through the use of the following matrices in conjunction with the formula contained in Section 9.4.3.

9.3.1 Base Penalty Matrix

Magnitude of Violation			
	Major	Moderate	Minor
Class I	\$5,000	\$2,500	\$1,000
Class II	\$2,000	\$1,000	\$500
Class III	\$500	\$250	\$100

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

9.3.2 Petroleum Spills

Persons causing oil spills to waters of the state within the jurisdiction of the District through intentional or negligent acts shall incur a civil penalty of not less than one hundred dollars (\$100) or more than twenty thousand dollars (\$20,000) per violation. The amount of the penalty shall be determined by doubling the values contained in the matrix in subsection 9.4.1 of this rule in conjunction with the formula contained in 9.3.3. In determining whether to seek a civil penalty, the District shall take into account the circumstances and enforcement efforts of other governmental agencies having jurisdiction.

9.3.3 Civil Penalty Determination Procedure

9.3.3.1 When determining the amount of civil penalty to be assessed for any violation the Director shall apply the following procedures:

- (a) Determine the class of violation and the magnitude of violation;
- (b) Choose the appropriate base penalty established by the matrices of Section 8.3.1 based upon the above finding;
- (c) Starting with the base penalty (BP), determine the amount of penalty through the application of the formula $BP + [(0.1 \times BP) (P + H + E + O + R + C)]$ where:
 - (1) "P" is whether the Respondent has any prior significant actions relating to statutes, rules, orders and permits pertaining to environmental quality or pollution control. The values for P and the finding which supports each are as follows:

- 0 if no prior significant action or there is insufficient information on which to base a finding;
- 1 if the prior significant action is one Class II or two Class III violations;
- 2 if the prior significant action is one Class I or equivalent;
- 3 if the prior significant actions are two Class I or equivalents;
- 4 if the prior significant actions are three Class I or equivalents;
- 5 if the prior significant actions are four Class I or equivalents;
- 6 if the prior significant actions are five Class I or equivalents;
- 7 if the prior significant actions are six Class I or equivalents;
- 8 if the prior significant actions are seven Class I or equivalents;
- 9 if the prior significant actions are eight Class I or equivalents;

- 10 if the prior significant actions are nine Class I or equivalents determining the appropriate value for prior significant actions as listed above, the District shall reduce the appropriate factor by:

In determining the appropriate value for prior significant actions as listed above, the District shall reduce the appropriate factor by:

- A value of two if all prior significant actions are greater than three years old, but less than five years old;
- A value of four if all the prior actions are greater than five years old;

In making the above reductions no finding shall be less than zero. Any prior significant action which is greater than ten years old shall not be included in the above determination.

- (2) "H" is past history of the Respondent taking all feasible steps or procedures necessarily appropriate to correct any prior significant actions. The values for H and the findings which support each are as follows:

- Minus 2 if the Respondent took all feasible steps to correct any violation;

- 0 if there is no prior history or insufficient information on which to base a finding;
 - 1 if the Respondent took some but not all feasible steps to correct a Class II or III violation;
 - 2 if the Respondent took some but not all feasible steps to correct a Class I violation;
 - 3 if no action to correct prior significant actions.
- (3) “E” is the economic condition of the Respondent. The values for E and the finding which support each are as follows:
- 0 to minus 4 if economic condition is poor, subject to any significant economic benefit gained by Respondent through non-compliance.
 - 0 if there is insufficient information on which to base a finding, the Respondent gained no economic benefit through noncompliance, or the Respondent is economically sound;
 - 2 if the Respondent gained a minor to moderate economic benefit through noncompliance;
 - 4 if the Respondent gained a significant economic benefit through noncompliance.
- (4) “O” is whether the violation was a single occurrence or was repeated or continuous during the period resulting in the civil penalty assessment. The values for “O” and the finding which supports each are as follows:
- 0 if a single occurrence;
 - 2 if repeated or continuous.
- (5) “R” is whether the violation resulted from an unavoidable accident, or a negligent or intentional act of the Respondent. The values for “R” and the finding which supports each are as follows:
- minus 2 if unavoidable accident;
 - 0 if insufficient information to make any other finding;
 - 2 if negligent;
 - 4 if grossly negligent;
 - 6 if intentional
 - 10 if flagrant.
- (6) “C” is the Respondent’s cooperativeness in correcting the violation. The values for “C” and the finding which supports each are as follows:
- minus 2 if Respondent is cooperative;
 - 0 if Respondent is neither cooperative nor uncooperative or there is insufficient information on which to base a finding;
 - 2 if violator is uncooperative.

9.3.3.2 In addition to the factors listed in 9.3.3.1 of this rule, the Director may consider any other relevant rule or statute and shall state the effect the consideration had on the

penalty. On review, the Board of county Commissioners or Hearings Officer shall consider the factors contained in 9.3.3.1 of this rule and any other relevant rule or statute.

9.3.3.3 If the District finds that the economic benefit of noncompliance exceeds the dollar value of 4 in subsection 9.3.3.1(c)(3) of this section, it may increase the penalty by the amount of economic gain, as long as the penalty does not exceed the maximum penalty allowed by rule and statute.

9.3.3.4 In any contested case proceeding or settlement in which Respondent has raised economic condition as an issue, Respondent has the burden of providing documentary evidence concerning its economic condition. In determining whether to mitigate a penalty based on economic condition, the Hearings Officer or District may consider the causes and circumstances of Respondent's economic condition.

9.4 STOP WORK ORDERS

9.4.1 Erosion Control Violations

In addition to civil penalties described in Section 9.1, erosion control violations will be enforced by on-site control activities to mitigate existing violations and prevent future violations to the greatest extent possible. Initial violations will result in a written description of requirements for repair of the problem and a 24-hour time period for compliance or a specified time for compliance as included in the Deficiency Notice. If the repair is not performed, or violations continue, the inspector will 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. If the violation is not remedied or the person fails to commence diligently remedying the violation within 24 hours, the District may enter upon the property to abate the violation. Notwithstanding anything herein to the contrary, if the District reasonably believes the violation constitutes an emergency or other circumstance requiring immediate action, the District may take reasonable and necessary remedial action with or without notice to the owner as deemed appropriate by the District considering the circumstance. Any costs incurred by the District to remedy a violation shall be paid by the owner. If the required repairs are not completed within the specified time frame or if violations continue that require additional site visits, additional daily charges described in Table 1 will be assessed to the owner of the property.

9.4.2 Other Violations

In addition to civil penalties described in Section 9.1, other 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 time period for compliance as included in the Deficiency Notice. If compliance is not achieved, or violations continue, the inspector will 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. If the violation is not remedied or the person fails to commence diligently remedying the violation within 24 hours, the District may enter upon the property to abate the violation. Notwithstanding anything herein to the contrary, if the District reasonably believes the violation constitutes an emergency or other circumstance requiring immediate action, the District may take reasonable and necessary remedial action with or without notice to the owner as deemed appropriate by the District considering the circumstance. Any costs incurred by the District to remedy a violation shall be paid by the owner. If the required repairs are not completed within the specified time frame or if violations continue that require additional site visits, additional daily charges described in Table 1 will be assessed to the owner of the property.

9.5 ABATEMENT

Nothing herein shall prevent the District, following seven (7) days written notice to the discharger, and discharger's failure to act, from entering upon the property and disconnecting, sealing, or otherwise abating any unauthorized connection to the storm water or system discharger violating any permit, this ordinance or water quality standards. As part of this power, the District may perform tests upon the property to trace sources of water quantity or water quality violation.

9.6 COMPROMISE OR SETTLEMENT OF CIVIL PENALTY BY DIRECTOR

9.6.1 Any time subsequent to service of a written notice of assessment of civil penalty the Director may compromise or settle any unpaid civil penalty at any amount that the Director deems appropriate. Any compromise or settlement executed by the Director shall be final.

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

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

9.6.2.2 The effect of compromise or settlement on deterrence.

9.6.2.3 Whether Respondent has or is willing to employ adequate means to correct the violation or maintain compliance.

9.6.2.4 Whether Respondent has had any previous penalties which have been compromised or settled.

9.6.2.5 Whether the compromise or settlement would be consistent with the District's goal of protecting the public health and environment as set forth in Section 1.1 of these Rules and Regulations.

9.6.2.6 The relative strength or weaknesses of the District's case.

9.7 STIPULATED PENALTIES

Nothing herein shall affect the ability of the District to include stipulated penalties in a Memorandum of Agreement and Order or any other agreement.

9.8 APPOINTMENT OF HEARINGS OFFICER

For any contested case hearing, the District, through the Director, may appoint a hearings officer to determine all issues.

9.9 APPEALS

The decision of the District or the Hearings Officer shall be sent to the user or person by certified mail, return receipt requested. This decision shall be final unless the user or person files a writ of review in the Circuit Court in compliance with ORS Chapter 34 relating to writ of review procedures.

9.10 COLLECTION OF CIVIL PENALTY

Procedures for the enforcement of the civil penalty shall be as follows:

9.10.1 Time Limit: Any civil penalty imposed shall be a judgment and may be registered with the Court Clerk. The penalty shall be paid in full within fifteen (15) days of the date the decision is final. Payment shall be made either in cash or by certified check made payable to the District.

9.10.2 Relief in Circuit Court: If full payment is not made, the District may take further action for collection and/or cause service to be terminated. Alternatively, counsel for the District may, following the authorization of such action by the District, commence an action for appropriate legal and/or equitable relief in the Circuit Court. Notwithstanding the foregoing administrative hearing processes, nothing in this Subsection shall prohibit the District from commencing civil action in the Circuit Court for injunction or other relief or seeking imposition of civil penalties described above by the court.

9.11 ENFORCEMENT

Nothing shall prevent enforcement of this ordinance or applicable federal or state statutes or rules or regulations in federal and state courts.

SECTION 10 - APPEALS

10.1 APPEALS

10.1.1 Appeals to Director or his/her Designee: Except for violations and enforcement matters under Section 9, any person aggrieved by ruling or interpretation (decision) of the provisions of this Ordinance may submit a written appeal to the Director. The appeal shall be in writing and set forth the events and circumstances leading to the appeal, the nature of the impact of the ruling on the appellant, together with any other reasons for the appeal. The Director shall make a written decision within 30 days of written notification of appeal. If the appellant chooses to appeal the Director's decision, the Director shall appoint a hearings officer to decide the appeal.

10.1.2 The hearings officer appointed pursuant to section 10.1.1 shall set a *de novo* hearing on the matter at which he or she will take testimony and hear arguments. The Director shall give notice of the time and place for the hearing to the appellant, the applicant, 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 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.

10.1.2 The governing body may refer the matter to a hearings officer for resolution, and shall within thirty (30) days from receipt of the application prepare a written decision on the matter which shall be sent to the applicant.

10.1.3 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.

SECTION 11 - SUPPLEMENTARY RULES

11.1 COMPLIANCE WITH LAWS

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

11.1.1 Regulations and Rules as Contract: The terms and conditions contained in this Ordinance, and all resolutions and orders adopted pursuant hereto, shall constitute a contract between the district and all users, contractors, and connectors to the system. The consideration for the conditions imposed upon such users and connectors shall be the privilege of the use of, and/or connection to, the District's surface water system and programs.

11.1.2 No Property Interest Acquired: A user or connector to the surface water system does not thereby acquire a vested property interest in continued use or connection to the system. Such use or connection is conditioned always upon such user or connector complying with all applicable terms and conditions contained in this Ordinance, and all regulations and orders adopted pursuant hereto and, further, upon compliance with all federal, state, or local requirements which are, or may hereafter, be imposed upon such user or connector.

11.1.3 Nothing contained herein shall require the District to provide service or access to the system to such 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.

11.2 CONFLICTS WITH EXISTING AND FUTURE REGULATORY REQUIREMENTS OF OTHER AGENCIES

Any provisions or limitations of this Ordinance and any regulation and order adopted pursuant hereto are suspended and supplemented by any applicable federal, state, or local requirements existing or adopted subsequent hereto which are more stringent than the provisions and limitations contained herein, provided, always, that any provision of this Ordinance and resolution and order adopted pursuant thereto which are more stringent than any applicable federal, state, or local requirement shall prevail and shall be the standard for compliance by the customers of any connectors to the District surface water system.

11.3 ADMINISTRATION OF THIS ORDINANCE

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 this Ordinance and any rules adopted pursuant thereto.

11.4 SEVERABILITY

If any section, subsection, provision, clause, or paragraph of this Ordinance or rules adopted pursuant hereto shall be adjudged or declared to be unconstitutional or invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of this Ordinance or such rules, and it is hereby declared that every other section, subsection, provision, clause, or paragraph is, and shall remain, irrespective of the validity of any other portion.

11.5 EFFECTIVE DATE

The provision of this Ordinance and the rules herein adopted shall be in effect on the date of enactment.

TABLE 1: SURFACE WATER MANAGEMENT FEES
Effective 7-1-2007

Permit Fees:

Plan Review for Erosion Control* (Includes 2 site inspections)

Single Family Residential or 800 sq. feet or greater without erosion control certification	\$310
Single Family Residential or 800 sq. feet or greater with erosion control certification	\$205
Non-Single Family or NPDES 1200C without erosion control certification	\$460 base \$80 additional per acre over 1 acre
Non-Single Family or NPDES 1200C with erosion control certification	\$270 base \$80 additional per acre over 1 acre

Plan Review for Surface Water Facilities

Single Family Residence	\$55
Non-Single Family	4% of the installed cost of any surface water management system or \$400.00, whichever is greater, EXCEPT, no fee will be due where there is no increase in impervious surface area.

Erosion Control Re-inspection

Single Family Residence	\$65 per visit
Non-Single Family	\$65 minimum per visit (1 acre or less) \$25 additional per acre (over 1 acre)

*See Administrative Procedures for further clarification of fees.

TABLE 2: SURFACE WATER MANAGEMENT FEES

Monthly Service Charge:

Single Family	\$4.00 per month
Non-Single Family	$\$4.00 \times \text{Impervious Area in Sq. Ft.}^*$ $\div 2500 \text{ Sq. Ft}$

Collection Procedures:

Interest for Delinquent User Charges:	9% per Annum
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* Graveled surfaces are charged at 60% of the ESUs measured.

CHAPTER 4

SANITARY SEWER AND SURFACE WATER RULES AND REGULATIONS FOR RATE ZONE 2

CLACKAMAS COUNTY SERVICE DISTRICT NO. 1

RULES AND REGULATIONS
For
SANITARY SEWER AND
SURFACE WATER MANAGEMENT

JANUARY 2013



CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
 RULES AND REGULATIONS for Sanitary Sewer and Surface Water Management

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ARTICLE I

SECTION 1 DECLARATION OF POLICY

1.1 PURPOSE AND OBJECTIVES

Clackamas County Service District No. 1 (the "District"), Clackamas County, Oregon, was organized pursuant to Oregon Revised Statutes Chapter 451 for the purpose of providing sewerage, surface water, and stormwater management, including all facilities necessary for collecting, pumping, treating and disposing of sanitary or storm sewage within its boundaries. It is further declared to be the policy of the District to provide and offer sewage disposal service for such incorporated or other areas adjacent to the District as may, in the judgment of the District, be feasibly and appropriately served upon such terms, conditions, and rates as the District shall, from time to time in its sole and absolute discretion, determine. The objectives of these Rules and Regulations ("Rules and Regulations") are: (a) to advance public health and welfare; (b) to prevent the introduction of pollutants that will interfere with the operation of the sewage system, contaminate the resulting biosolids, or pollute surface or storm waters; (c) to prevent the introduction of pollutants that could enter the surface waters or pass through the sewage system into receiving waters or the atmosphere or otherwise be incompatible with the system; (d) to protect City and District personnel who may come into contact with sewage, biosolids and effluent in the course of their employment, as well as protecting the general public; (e) to ensure that the District complies with its National Pollutant Discharge Elimination System (NPDES) permit conditions and requirements, biosolids use and disposal requirements and other applicable Federal and State laws; (f) to improve the opportunity to recycle and reclaim wastewaters and sludges from the system; (g) to provide for the equitable distribution of the costs of the sewage system and the surface water management program; (h) to establish policies that prevent future pollution and erosion through implementation of Best Management Practices; and (i) to better manage and control surface water in the District.

1.2 ADOPTION OF NEW OR AMENDED RULES AND REGULATIONS

Upon the recommendation of the Director, or on its own motion, the Board of County Commissioners of Clackamas County, Oregon, acting as the governing body of the District, may promulgate new or amended rules pertaining to these Rules or Regulations. Except as specifically provided in these Rules and Regulations, any new or amended rule(s) will be adopted pursuant to ORS 198.510 through 198.600 and ORS 451.

1.3 DELEGATION OF AUTHORITY TO THE DIRECTOR

A. Easements. The Director of the District shall have the authority to accept, reject or release easements for the purposes as set forth below in subsections 1, 2, 3 and 4; and as the Board may further determine by resolution and order.

1. The Board grants the Director authority to govern easements for the District as shown by one or more of the following examples:

- a. Assessment District;
 - b. Local Improvement District;
 - c. Capital Improvement Project;
 - d. Existing easements recorded by instrument or plat;
 - e. Proposed easement to be recorded by instrument or plat; and
 - f. Quit claim of an existing easement.
2. All documents accepted pursuant to this section and submitted for recording shall show evidence of approval by Districts legal counsel and the signature and title of the person accepting the document on behalf of the District.
 3. 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, the individual designated, and the duration of the designation.
 4. 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.
- B. 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 30 days public notice on its website of any potential change to such standards or requirements.
- C. No other provision of the District Rules and Regulations shall be affected by the provisions of this Section 1.3. A determination by a court of competent jurisdiction that any section, clause, phrase, or word of this Ordinance or its application is invalid or unenforceable for any reason shall not affect the validity of the remainder of this Ordinance or its application, and all portions not so stricken shall continue in full force and effect.

SECTION 2 DEFINITIONS

2.1 WORDS AND TERMS

Unless the context specifically indicates otherwise, the following words and terms, as used in these Rules and Regulations, shall have the meanings hereinafter designated:

- 2.1.1 Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.
- 2.1.2 Advanced Sedimentation and/or Filtration Process. Any process that, through correct application/implementation, brings effluent discharge from the site into compliance with local, state and federal requirements. Polymers and electrolytic processes are two possible examples.
- 2.1.3 Applicable Pretreatment Standards. Local, state, and federal standards, whichever are more stringent and apply to the Industrial User.
- 2.1.4 Best Management Practices or BMPs. Means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- 2.1.5 Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under a standard laboratory procedure in five (5) days at a temperature of twenty degrees centigrade (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.
- 2.1.6 Biosolids. Domestic wastewater treatment facility solids that have undergone adequate treatment to permit land application, recycling or other beneficial use.
- 2.1.7 Board. The Board of County Commissioners of Clackamas County, acting as the governing body of the Clackamas County Service District No. 1.
- 2.1.8 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 Regulations and Specifications and for a maintenance period specified in the Standards.
- 2.1.9 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 flows from surface water runoff and precipitation, and erosion control.

- 2.1.10 Building. Any structure containing sanitary facilities.
- 2.1.11 Building Drain. That part of the Districts sewerage system piping that receives the discharge from the drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the building wall.
- 2.1.12 Building Sewer. The extension from the building drain to the service connection.
- 2.1.13 Capital Improvement(s). Facilities or assets used for the purpose of providing sanitary sewerage collection, transmission, treatment and/or disposal.
- 2.1.14 Categorical Pretreatment Standards. National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties that 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.
- 2.1.15 Civil Penalty. A civil penalty is a monetary sanction for violation of the District's Rules and Regulations, levied pursuant to Section 8 below, 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 storm sewer system, and contracts or health studies necessitated by the violation.
- 2.1.16 COE. U.S. Army Corps of Engineers.
- 2.1.17 Cooling Water. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
- 2.1.18 Combined Sewer System. A conduit or system of conduits in which both sewage and stormwater are transported.
- 2.1.19 Composite Sample. A series of samples mixed together so as 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 that are: (a) collected at equal intervals and combined in proportion to wastewater flow; (b) are equal volumes taken at varying time intervals in proportion to the wastewater flow; or (c) equal volumes taken at equal time intervals.
- 2.1.20 Contractor. A person duly licensed or approved by the State of Oregon and District to perform the type of work to be done under a permit or contract issued by the District.

- 2.1.21 County. Clackamas County, Oregon.
- 2.1.22 Day. A continuous twenty-four (24) hour period from 12:01 a.m. to 12:00 p.m.
- 2.1.23 DEQ. The State of Oregon Department of Environmental Quality or successor state organization.
- 2.1.24 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.
- 2.1.25 Development. All human-induced changes to improved or unimproved real property.
- 2.1.26 Discharge. Any addition of water, stormwater, 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 storm system or natural drainage conveyance.
- 2.1.27 Director. The Director of Water Environment Services, a Department of Clackamas County, Oregon.
- 2.1.28 Discharger or User. Any person who causes wastes or sewage to enter directly or indirectly to the District sewerage system.
- 2.1.29 District. Clackamas County Service District No. 1.
- 2.1.30 District Regulation. The adopted rules, regulations, standards, principles and policies established by the District.
- 2.1.31 District System. Any sanitary or stormwater conveyance, treatment or pumping facilities that are owned, operated and maintained by the District.
- 2.1.32 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 District sewerage system.
- 2.1.33 Drainageway. A channel such as an open ditch that carries surface water.
- 2.1.34 Drywell. An approved receptacle used to receive storm, surface and other water, the sides and bottom being porous, permitting the contents to seep into the ground. A drywell must conform to the District's current standards.
- 2.1.35 DSL. Oregon Department of State Lands or successor state organization.
- 2.1.36 Dwelling Unit. A living unit with kitchen facilities including those in multiple dwellings,

apartments, hotels, motels, mobile homes, or trailers.

2.1.37 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 County Clerk and Recorder.

2.1.38 Easement - Sewer. Any easement in which the District has the right to construct and maintain a public sewer.

2.1.39 Engineer. A registered professional engineer licensed to practice by the State of Oregon.

2.1.40 EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

2.1.41 Equivalent Dwelling Unit, or EDU. A unit of measurement of sewer usage that is assumed to be equivalent to the usage of an average dwelling unit. Equivalent Dwelling Unit 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.

(b) System Development Charge. A unit, based upon a single dwelling unit or its equivalent, for connecting to the District sewerage system.

2.1.42 Equivalent Service Unit (ESU). A configuration of development resulting in impervious surfaces on a parcel that contributes runoff to the stormwater system. One ESU is equal to 2,500 square feet of impervious surface area.

The number of ESU's 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.

2.1.43 Erosion. Erosion is the movement of soil particles resulting from the flow or pressure from water, wind, or earth movement.

Visible or measurable erosion includes, but is not limited to:

(a) Deposits of mud, dirt, sediment or similar material exceeding ½ cubic foot in volume 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.

(b) Evidence of concentrated flows of water over bare soils; turbid or sediment-laden flows; or evidence of onsite 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.

2.1.44 Erosion Control Plan. A plan containing a list of best management practices to be used during construction to control and limit soil erosion in accordance with the District's current erosion prevention manual.

2.1.45 FEMA. Federal Emergency Management Agency.

2.1.46 Fences. Structures which consist of concrete, brick, wood, plastic, or metal posts located in the ground, connected by wood, metal, or plastic, and capable of allowing passage of water.

2.1.47 Garbage. Solid wastes from the preparation, cooking, and dispensing of food and from the handling, storage and sale of produce.

2.1.48 Government Agency. Any municipal or quasi-municipal corporation, state or federal agency.

2.1.49 Grab Sample. A sample that is taken from a waste stream or surface flow on a onetime basis with no regard to the flow in the waste stream or surface flow and without consideration of time.

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

2.1.51 Hazardous Materials. Materials described as hazardous by the Department of Environmental Quality, including any toxic chemicals listed as toxic under Section 307(a) of the Clean Water Act or Section 313 of Title III of SARA.

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

- 2.1.53 Highly Erodible. Soils with erosion (K) factors greater than 0.25, as listed in the Soil Survey of Clackamas County Area, Oregon, developed by the Soil Conservation Service.
- 2.1.54 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 an NPDES permit.
- 2.1.55 Impervious Surface.
That surface area which either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate. Impervious surfaces may include, but are not limited to, rooftops, concrete or asphalt paving, walkways, patios, driveways, parking lots, oiled macadam, gravel, or other surfaces which similarly resist infiltration or absorption of moisture.
- 2.1.56 Improvement Fee. A fee for costs associated with capital improvements to be constructed after the date these Rules and Regulations become effective.
- 2.1.57 Indirect Discharge. The discharge or the introduction of non-domestic pollutants or industrial wastes into the sewerage system from any source regulated under Section 307(b) or (c) of the Act (33 U.S.C. 1317), including hauled tank wastes discharged into the sewerage system.
- 2.1.58 Industrial User. Any person who discharges industrial waste into the District sewerage system.
- 2.1.59 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 DEQ or the EPA, exclusive of domestic sewage.
- 2.1.60 Infiltration System. A drainage facility designed to use the hydrologic process of surface and stormwater runoff soaking into the ground, commonly referred to as recharge, to dispose of surface and stormwater runoff.
- 2.1.61 In-Lieu of Fee. A fee paid to the District to cover on-site water quality or water quantity facilities from a site on which stormwater management is not practical.
- 2.1.62 In-Line Detention. Detention located in a stream channel, a drainageway, or in a regional or subregional piped system. In-line detention mixes flows to be detained with flows from other areas.
- 2.1.63 Inspector. A person designated by the District to inspect building sewers, construction sites, service connections, and other installations to be related to the District sewerage and/or surface water system.

- 2.1.64 Installer. Either the owner of the property being served or a contractor doing work in connection with the installation of a service connection or building sewer under a proper permit from the District.
- 2.1.65 Interference. A discharge which, alone or in conjunction with a discharge from other sources, inhibits or disrupts the public sewer system, treatment processes or operations, or its biosolids processes, biosolids use or disposal, or that contributes to a violation of any requirement of the District's NPDES Permit or other permit issued to the District.
- 2.1.66 Intermittent Stream. A stream with no visible surface flows for a period of 30 or more continuous days per year.
- 2.1.67 Local Collection Facilities. All sewerage facilities that are owned, operated and maintained by a City that collect and convey sewage to the District sewerage system.
- 2.1.68 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).
- 2.1.69 May. The word "may" is permissive.
- 2.1.70 Mean High Water Line. The bank of 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.
- 2.1.71 Metro. The elected regional government that serves more than 1.3 million residents in Clackamas, Multnomah and Washington counties, and the 25 cities in the Portland, Oregon, metropolitan area.
- 2.1.72 Minor Modification. A slight change or alteration made to the Standards to improve something or make it more suitable and does not change the functionality, maintenance, or intent of the Standards.
- 2.1.73 Modification. A change or alteration made to the Standards to improve something or make it more suitable. A modification shall meet the intent of the Standards.
- 2.1.74 NPDES Permit. A National Pollution Discharge Elimination System permit issued pursuant to Section 402 of the Clean Water Act (33 U.S.C. 1342).
- 2.1.75 New Source. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced according to the deadlines and conditions of 40 CFR 403.3.

- 2.1.76 Open Spaces. Land within a development that has been dedicated in common to the ownership within the development or to the public specifically for the purpose of providing places for recreational uses or scenic purposes.
- 2.1.77 Operation, Maintenance, and Replacement; or O, M, & R. Those functions that result in expenditures during the useful life of the treatment works, sewerage system, or stormwater system for materials, labor, utilities, administrative costs, and other items which are necessary for managing and maintaining the sewage works to achieve the capacity and performance for which such works were designed and constructed.
- 2.1.78 Owner. The owners of record title or the purchasers under a recorded sale agreement and other persons having an interest of record in the described real property.
- 2.1.79 Parcel of Land. 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.
- 2.1.80 Pass Through. A discharge that exits the POTW into State waters in quantities or concentration that 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.
- 2.1.81 Perennial Stream. A permanently flowing (non-intermittent) stream.
- 2.1.82 Permit. Any authorization required pursuant to this or any other regulation of the District.
- 2.1.83 Permittee. The person to whom a building permit, development permit, waste discharge permit or any other permit described in this ordinance is issued.
- 2.1.84 Person. Any individual, public or private corporation, political subdivision, governmental agency or department, municipality, industry, partnership, association, firm, trust or any other legal entity.
- 2.1.85 pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in Standard Units (S.U.). pH shall be determined using one of the applicable procedures prescribed in 40 CFR Part 136.
- 2.1.86 Pollutant. Any of the following, including but not limited to: dredged soil spoil, solid waste, incinerator residue, sewage, garbage, sewage biosolids or sludge, munitions, chemical wastes, oil, grease, mining waste, biological materials, radioactive materials, heat, wrecked or discharged equipment, heavy metals, asbestos, rock, sand, cellar dirt and untreated industrial, municipal and agricultural waste discharges into water.

- 2.1.87 Post-developed. Conditions after development.
- 2.1.88 Pre-developed. Conditions at the site immediately before application for development. Man-made site alterations or activities made without an approved development permit will not be considered as pre-developed conditions.
- 2.1.89 Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in water to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the public sewage system or the Waters of the State, as applicable. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 CFR, Section 403.6(d).
- 2.1.90 Pretreatment Requirement. Any substantive or procedural pretreatment requirement other than Applicable Pretreatment Standard, imposed on an Industrial User.
- 2.1.91 Private Storm System. That portion of the storm system owned and/or maintained by any person or entity other than the District and is located outside the public right-of-way, except as otherwise approved by the District.
- 2.1.92 Properly Shredded Garbage. The wastes from foods that have been shredded to such a degree that all particles will be carried freely under the flow and conditions normally prevailing in public sewers with no particle greater than one-half inch (½”) in any dimension.
- 2.1.93 Publicly Owned Treatment Works, or POTW. A treatment works as defined by Section 212 of the Act (33 U.S.C. 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.
- 2.1.94 Public Right-of-Way. Any public highway, road, street, avenue, alleyway, public place, public easement, or public right-of-way.
- 2.1.95 Public Sewer or Public Sewerage System. Any or any part of the facilities for collection, pumping, treating and disposing of sewage as acquired, constructed, donated, or used by the District within the boundaries of the District.

- 2.1.96 Public Stormwater System. Those portions of the stormwater system that are accepted for repair and maintenance responsibilities by the District. Natural waterways are defined under State and Federal regulations.
- 2.1.97 Qualified Public Improvements. A capital improvement that is: (a) required as a condition of development approval; (b) identified in the District's adopted Capital Improvement Plan pursuant to ORS 223 or the District's System Development Charge Project Plan adopted pursuant to Section 4.1.6 hereof; and (c) not located on or contiguous to a parcel of land that is the subject of the development approval.
- 2.1.98 Rational Method. A formula for estimating maximum discharge of runoff at a point, using flow (Q), runoff coefficient (C), rainfall intensity (I) for selected recurrence interval, and area (A), in the formula: $Q=CIA$.
- 2.1.99 Receiving Waters. Any body of water into which effluent from a sewage treatment plant or from a surface water outfall is discharged either directly or indirectly.
- 2.1.100 Recharge. The flow to ground water from the infiltration of surface and stormwater.
- 2.1.101 Redevelopment. On an existing developed site, the creation or addition of impervious surfaces, external structural development, including construction, installation, or expansion of a building or other structure, and/or replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities associated with structural or impervious redevelopment. (See Development.)
- 2.1.102 Reimbursement Fee. A cost associated with capital improvements constructed or under construction on the effective date of these Rules and Regulations.
- 2.1.103 Replacement. Any actions that result in expenditures for obtaining and installing equipment, accessories, or appurtenances that 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.
- 2.1.104 Retention. The process of collecting and holding surface water runoff with no surface outflow.**
- 2.1.105 Rules and Regulations. These Rules and Regulations as adopted, and any and all rules and orders adopted pursuant hereto, and all amendments thereto.
- 2.1.106 Sanitary Sewer System. A conduit intended to carry 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.

2.1.107 Sensitive Areas. Sensitive Areas are:

- (a) Existing or created wetlands, including all mitigated wetlands; limits defined by wetlands reports approved by both the Division of State Lands and the District.
- (b) Rivers, streams, sloughs, swamps, creeks; 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 a constructed wetland, an undisturbed buffer adjacent to a sensitive area, or a water feature, such as a lake, constructed during an earlier phase of a development for specific purposes not including water quality, such as recreation.

2.1.108 Service Area. An area served by the District sanitary sewer system or surface water management within the District boundaries or a defined geographic area that becomes a part of the District.

2.1.109 Service Connection. The portion of a private sewer that has been constructed from the public sewer to the edge of the public right-of-way or sewer easement, in which the public sewer is located.

2.1.110 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.

2.1.111 Sewage Disposal Agreement. An agreement between the District and any government agency or person providing for the delivery or receipt of sewage to or from the District sewerage system.

2.1.112 Sewage Treatment Plant. An arrangement of devices, structures, and equipment for treating sewage.

2.1.113 Sewer. A piped or open conveyance system designed and operated to convey either sewage or stormwater runoff.

2.1.114 Sewer Main Extension. Any extension or addition of the public sewer.

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

2.1.116 Shall. The word "shall" is mandatory.

2.1.117 Significant Industrial User. The term significant industrial user means:

(a) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter 1(N); and

(b) Any other industrial user that: discharges an average of 25,000 gallons per day or more of processed wastewater to the sewerage system (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process waste stream that makes up five percent (5%) 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)).

(c) Upon finding that an industrial user meeting the criteria of this definition 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, on its own initiative or in response to a petition received from the industrial user, determine that such industrial user is not a significant industrial user.

2.1.118 Significant Non-Compliance. 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 sixty-six percent or more of all the measurements taken during a six-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 thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-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, TSS, fats, oil, and grease, 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 personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, 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 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 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, may include a violation of BMPs, which the District determines will adversely affect the operation or implementation of the pretreatment program.

2.1.119 Slug Discharge. Any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through or in any way violate the District's local limits or permit conditions.

2.1.120 SIC. A standard industrial classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

2.1.121 Standards. The adopted standards, principles and policies established by the District to meet the intent of District Regulations. The standards are required to meet all Local, State and Federal requirements of any permitting agency with authority to govern the activities of the District.

2.1.122 Standard Methods. The examination and analytical procedures set forth in the most recent edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

2.1.123 Stop Work Order. An Order issued by the District for violation of the Rules and Regulations. 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.

2.1.124 Storm Sewer. A conveyance structure designed to carry only stormwaters, surface water runoff, and / or drainage.

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

2.1.126 Stormwater Management. A program to provide surface water quality and quantity controls through structural and nonstructural methods and capital improvement projects. Nonstructural controls include maintenance of surface water facilities, public education, water quality monitoring, implementation or intergovernmental agreements

to provide for regional coordination, and preparation of water quality control ordinances and regulations.

- 2.1.127 Stormwater Management Plan. Plan incorporating stormwater best management practices approved and/or permitted by the District which provides for stormwater runoff, infiltration, water quality treatment, flow control and conveyance as required within the Stormwater Standards.
- 2.1.128 Stormwater Quality Treatment Facility. Any structure or drainageway that is designed, constructed, and maintained to collect, filter, retain, or detain surface water runoff during and after a storm event for the purpose of water quality improvement. It may include, but is not limited to, constructed wetlands, water quality swales, and ponds.
- 2.1.129 Stream. A drainageway that is determined to be jurisdictional by the Oregon Division of State Lands or the U.S. Army Corps of Engineers.
- 2.1.130 Surface Waters. (See Stormwater).
- 2.1.131 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 CRF Part 136.
- 2.1.132 System Development Charge. A reimbursement fee, an improvement fee or a combination thereof assessed or collected as a condition of connection to the sanitary sewer or stormwater system, or at the time of increased usage of the capital improvement or at the time of issuance of the development or building permit. It shall also include that portion of a sanitary sewer connection charge or stormwater mitigation charge that is greater than the amount necessary to reimburse the District for its average cost of inspecting connections to the sanitary sewer or stormwater system. "System Development Charge" 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.
- 2.1.133 Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provision of CWA 307(a), 503(13), or other federal or state Acts, or any successor statutes.
- 2.1.134 Undue Hardship. Special or specified circumstances that partially or fully exempt a person from performance of the Rules and Regulations so as to avoid an unreasonable or disproportionate burden or obstacle.
- 2.1.135 Unit. A unit of measurement of sewer usage assumed to be equivalent to the usage of an average single-family dwelling unit. A unit is equivalent to sewage of a strength and volume normally associated with an average single family dwelling unit or its equivalent.

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 BOD5 per day; and (c) 0.449 pounds of suspended solids per day.

- 2.1.136 Unpolluted Water or Liquids. Any water or liquid containing none of the following: free or emulsified grease or oil, acids or alkalis, substances that may impart taste and odor or color characteristics, toxic or poisonous substances in suspension, colloidal state or solution, odorous or otherwise obnoxious gases. Such water shall meet the current state standards for water use and recreation. Analytical determination shall be made in accordance with the applicable procedures prescribed in 40 CRF Part 136.
- 2.1.137 Upset. An exceptional incident in which an Industrial User unintentionally and temporarily is in a state of noncompliance with these Rules and Regulations, due to factors beyond the reasonable control of the Industrial User, and excluding noncompliance to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventive maintenance or careless or improper operation thereof.
- 2.1.138 Useful Life. The period during which a treatment works or other specific facility operates.
- 2.1.139 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, but the receipt and payment of utility bills regularly issued in his/her/its name. A user, under this system and structure of rates, is either single family or non-single family.
- 2.1.140 User – Non-Single Family. Any user whose impervious surface results from the development of land for purposes of operating a dwelling unit for occupancy by more than one single family or for other business, industrial, commercial or institutional purposes and to whom utility services are provided at a distinct service location.
- 2.1.141 User – Single Family. Any user whose impervious surface results from the development of land for purposes of establishing a dwelling unit for occupancy by a single family and to whom utility services are provided at a distinct service location.
- 2.1.142 User Charge. The periodic charges levied on all users of the public sewerage system for the cost of operation, maintenance, and replacement; including but not limited to, any other costs, such as, but not limited to, debt service, debt service coverage, capital improvements, regulatory compliance, program administration, etc.
- 2.1.143 Variance. A discretionary decision to permit modification of the terms of any part of these Rules & Regulations based on a demonstration of unusual hardship or exceptional circumstance unique to a specific property.

- 2.1.144 Vegetated Corridor. See Buffer/Undisturbed Buffer.
- 2.1.145 Water Quality Facility. A facility specifically designed for pollutant removal.
- 2.1.146 Water Quality Resource Areas. Areas as defined on the Water Quality and Flood Plain Management Areas Map adopted by Metro or Clackamas County and amended.
- 2.1.147 Water Treatment Bioswale/Water Quality Swale. A vegetated natural depression, wide shallow ditch, or similar constructed facility used to filter runoff for the purpose of improving water quality.
- 2.1.148 Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Oregon or any portion thereof.
- 2.1.149 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/COE 404 permit. Wetlands may also consist of:
- (a) Constructed Wetlands. As defined in Section 404 of the Clean Water Act, constructed wetlands are those areas developed as a water quality or quantity facility, subject to maintenance as such. These areas must be clearly separated from existing or created wetlands.
 - (b) Created Wetlands. Created wetlands are those wetlands developed in an area previously identified as a non-wetland to replace or mitigate wetland destruction or displacement.
 - (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.

- 2.1.150 Wet Weather Measures. Erosion prevention and sediment control methods deemed necessary to meet the types of conditions that occur during the wet weather season, as identified in the District’s current erosion control manual.
- 2.1.151 Wet Weather Season. The portion of the year when rainfall amounts and frequency tend to have the most significant effect on erosion prevention and sediment control (October 1 to April 30).
- 2.1.152 Work Area. Areas of disturbance for activities defined under “Development”. Work Area includes areas used for storage of equipment or materials that are used for these activities.

2.2 ADDITIONAL WORDS OR TERMS

Words, terms or expressions peculiar to the art or science of wastewater or surface water not hereinabove defined shall have the meanings given therefore in Glossary, Water and Wastewater Control Engineering, published in 1969 and prepared by a Joint Committee representing the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and the Water Pollution Control Federation.

2.3 PRONOUNS

Pronouns indicating number or gender in these Rules and Regulations are interchangeable and shall be interpreted to give effect to the requirements and intent of these Rules and Regulations.

2.4 ABBREVIATIONS

The following abbreviations shall have the designated meanings:

ASTM	American Society for Testing and Materials
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
CWA	Clean Water Act
EDU	Equivalent Dwelling Unit
L	Liter
mg	Milligrams
mg/L	Milligrams per liter
OAR	Oregon Administrative Rules
ORS	Oregon Revised Statutes

SECTION 3 DISCHARGE REGULATIONS

3.1 GENERAL DISCHARGE PROHIBITIONS

3.1.1 Discharge to Sanitary Sewer System. No person shall discharge or contribute to the discharge of any stormwater or other unpolluted water into the District's sanitary sewerage system.

3.1.2 Discharge to Public Stormwater System. No person shall discharge or cause to be discharged, directly or indirectly, to the public storm system any quantity of stormwater or any pollutant, substance, stormwater, or wash water, that will violate the discharger's permit, if one is issued, the District's NPDES permit, these Rules and Regulations or any environmental law or regulation, or water quality standard. Prohibited activities include, but are not limited to, the following:

- (a) Introduction of pollutants or waters to the public stormwater system containing pollutants or concentrations at levels equal to or in excess of those necessary to protect waters of the State.
- (b) Failure to abide by the terms of any NPDES permit, statute, administrative rule, Rules and Regulations, stipulated and final order or decree or other permit or contract.
- (c) Discharges of non-stormwater or spills or dumping of materials other than stormwater into public storm system unless pursuant to a conditional permit approved by the District and in compliance therewith.
- (d) Illegal or unpermitted connection or methods of conveyance to the public stormwater system.
- (e) Any discharge that will violate water quality standards.

3.1.3 Discharge to Creeks or Drainageways. Storm drains and roof drains are not allowed to drain to creeks or drainageways or encroach into the buffer unless approved in writing by the District. Encroachment into buffer areas must be approved by the District and will require mitigation. Existing and replacement storm drains shall be constructed according to State and Federal Regulations. Non-single family development shall provide an approved water quality facility prior to any discharge from the site to a storm drain system, a creek or drainageway, as approved by the District.

3.1.4 Prohibited Substances. No persons shall discharge or cause to be discharged, directly or indirectly, into the public sewerage system any pollutant, substances, 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. 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 that create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods of 40 CFR 261.21, as it may be amended from time to time. At no time shall two (2) 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 five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) 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. Toxic pollutants shall include, but not be limited to, any pollutant listed in the toxic pollutant list set forth in Table II, attached to these Rules and Regulations.
- (c) Any sewage having a pH lower than 5.5 Standard Unit ("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 exceed the pH range of 5.5 S.U. to 11.5 S.U. more than a total of 15 minutes on any single day (cumulative duration of all excursions) provided that, at no time shall any discharge be lower than 5.0 S.U. or at/or above 12.5 S.U pH.
- (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 sewage treatment plant such as, but not limited to, 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 degrees Fahrenheit (60

degrees Celsius) or having temperatures sufficient to cause the influent to the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius). If, in the opinion of the District, lower temperatures of such wastes could harm 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 garbage that has not been properly shredded to one-half inch ($\frac{1}{2}$ ") or less in any dimension.
- (g) Any sewage containing unusual concentrations of inert suspended solids (such as, but not limited to, Fullers 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 sewerage system.
- (h) 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).
- (i) Any slug discharge, which means any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single discharge episode of such volume or strength as to cause interference to the sewerage system.
- (j) Any noxious or malodorous liquids, gases, or solids that either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into sewers for maintenance and repair.
- (k) Any hauled wastes or pollutants, except such wastes received at the District's sewage treatment plant under a District permit or at a District approved dump station.
- (l) Any substance that may cause any of the District's sewage treatment plants to violate its NPDES Permit or the receiving water quality standards or any other permit issued to District.
- (m) Any wastewater that causes or may cause a hazard to human life or creates a public nuisance.
- (n) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as to exceed limits established by State or Federal regulations.
- (o) Any substance that may cause any of the District's sewage treatment plants effluent or any other product of the District's sewage treatment process such as residues, biosolids, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. (In no case, shall a substance discharged to the District's sewerage system cause the District to be in noncompliance with

biosolids use or disposal criteria, guidelines, or regulations developed under Section 405 of the Clean Water Act, as may be amended; 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 amendments thereto).

- (p) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.
- (q) Pollutants that result in presence of toxic gases, vapors, or fumes in the POTW that may cause acute worker health and safety problems.

3.2 DISCHARGE LIMITATIONS

3.2.1 National Categorical Pretreatment Standards. National categorical pretreatment standards, as promulgated by the EPA, pursuant to the Federal Water Pollution Control Act, if more stringent than limitations imposed under these Rules and Regulations, shall be met by all Dischargers into the sewerage system who are subject to such standards.

3.2.2 State Requirements. State requirements and limitations on all discharges to the public sewerage system shall be met by all Dischargers who are subject to such standards in any instance in which the State standards are more stringent than Federal requirements and limitations, or those in this or any other applicable Rules and Regulations.

3.2.3 District Requirements. No persons shall discharge into the public sewerage system any sewage containing the following:

- (a) Fats, wax, grease, or oils (whether emulsified or not), in excess of 100 milligrams per liter for sources of petroleum origin, or in excess of 300 milligrams per liter for sources composed of fatty matter from animal and vegetable sources, or containing substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit (zero degrees Celsius and 65 degrees Celsius).
- (b) 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.
- (c) Pollutants in excess of the concentrations in Table III measured as a total of both soluble and insoluble concentrations for a composite representing the process day or at any time as shown by grab sample, unless the Discharger has a valid Industrial Wastewater Discharge Permit which established a different limitation for the specific pollutant as set forth in Table III.

3.2.4 Wastewater Discharge Permit Limitations. It shall be unlawful for an Industrial User with a valid Industrial Wastewater Discharge Permit to discharge wastes to the public sewerage system in excess of the limitations established in the discharge permit or in violation of the prohibited discharge substances described in Subsection 3.1.4. The District is authorized to establish Local Limits pursuant to 40 CFR 403.5, as may be amended from time to time, to implement the prohibitions listed in sections 3.1.2 and 3.2.3. The District may also develop Best Management Practices, by ordinance or in individual wastewater discharge permits, to implement Local Limits and the Requirements of Sections 3.1.2 and 3.2.3.

3.2.5 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 owner.

3.2.6 More Stringent Limitations. The District reserves the right for the Director to promulgate new orders at any time to provide for more stringent limitations or requirements on discharges to the public sewerage or stormwater system where it deems necessary to comply with the objectives of these Rules and Regulations. Nothing in these Rules and Regulations shall prohibit a City served by the District from adopting more stringent limitations or requirements than are contained herein.

3.2.7 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) or any successor statutes. Any Industrial User who commences discharging, shall provide notification in accordance with 40 CFR 403.12(p) no later than 180 days after the discharge of any listed or characteristic hazardous waste(s).

3.2.8 Dilution. No discharger 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 these Rules and Regulations.

3.3 ACCIDENTAL DISCHARGES

3.3.1 Generally. 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. 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 its plan and submit it to the District upon request. 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. Dischargers shall notify the District immediately upon the occurrence of an accidental discharge of substances, or slug loadings, prohibited by this Rules and Regulations. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, corrective actions taken.

3.3.2 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.

3.3.3 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 to occur are advised of the emergency notification procedure.

3.4 PRETREATMENT FACILITIES

If it is determined by the District that pretreatment facilities are necessary to comply with water quality standards, the District may require that such facilities be constructed or modifications made within the shortest reasonable time, taking into consideration the construction time, impact of the surface water on the District's system, economic impact on the facility and any other appropriate factor. All such facilities shall be constructed and operated under authority issued by the District.

3.5 CONNECTION REQUIREMENTS

3.5.1 Authority of Connection. The District shall approve and / or permit any connection to any sanitary or stormwater facility owned, operated or maintained by the District, whether constructed or natural. Before connecting to any facilities, the applicant must obtain authorization to make such connection by paying the applicable fees, and obtaining approval and / or a written permit from the District.

SECTION 4 – APPLICABLE CHARGES

4.1 GENERAL

This Section is intended to provide authorization for system development charges for capital improvements pursuant to ORS 223.297-223.314, as may be amended from time to time, for the purpose of creating a source of funds to pay for existing system capacity and/or the installation, construction and extension of capital improvements to accommodate new connections to the system. These charges shall be due and payable at the time of and as a precondition for permitted increased improvements by new development whose impacts generate a need for those facilities. The system development charges imposed by Section 4.1 are separate from and in addition to any applicable tax, assessment, charge or fee otherwise provided by law or imposed as a condition of development.

4.1.1 Service Areas. The service areas of the District are:

- (a) **North Clackamas Service Area.** The North Clackamas Sewer Service Area consists of the boundaries of Clackamas County Service District No. 1 served by the Kellogg Creek Water Pollution Control Plant and/or District capacity at the Tri-City Water Pollution Control Plant. Table VII, attached hereto and incorporated by reference, applies to this sewer service area.
- (b) **Boring Sewer Service Area.** The Boring Sewer Service Area consists of the property annexed by Order No. 1990 of the Portland Metropolitan Local Government Boundary Commission dated March 8, 1984, and any area subsequently served by the sewage treatment plant to be constructed within this sewer service area. No system development charge shall be assessed for those properties within the original boundaries of Assessment District 84-1. A system development charge per dwelling unit is hereby imposed on all other property in the Boring Area connecting to the District sewerage system. Table VIII, attached hereto and incorporated herein by reference, applies to this sewer service area.
- (c) **Hoodland Sewer Service Area.** The Hoodland Sewer Service Area consists of the property merged by Order 1956 of the Portland Metropolitan Local Government Boundary Commission dated November 10, 1983, and any area subsequently served by the sewage treatment plant in that sewer service area. Table IX, attached hereto and incorporated by reference, applies to this sewer service area. Any parcel of property that was assessed for an area density benefit within Assessment District 1-80 shall be exempt from the imposition of the system development charge for the number of equivalent dwelling units equal to each \$2,170 of area density benefit assessment.
- (d) **Fischer's Forest Park Sewer Service Area.** The Fischer's Forest Park Sewer Service Area consists of the property merged by Order 1956 of the Portland Metropolitan Local Government Boundary Commission dated November 10,

1983, and any area subsequently served by its system. There are no system development charges levied in this sewer service area. Table X, attached hereto and incorporated by reference, applies to this sewer service area.

4.1.2 Exemption. Exemptions to the system development charge in the Boring Sewer Service Area shall be in accordance with the following:

- (a) Dwellings, regardless of the date of construction and within the original boundaries of Assessment District 84-1, are exempt from any system development charge; except, if at the time of connection the number of connection units sought exceeds the highest number of connection units (density) allowed by the zoning ordinance at the time Assessment District 84-1 was formed. The property owner shall pay a system development charge for each excess connection unit.
- (b) Structures other than single family dwellings within Assessment District 84-1, regardless of the date of construction, are exempt from any connection charge; except, if at the time of connection the number of connection units sought exceeds the highest number of connection units (density) allowed by the zoning ordinance at the time Assessment District 84-1 was formed. The property owner shall pay a connection charge for each excess connection unit.

4.1.3 System Development Charge Imposed; Method for Establishment Created. Unless otherwise exempted by the provisions of these Rules and Regulations or other local or state law, a system development charge is hereby imposed on all development within the District that increases usage upon the sanitary sewer facilities for each equivalent dwelling unit as defined in the Table related to the service area. System development charges shall be established and may be revised by resolution or order of the Board. The resolution or order shall set the methodology and amount of the charge.

4.1.4 Methodology.

- (a) The methodology used to establish the system development charges shall consider the cost of the then-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. The methodology shall promote the objective that future system users shall contribute not more than an equitable share of the cost of then-existing facilities.
- (b) The methodology used to establish the system development charge shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related and other relevant factors identified by the Board.

- (c) The methodology used to establish the system development charge shall be adopted by resolution or order of the Board.
- (d) The system development charge may be adjusted by the periodic application of one or more specific cost indexes or other periodic data sources. The resolution that adopts the system development charge shall identify the cost indexes to be used. A specific cost index or periodic data source must be:
 - (i) A relevant measurement of the average change in prices or cost over an identified time period for materials, labor, real property or a combination of the three;
 - (ii) Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and
 - (iii) Incorporated as part of the established methodology or identified and adopted in a separate resolution.

4.1.5 Authorized Expenditure.

- (a) System development charges shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.
- (b) (1) System development charges 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.

(2) A capital improvement being funded wholly or in part from the revenues derived from the improvement fee shall be included in the Capital Improvement Program adopted by the Board.
- (c) Notwithstanding 4.1.5(a) and (b), system development charge revenues may be expended on the direct costs of complying with the provisions of these Rules and Regulations, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge funds.

4.1.6 System Development Charge Project Plan.

- (a) The Board has adopted by resolution or order the Clackamas County Service District No. 1 System Development Charge Report for the North Clackamas Area Sanitary Sewer Service Area. This Report:
 - (1) Lists existing facilities and the capacity available for new development;
 - (2) Lists the planned capital improvements that may be funded with improvement fee revenues; and
 - (3) Lists the estimated cost and time of construction of each improvement.
- (b) In adopting this Report, the Board may incorporate by reference all or a portion of any Public Facilities Plan, Master Plan, Capital Improvements Plan or similar plan that contains the information required by this section. The Board may modify the projects listed in that Report at any time through the adoption of an appropriate resolution.

4.1.7 Collection of Charge.

- (a) As a condition to connection of the sanitary sewer system, the applicant shall pay all applicable charges. Except as allowed in Section 4.1.8, the system development charge is payable at the time of permitted increased usage upon issuance of:
 - (1) A building permit; or
 - (2) A development permit for development not requiring the issuance of a building permit; or
 - (3) Increased usage of the system or systems provided by the District.
- (b) The resolution that sets the amount of the charge shall designate the permit or systems to which the charge applies.
- (c) If development is commenced or connection is made to the systems provided by the District within an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required or increased usage occurred.
- (d) The Director or his/her 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 pursuant to Section 4.1.8, or unless an exemption is granted pursuant to Section 4.1.9.
- (e) All moneys collected through the system development charge shall be retained in

a separate fund and segregated by type of system development charge.

- (f) In addition, each person making an application for connection shall pay an inspection charge for stormwater or sanitary sewer system construction inspection and testing for the type of service for which the application has been submitted and the permit to be reasonably calculated.

4.1.8 Installment Payment of District's System Development Charges.

- (a) Where the District's system development charges and/or collection sewer charge are greater than two times the amount of a system development charge for a single family residential unit, the applicant may, at the time of application, with the consent of the District, make a one-time election to pay the charge in installments. If approved, payment in 20 semi-annual installments, secured by a lien on the property upon which the development is to occur or to which the connection is to occur or to which the connection is to be made, to include interest on the unpaid balance. The Director may enter into such agreements and related documents to implement the intent of this section.
- (b) The District shall provide application forms 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.
- (c) The District reserves the right to reject any application for installments payments. Requirements and procedures for installment payments of the District's share of the system development charge shall be in accordance with the following:
 - (1) A person requesting 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.
 - (2) Any eligible property owner requesting the installment shall, at the time of the application for connection, submit to the District an application for deferral on a form provided by the District.
 - (3) Upon receipt of an application, the applicant, at his expense, shall order a preliminary title report from a title insurance company doing business in Clackamas County, Oregon, and provide it to the District.
 - (4) The applicant, at his expense, shall furnish the District with a current statement of amount due to each lienholder disclosed by the preliminary title report, the tax assessor's statement of true cash value, and, for property proposed for improvement, an MAI appraisal, certified by the appraiser, as to the estimated fair market value upon completion of the

proposed improvement. The applicant shall answer such questions as the District deems proper regarding the applicant's ability to make the installment payments, as well as any other lienholder. The applicant also authorizes the District to contact other lienholders regarding applicant's payment history.

- (5) If, upon examination of the title to the property and other information, the District is satisfied:
- (i) That the total unpaid amount of all liens disclosed, together with the amount of the system development charge sought to be paid by installments, does not exceed (1) the appraised value of the property as determined by the current appraisal of the County Assessor or (2) if the District elects, based upon the appraisal or other evidence of value acceptable to the District, the amount does not exceed the estimated fair market value of the property; and
 - (ii) The District, in its discretion, upon review of the applicant's ability to make payments as required under the proposed mortgage or trust deed and other debt obligations and the status of applicant's title to the property, consents to execution of the mortgage or trust deed; then
 - (iii) 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 20 equal semi-annual installments, due January 1 and July 1 of each year, together with interest on the deferred principal balance at the prime rate of interest being charged on each principal payment date by the bank doing business in Oregon and having the largest deposits. 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, title company report and filing fees shall be borne by the applicant in addition to the system development charge. 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.
- (d) If the District determines that the amount of system development charge, together with all unpaid liens, exceeds the appraised value of the property or that the applicant cannot execute a mortgage or trust deed that will be a valid lien or if

the District believes that it will not have adequate security, or that the applicant cannot make the required payments, it shall so advise the applicant and installment payments shall not be accepted.

- (e) The District shall docket the lien in the lien docket. From that time, the District shall have a lien upon the described parcel for the amount of the system development charge, together with interest on the unpaid balance at the rate established by the Board. The lien shall be enforceable in the manner provided in ORS Chapter 223, as may be amended from time to time, and shall be superior to all other liens pursuant to ORS 223.230.
- (f) The District at its sole discretion can allow an applicant to apply for installment payment per this Section in an amount equal to or greater than one times the amount of a system development charge for a single family residential unit as prescribed in Section 4.1.8(a), if the applicant can demonstrate a financial Undue Hardship and the inability to obtain financial funding.

4.1.9 Exemptions. The System Development Charge shall not apply to:

- (a) Structures and uses of the sewerage or surface water system facilities on or before the effective date of the resolution.
- (b) Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the Uniform Building Code or the County's Zoning Development Ordinance.
- (c) An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the sanitary sewer or surface water system facilities.

4.1.10 Credits.

- (a) A permittee is eligible for credit against the improvement fee element of the system development charge for constructing a qualified public improvement. A qualified public improvement means it meets all of the following criteria:
 - (1) Required as a condition of development approval by the Board or its designee through the development review process; and
 - (2) Identified in the Capital Improvement Plan, or other plan set forth in 4.1.6, or adds additional capacity in excess of a local sewer system; and
 - (3) (i) Not located within or contiguous to the property or parcel that is subject to development approval, or (ii) located in whole or in part on, or contiguous to, property that is the subject of development approval and required to be build larger or with greater capacity than is necessary for

the particular development project to which the improvement fee is related.

- (4) This credit shall be only for the improvement fee charged for the type of improvement being constructed. Credit under this section may be granted only for the cost of that portion of the improvement that exceeds the facility size or capacity needed to serve the development project and their oversizing provides capital usable by the District.
- (b) Applying the adopted methodology, the District may grant a credit against the improvement charge for capital facilities provided as part of the development that reduces the development's demand upon existing capital improvements or the need for further capital improvements or that would otherwise have to be constructed at District expense under the then-existing Board policies.
- (c) 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.
- (d) All credit requests must be in writing and filed with the District before the issuance of a building permit. Improvement acceptance shall be in accordance with the usual and customary practices, procedures and standards of the District. 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 any system development charge imposed against the subject property. The applicant has the burden of demonstrating qualification for a credit.
- (e) Credits shall be apportioned against the property that was subject to the requirements to construct an improvement eligible for credit. Unless otherwise requested, apportionment against lots or parcels constituting the property shall be proportionate to the anticipated public facility service requirements generated by the respective lots or parcels. Upon written application to the District, however, credits shall be reapportioned from any lot or parcel to any other lot or parcel within the confines of the property originally eligible for the credit. Reapportionment shall be noted on the original credit form retained by the District.

- (f) 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 shall only apply against system development charges, are limited to the amount of the fee attributable to the development of the specific lot or parcel for which the credit is sought, and shall not be a basis for any refund.
- (g) Any credit request must be submitted before the issuance of a building permit. The applicant is responsible for presentation of any credit and no credit shall be considered after issuance of a building permit.
- (h) Credits shall be used by the applicant within ten years of their issuance by the District.

4.1.11 Payment of Charges. As a condition of service and/or connection District System, the applicant shall pay all fees and charges, except as allowed under Section 4.1.8.

In addition, each person making an application for service and/or connection shall pay an Inspection Charge to the District for providing construction inspection and testing for the type of service for which the application has been submitted and was reasonably calculated.

4.1.12 Changing Class of Service. Whenever a parcel of property becomes connected to the District's sanitary sewer system and shall thereafter undergo a change of use so that a different number of dwelling units would be assigned to the property if connection were made after the change, the following shall occur:

(a) **North Clackamas Sewer Service Area - Surface Water**

- (1) If the change results in the assignment of a greater number of ESU's pursuant to Table XIII, an additional system development charge shall be levied prior to issuance of a permit to cause such change. The additional charge shall be equal to the net increase of ESU's times the current system development charge per ESU's.
- (2) If the change results in the assignment of a lesser number of ESU's pursuant to Table XIII, there shall be no additional charge of rebate. However, the full number of ESU's originally assigned shall be used as a basis for determining any further change of use resulting in the assignment of additional ESU's.

(b) **North Clackamas Sewer Service Area – Sanitary Sewer**

- (1) If the change results in the assignment of a greater number of EDU's pursuant to Table VII, an additional system development charge shall be

levied at the time of such change. The additional charge shall be equal to the net increase of EDU's times the current system development charge by EDU.

- (2) If the change results in the assignment of a lesser number of EDU's pursuant to Table VII, there shall be no additional charge or rebate. However, the full number of EDU's originally assigned shall be used as a basis for determining any future system development charges in the event of a further change of use resulting in the assignment of additional EDU's.

(c) **Boring Sewer Service Area – Sanitary Sewer**

- (1) If the change results in the assignment of a greater number of EDU's pursuant to Table VIII, an additional system development charge shall be levied at the time of such change. The additional charge shall be equal to the net increase of EDU's times the current system development charge by EDU.

- (2) If the change results in the assignment of a lesser number of EDU's pursuant to Table VIII, there shall be no additional charge or rebate. However, the full number of EDU's originally assigned shall be used as a basis for determining any future system development charges in the event of a further change of use resulting in the assignment of additional EDU's.

- (3) There is not a charge for changing class of service for any property located within the boundaries of Assessment District 84-1. These provisions apply to all properties outside Assessment District 84-1.

(d) **Hoodland Sewer Service Area – Sanitary Sewer**

- (1) If the change results in the assignment of a greater number of EDU's pursuant to Table IX, an additional system development charge shall be levied at the time of such change. The additional charge shall be equal to the net increase of EDU's times the current system development charge by EDU.

- (2) If the change results in the assignment of a lesser number of EDU's pursuant to Table IX, there shall be no additional charge or rebate. However, the full number of EDU's originally assigned shall be used as a basis for determining any future system development charges in the event of a further change of use resulting in the assignment of additional EDU's.

4.1.13 Notification/Appeals The District shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of the system development charge methodology. These persons shall be so notified in writing of any such proposed changes at least 45 days prior to the first hearing to adopt or amend such methodology(ies). This methodology shall be available at least 30 days prior to the public hearing. Any challenge to the system development charge methodology shall be filed not later than 60 days following final adoption by the Board and only pursuant to the provisions of ORS 34.010 to 34.100, as may be amended from time to time.

4.1.14 Annual Accounting. The District shall prepare for public inspection an annual accounting for system development charges showing the total amount of system development charges collected for each system.

4.1.15 Challenges. Any citizen or interested person may challenge expenditure of system development charge revenues according the Section 6 of the Rules and Regulations. Notwithstanding Section 6, the initial appeal of that Section with respect to an expenditure of system development charge revenues shall be filed within two years of the expenditure complained of. Thereafter, all time limits of Section 6 shall apply including Circuit Court review pursuant to ORS 34.010 to 34.100, as may be amended from time to time.

4.2 USER CHARGES – SURFACE WATER

4.2.1 Customer Charges. Equivalent service unit rate structure. Except as specifically provided below, a monthly surface water charge shall be paid by the user. The rate is set according to the surface water service area as follows:

(a) North Clackamas Surface Water Service Area. There is hereby imposed a system of rates for users for surface water services established by this Ordinance. The rates are set forth and amended from time to time to fund the administration, planning, design, construction, water quality and quantity programming, operation, maintenance and repair of surface water facilities.

Rates are hereby established for all users within the North Clackamas Surface Water Service Area as set forth on Table XIV, attached hereto and incorporated by reference. The Table may be amended by Resolution or Order of the Board of County Commissioners.

(b) Annexation. The rates, fees, and system development charges set forth in Table XIII of this Ordinance shall not be charged in areas annexing to the District after January 1, 2005 until urban level¹ sanitary sewer and/or surface water management services are provided to the User. Such charges shall commence upon the date of connection or use of the sanitary sewer and public storm water/surface water management system.

¹ For the purposes of this section, urban level of service shall be defined as connection to the sanitary sewer system; or having any point of the property boundary within three

hundred (300) feet of a serviceable public sanitary sewer and participation in an assessment district, local improvement district, or other service funding mechanism; and/or within three hundred (300) feet of a surface water management program collecting, regulating, and/or controlling surface waters and storm drainage in response to a National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System permit or other regulation imposed upon Clackamas County Service District No. 1 by the Oregon Department of Environmental Quality, United States Environmental Protection Agency, or other regulatory authority.

(c) Mitigation Reduction Factor. The amount of surface water service for sites can be controlled through provision of retention and/or other storm water quantity or quality control mitigation facilities. The District's Planning and Engineering Services Manager, or designee, shall determine the appropriate mitigation credit factor for customers who provide such mitigation in excess of the current District Regulations in a manner consistent with the Administrative Procedures adopted by the District.

4.2.2 Payment of Customer Charge. Single family customers will be billed on a two (2) month basis in advance, with payment due within fifteen (15) days of the billing date. Non-single family customers will be billed on a monthly basis in advance, with payment due within fifteen (15) days of the billing date.

4.3 USER CHARGES – SANITARY SEWER

4.3.1 Dwelling Unit Monthly User Charge. 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 attached tables 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. All nonresidential users shall pay from the date of connection to the system. The rate is set according to the sewer service area as follows:

(a) **North Clackamas Service Area.** A monthly user charge shall be as stated in Table XII, attached hereto and made a part hereof, for each dwelling unit as assigned each class of service listed in Table VII, and shall be paid by the property owner commencing on the third month from the date of connection to the District sewerage system.

(b) **Boring Service Area.** A monthly user charge shall be as stated in Table XII, attached hereto and made a part hereof, for each equivalent dwelling unit is assigned to each class of service pursuant to Table VIII, and shall be paid by the property owner or agent authorized to accept billing. The charge shall be paid by the owner commencing on the third month from the date of connection to the District's sewerage system.

(c) **Hoodland Service Area.** A monthly user charge shall be as stated in Table XII, attached hereto and made a part hereof, for each equivalent dwelling unit is assigned to each class of service pursuant to Table IX, and shall be paid by the property owner or agent authorized to accept billing. The charge shall be paid by the owner commencing on the third month from the date of connection to the District's sewerage system.

(d) **Fischer's Forest Park Service Area.** A monthly user charge shall be as stated in Table XII, attached hereto and made a part hereof for each dwelling unit is assigned to each class of service listed in Table X, and shall be paid by the property owner commencing on the third month from the date of connection to the District's sewerage system.

(e) The Board may set user fees and charges by order or resolution.

4.3.2 Low Income Monthly User Charge. The monthly user charge for sanitary sewer service provided to the principal resident or family having a maximum income under the qualifying income limits shall be fifty percent (50%) of the monthly sewer service charge stated in Table XIII. On July 1st of each year, the qualifying limits shall be set at one hundred eighty-five percent (185%) of the most recently published poverty guidelines in the Federal Register by the U.S. Department of Health and Human Services under authority of 42 U.S.C. 9902(2), as may be amended from time to time, and shall remain in force until the next July 1st. The qualifying income limit for a single person household shall be based on the federal poverty guidelines for a one-person household. The qualifying income limit for a family shall be based on the poverty guidelines for a two-person household. In order to be eligible for the reduced user charge, the qualified person 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.

4.4 OTHER CHARGES

4.4.1 Collection Sewer Charge. It is the intent of the District that the owners of all property within the District shall pay their proportionate share of the cost of installation of the local sanitary sewer system. Therefore, whenever any property is connected to the District's sanitary sewer system that has not previously been assessed the full proportional cost of the sanitary system; the owner of such property shall pay a collection sewer charge prior to connecting to the sanitary sewer system. "Full proportional cost" for the purposes of this Section shall mean the cost to design and construct the sanitary sewer system to which connection is made, which would have been assessed against the property if the property had been in an assessment district and assessed in full without regard to any exceptions to the assessment formula. The collection sewer charge shall be:

(a) For property located within an existing assessment district and connecting to facilities for which an assessment has been levied, a sum equal to the amount of assessment which would have been levied against the property had the property been assessed at the time the assessment district was formed without regard to

any exception contained in the assessment formula; or

- (b) For property connecting to facilities for which no assessment has been levied and were not constructed by the District, a sum equal to the proportionate share of the cost of the sanitary sewer system, or
- (c) For capital improvement projects constructed by the District and for which no assessment district have been made, a sum equal to the proportionate share of the cost of the sanitary sewer system, or
- (d) The Director is hereby granted wide discretion in the interpretation of this Section and in its application to particular parcels of property based upon users, lots or acreage to be served, so that the intent of this Section as expressed herein shall be fully implemented.

4.4.2 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 lateral at their own expense and at the time of connection shall pay a tap-in charge.

4.4.3 Other Connecting 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, extension of the public sewer, or modification of the public sewer.

4.4.4 Industrial Waste User Charge. An industrial waste user charge will be applied to each class of industrial user as defined in Tables VII through X. The user charge shall be comprised of rates for the customer's proportionate contribution of flow, the suspended solids ("TSS") and biochemical oxygen demand ("BOD") that are in excess of domestic sewage contributions.

Rates for industrial flows shall be based on their Equivalent Dwelling Units 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 sewage treatment plant periodically during the preceding three-month period. Quarterly adjustments may be made to reconcile differences in projected versus actual conditions.

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

4.4.5 Surcharge. If the District 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.

4.5 PAYMENT OF CHARGES

4.5.1 User Charges. Owners of property will be billed in accordance with the following schedule:

- (a) **North Clackamas Sewer Service Area**. All property owners will be billed on a monthly basis, with payment due within fifteen (15) days of the billing date.
- (b) **Boring Sewer Service Area**. All property owners will be billed monthly for the previous month's service, with payment due within fifteen (15) days of the billing date.
- (c) **Hoodland Sewer Service Area**. All property owners will be billed monthly for the previous month's service, with payment due within fifteen (15) days of the billing date.
- (d) **Fischer's Forest Park Sewer Service Area**. All property owners will be billed on a monthly basis in advance, with payment due within fifteen (15) days of the billing date.

4.5.2 Temporary Charges. User charges to property owners within North Clackamas Sewer Service Area and Boring Sewer Service Area, whose charges may be based upon metered water consumption or EDU count at the District's discretion, will have their charges computed on the basis of the number of dwelling units assigned such use.

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

4.5.4 Irrigation Water Meters. Owners of nonresidential properties may install a separate public water meter for irrigation purposes that shall not be included in the billing for sanitary sewer purposes.

4.5.5 Other Charges and Fees. All other charges and fees shall be due and payable at the time of service, unless otherwise specifically provided by these Rules.

4.6 DEFERRAL OF PAYMENTS OF COLLECTION CHARGES

The District reserves the right, in its sole discretion, to allow the applicant to make a one-time election to pay the system development charge or sewer collection charge in installments at the time of application. The District reserves the right to reject any application for installment payments.

4.7 SEGREGATION OF SPECIAL ASSESSMENTS

Pursuant to Oregon Revised Statutes Chapter 307, as may be amended from time to time, and Board Order No. 832036, special assessments may be segregated in accordance with the following subsections when requested by an owner, mortgagee or lien holder of property that was partitioned or divided subsequent to the original assessment.

4.7.1 Application. Whenever an application has been made under the provisions of Chapter 223 of the Oregon Revised Statutes, as may be amended from time to time, 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 in such form as may be required, and such application shall be accompanied by any fees established in accordance with Paragraph (5) hereafter.
- (d) 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.
- (e) To defray the costs of investigation, preparing legal documents, calculating an equitable division of the assessment and making the lien docket entries, the Board hereby reserves the right to establish such fees as it deems proper from time to time. Such fees shall not be refundable if the application is disapproved or if the applicant withdraws the application.

4.7.2 Approval. After the apportionment application, upon such form 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 Oregon Revised Statutes Chapter 307, as may be amended from time to time.

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 thereby only in the amount and as to the parcels thereby approved by the Board.

SECTION 5 COLLECTION PROCEDURES

5.1 GENERAL

The District requires that the user (in whose name the account is set up) is responsible for all fees and charges at the service location.

5.1.1 Account Setup. All applications for service shall be on forms provided by the District. The account holder shall be considered the user of the service. In the case of a landlord-tenant situation, the landlord shall be the account holder.

5.1.2 Notices. Regardless of who is listed as the user, the District will make all reasonable efforts to provide the landlord with copies of all invoices, notices, and other information relating to fees and charges. This policy is intended to comply with ORS 91.255, as it may be amended from time to time, and to provide notices to enable the landlord and tenant a reasonable opportunity within the time set by the District to avoid delinquent charges and discontinuance of service.

5.1.3 Collection of Charges. All invoices or bills for 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 and the owner has not executed a document to pay for services, then the District shall take all reasonable steps to provide the owner with copies of all invoices, bills and notices pursuant to ORS 91.255, as it may be amended from time to time.

If the owner has executed such an agreement to be bound or if the rental agreement provides, then the landlord and the tenant shall be jointly and severally liable and, following notices to each in accordance with the District's procedures, collection practices may ensue. The District may look to either or both parties for payment in addition to the remedies of Section 5.4.1, ORS 91.255, and ORS 454.225, or any successor statutes.

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

The District may also 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 Administrator or Director to obtain payment to the District and avoid hardship and inequities.

5.1.4 Delinquent Charges. All user charges by the District shall be due within twenty (20) days of billing. Thereafter, a charge shall be considered delinquent. All delinquent charges shall bear interest at 9% per annum from the date of delinquency until paid. 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 Tax Assessor. The District may certify the amount to the Assessor for inclusion on the property tax statement pursuant to ORS 454.225, as amended from time to time, and 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 according to the Oregon Revised Statutes.

- (a) 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 a customer's impact upon the District's or public's 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.

5.1.5 Discontinuance of Service. The District may, at any time after any charges or fees hereunder become delinquent, 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's sewerage system prohibitive substances after being notified by the District to do so, sewerage 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. Nothing herein shall prevent the District from entering into an agreement with the water service provider to terminate water service for nonpayment of a sanitary sewer bill.

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

5.1.7 Fees and Costs. By resolution, the District shall set fees and charges, for collection efforts, including fees and charges necessary to recover all costs related to an insufficient fund check or the cost of processing lien searches and the like based upon labor rates or other items deemed reasonable by the Board or Director as its designee.

SECTION 6 APPEALS; ENFORCEMENT

6.1 INTERPRETATION OF THESE RULES AND REGULATIONS

6.1.1 Appeal. 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, the nature of the ruling or interpretation from which relief is sought, the nature of the impact of the ruling on appellant's property or business, together with any other reasons for the appeal. This provision shall not apply in cases arising under Section 6.2.

6.1.2 Decision of District. The District shall study the matter, hear testimony if deemed necessary, and issue written findings and reasons for such recommendations to the appellant. The Director shall make a written decision within thirty (30) days of written notification of appeal.

6.1.3 Appeal to Board. If the appellant considers that his grievance has not been handled to his satisfaction, he may apply to the governing body of the District for an independent review of his case within thirty (30) days from the date of the written decision. The Board may make an independent review of the case and hear additional testimony on the matter if it deems necessary. Within thirty (30) days from receipt of the appeal, if the Board chooses to review the matter, it will prepare a written decision on the matter, which shall be sent to the applicant. In lieu of a hearing by the Board, a hearing officer may be appointed.

(a) If appointed, the hearings officer shall set a de novo hearing on the matter at which he or she will take testimony and hear arguments. The Director shall give notice of the time and place for the hearing to the appellant, the applicant, 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 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.

6.1.4 Circuit Court Review. The decision of the Board or Hearings Officer shall be final unless appellant provides a notice of intent to file a writ of review in the Circuit Court, which is received by the District or Hearings Officer within ten (10) days after the decision of the District or Hearings officer was sent to the appellant. Decisions of the Board 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.

6.2 VIOLATIONS AND CIVIL PENALTIES

6.2.1 Violation of These Rules and Regulations. The District may impose civil penalties,

including, but not limited to, fines, damages, modification or revocation of permit, cessation of services, stop work orders, seek an injunction or other relief provided by law when any user or person violates any condition or provision of these Rules and Regulations, any rule adopted thereto or any final order 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 the District's statutes, 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 by 6.3.2 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 particular 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.

6.2.2 Definitions for Enforcement.

- (a) "Compliance" means meeting the requirements of the District's statutes, rules, permits or orders.
- (b) "Documented Violation" means any violation that the District or other government agency verifies through observation, investigation or data collection.
- (c) "Enforcement" means any documented action taken to address a violation.
- (d) "Flagrant" means any documented violation where the respondent had actual knowledge of the law and had consciously set out to commit the violation.
- (e) "Formal enforcement" means an administrative action signed by the Director or designee that is issued to a respondent on the basis that a violation has been documented, requires the respondent to take specific action within a specified time frame and states consequences for continued noncompliance.
- (f) "Intentional" means respondent consciously and voluntarily took an action or admitted to taking an action and knew the probable consequences of so acting or omitting to act.
- (g) "Magnitude of Violation" means the extent and effects of a violator's deviation from the District's statutes, rules, permits or orders. In determining magnitude, the District shall consider all available applicable information, including such factors as, but not limited to, concentration, volume, duration, toxicity or proximity to human or environmental receptors, and the extent of the effects of the violation. Deviations shall be classified as major, moderate or minor.
- (h) "Prior Significant Action" means any violation proven pursuant to a contested case hearing or established with or without admission of a violation by payment

of a civil penalty, by order or default, or by Stipulated Final Order of the District.

- (i) “Respondent” means the person to whom a formal enforcement action is issued.
- (j) “Risk of Harm” means the level of risk created by the likelihood of exposure (either individual or cumulative) or the actual damage (either individual or cumulative) caused by a violation to public health or the environment. Risk of harm shall be categorized as major, moderate or minor.
- (k) “Systematic” means any documented violation that occurs on a regular basis.
- (l) “Violation” means a transgression of any statute, rule, order, license, permit or any part thereof and includes both acts and omissions. Violations shall be classified as follows:
 - (1) “Class I” means any violation that poses a major risk of harm to public health or the environment, or violation of any compliance schedule contained in a District permit or a District order:
 - (i) Violation of a District Order;
 - (ii) Intentional unauthorized discharges;
 - (iii) Negligent spills that pose a major risk of harm to public health or the environment;
 - (iv) Waste discharge permit limitation violations that pose a major risk of harm to public health or the environment;
 - (v) Discharge or introduction of waste to the publicly owned treatment works, as defined in 40 CFR 403.3(o), without first obtaining an Industrial User Waste Discharge Permit;
 - (vi) Failure to immediately notify the District of a spill or upset condition that results in an unpermitted discharge to public waters or to the publicly owned treatment works as defined in 40 CFR 403.3(o);
 - (vii) Violation of a permit compliance schedule;
 - (viii) Failure to provide access to premises or records;
 - (ix) Any other violation related to water quality that poses a major risk of harm to public health or the environment;
 - (x) Two Class II violations, one Class II and two Class III violations or three Class III violations.

(2) "Class II" means any violation that poses a moderate risk of harm to public health or the environment, including, but not limited to:

- (i) Waste discharge permit limitation violations that pose a moderate risk of harm to public health or the environment;
- (ii) Negligent spills that pose a moderate risk of harm to public health or the environment;
- (iii) Failure to submit a report or plan as required by permit or license;
- (iv) Any other violation related to water quality that poses a moderate risk of harm to public health or the environment.

(3) "Class III" means any violation that poses a minor risk of harm to public health or the environment, including, but not limited to:

- (i) Failure to submit a discharge monitoring report (DMR) on time;
- (ii) Failure to submit a completed DMR;
- (iii) Negligent spills that pose a minor risk of harm to public health or the environment;
- (iv) Violation of a waste discharge permit limitation that poses a minor risk of harm to public health or the environment;
- (v) Any other violation related to water quality that poses a minor risk of harm to public health or the environment.

6.3 PROCEDURE FOR ENFORCEMENT

6.3.1 Inspection, Entry, and Sampling. Authorized District representatives may inspect the property and facilities of any person to determine compliance with the requirements of the Ordinance. The user 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 and storing records, reports, or other documents related thereto.

- (a) The District is authorized to conduct inspections and take such actions as required to enforce any provisions of this ordinance or any permit issued

pursuant to this ordinance whenever the Director has reasonable cause to believe there exists any violation of this ordinance. 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.

- (b) Where feasible, inspections shall occur at reasonable times of the day. 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:
 - e. Enter upon the property where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of a permit;**
 - f. Have access to and copy, at reasonable times, any records that must be kept under the conditions of a permit;
 - g. 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; and
 - h. 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.

6.3.2 Prior Notice and Exceptions. Except as otherwise provided, prior to the assessment of any civil penalty, the District shall serve a notice of violation upon the Respondent. The written notice shall be served, either personally, by office or substitute service, as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, specifying the violation and stating that the District will assess a civil penalty if a violation continues or occurs after five days following receipt of the notice.

The above notice shall not be required where the Respondent has otherwise received actual notice of the violation not less than five days prior to the assessment of civil penalty. No advance notice, written or actual, shall be required if (a) the act or omission constituting the violation is intentional; or (b) the water pollution would normally not be in existence for five days.

6.4 ENFORCEMENT ACTION

6.4.1 Notice of Non-Compliance (NON). At the District's discretion, it may issue a notice of noncompliance (NON) as a formal enforcement action that:

- (a) Informs a person of the existence of a violation, the actions required to resolve the violations and the consequences of continued noncompliance. The notice may specify the time by which compliance is to be achieved and that the need for formal enforcement action will be evaluated;
- (b) Shall be issued under the direction of the Director or designee;
- (c) Shall be issued for all classes of documented violations; and
- (d) Is consistent with the policy of 6.3.2.

Typically, a NON will be in the form of a letter and may include a request for a written report within five (5) business days. The report shall detail the event, steps taken to correct the problem and steps to prevent future events. 6.4.2 Notice of Violation and Intent to Assess a Penalty (NOV).

6.4.2 Notice of Violation and Intent to Assess a Penalty (NOV). In lieu of or subsequent to a NON in the District's sole discretion, it may issue a Notice of Violation and Intent to Assess a Civil Penalty (NOV) as a formal enforcement action that: (a) is issued pursuant to 6.3.2; (b) may include a time schedule by which compliance is to be achieved; (c) shall be issued by the Director or designee; (d) shall be issued for the first occurrence of a documented Class I violation that is not excepted under 6.3.2 or the repeated or continued occurrence of documented Class II or Class III violations, where notice of noncompliance has failed to achieve compliance or satisfactory progress toward compliance.

6.4.3 Notice of Civil Penalty Assessment. A notice of Civil Penalty Assessment is a formal enforcement action that: (a) is escalated pursuant to Section 6.5; (b) shall be issued by the District or designee; and (c) may be used for the occurrence of any class of documented violation or for any class of repeated or continuing violations if a person has failed to comply with a Notice of Violation and intent to assess a civil penalty, Stipulated Final Order or other order.

6.4.4 Memorandum of Agreement and Order. A Memorandum of Agreement and Order (MAO) is a formal enforcement action that is in the form of a MAO, stipulated final order or consent order issued by the Director that: (a) may be negotiated between the District and the subject party prior to or after any notice set forth above; (b) shall be signed by the Director or designee on behalf of the District and the authorized representative of the subject party; and (c) shall set forth action to be taken and set civil penalties. This may be issued for any class of violations. 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.

6.4.5 Right to Hearing. A civil penalty shall be due and payable 10 days after the date of service of the Notice of Civil Penalty Assessment. The decision of the Director or the Director's designee to assess a civil penalty or other formal enforcement action or any violation pertaining to the District's statutes, regulations, permits, or orders shall be served

on the user or person (hereinafter "Respondent") by personal service, office or substitute service, as those terms are defined in the Oregon Rules of Civil Procedure or by certified or registered mail, return receipt requested. Service may be made upon any agent, officer or authorized representative of the user or person. The Notice shall specify the violation, the reasons for the enforcement action and the amount of the penalty. It shall comply with ORS 183.090, as may be amended from time to time, relating to notice and contested cases. The decision shall be final unless the respondent files a written Notice of Appeal and Request for Hearing with the District within 21 days from the date of the Director's decision. The Notice of Appeal and Request for Hearing shall contain the following:

- (a) The name of the Respondent and the case file number or permit number.
- (b) The name and signature of the Respondent and a statement that, if acting on behalf of a partnership or corporation, the person executing the Notice of Appeal is duly authorized to file such appeal and such person is the contact representative.
- (c) The date that the Notice of Civil Penalty Assessment or other formal enforcement was received by the Respondent.
- (d) The nature of the decision and the specific grounds for appeal. In the Notice of Appeal, the party shall admit or deny all factual matters and shall affirmatively allege any affirmative claim and defense and the reasons therefore.
- (e) The appeal shall be limited to the issues raised in the petition.
- (f) The hearing shall be conducted in accord with ORS Chapter 183, as may be amended from time to time. The record of the hearing shall be considered by the District or Hearings Officer, which shall enter appropriate orders, including the amount of any civil penalty assessed. Appeal of such orders may be taken by the Respondent as provided in Section 6.1. Notwithstanding the foregoing, nothing shall be construed to prevent the District from taking any other enforcement action or remedy available.

6.4.6 Other Remedies. 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.

6.5 CIVIL PENALTY SCHEDULE MATRICES

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 statutes, regulations, permits or orders by service of a written notice of assessment of civil penalty upon the respondent as set forth in Paragraph 6.4 above. The amount of any civil penalty shall be determined through the use of the following matrices, in conjunction with the formula contained in

Section 6.5.3.

6.5.1 Base Penalty Matrix.

	Magnitude of Violation		
	Major	Moderate	Minor
Class I	\$5,000	\$2,500	\$1,000
Class II	\$2,000	\$1,000	\$500
Class III	\$500	\$250	\$100

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

6.5.2 Petroleum Spills. Persons causing oil spills to waters of the state within the jurisdiction of the District through intentional or negligent acts shall incur a civil penalty of not less than one hundred dollars (\$100) or more than twenty thousand dollars (\$20,000) per violation. The amount of the penalty shall be determined by doubling the values contained in the matrix in subsection 6.5.1 of this rule, in conjunction with the formula contained in 6.5.3. In determining whether to seek a civil penalty, the District shall take into account the circumstances and enforcement efforts of other governmental agencies having jurisdiction.

6.5.3 Civil Penalty Determination Procedure.

- (a) When determining the amount of civil penalty to be assessed for any violation, the Director shall apply the following procedures:
 - (1) Determine the class of violation and the magnitude of violation;
 - (2) Choose the appropriate base penalty established by the matrix of Section 6.5.1, based upon the above finding;
 - (3) Starting with the base penalty (BP), determine the amount of penalty through the application of the formula $BP + [(0.1 \times BP) (P + H + E + O + R + C)]$ where:
 - (i) "P" is whether the Respondent has any prior significant actions relating to statutes, rules, orders and permits pertaining to environmental quality or pollution control. The values for P and the finding which supports each are as follows:

- 0 if no prior significant action or there is insufficient information on which to base a finding;
- 1 if the prior significant action is one Class II or two Class III violations;
- 2 if the prior significant action is one Class I or equivalent;
- 3 if the prior significant actions are two Class I or equivalents;
- 4 if the prior significant actions are three Class I or equivalents;
- 5 if the prior significant actions are four Class I or equivalents;
- 6 if the prior significant actions are five Class I or equivalents;
- 7 if the prior significant actions are six Class I or equivalents;
- 8 if the prior significant actions are seven Class I or equivalents;
- 9 if the prior significant actions are eight Class I or equivalents;
- 10 if the prior significant actions are nine Class I or equivalents.

In determining the appropriate value for prior significant actions as listed above, the District shall reduce the appropriate factor by:

- A value of two if all prior significant actions are greater than three years old, but less than five years old;
- A value of four if all the prior actions are greater than five years old;

In making the above reductions no finding shall be less than zero. Any prior significant action that is greater than ten years old shall not be included in the above determination.

(ii) "H" is past history of the Respondent taking all feasible steps or procedures necessarily appropriate to correct any prior significant actions. The values for H and the findings which support each are as follows:

- Minus 2 if the Respondent took all feasible steps to correct any violation;
- 0 if there is no prior history or insufficient information on which to base a finding;

- 1 if the Respondent took some but not all feasible steps to correct a Class II or III violation;
- 2 if the Respondent took some but not all feasible steps to correct a Class I violation;
- 3 if no action to correct prior significant actions.

(4) "E" is the economic condition of the Respondent. The values for E and the finding which support each are as follows:

- 0 to minus 4 if economic condition is poor, subject to any significant economic benefit gained by Respondent through non compliance.
- 0 if there is insufficient information on which to base a finding, the Respondent gained no economic benefit through noncompliance, or the Respondent is economically sound;
- 2 if the Respondent gained a minor to moderate economic benefit through noncompliance;
- 4 if the Respondent gained a significant economic benefit through noncompliance.

(5) "O" is whether the violation was a single occurrence or was repeated or continuous during the period resulting in the civil penalty assessment. The values for "O" and the finding which supports each are as follows:

- If a single occurrence;
- If repeated or continuous.

(6) "R" is whether the violation resulted from an unavoidable accident, or a negligent or intentional act of the Respondent. The values for "R" and the finding which supports each are as follows:

- Minus 2 if unavoidable accident;
- 0 if insufficient information to make any other finding;
- 2 if negligent;
- 4 if grossly negligent;

- 6 if intentional
- 10 if flagrant.

(7) "C" is the Respondent's cooperativeness in correcting the violation. The values for "C" and the finding which supports each are as follows:

- Minus 2 if Respondent is cooperative;
- 0 if Respondent is neither cooperative nor uncooperative or there is insufficient information on which to base a finding;
- 2 if violator is uncooperative.

- (b) In addition to the factors listed in 6.5.3(a) of this rule, the Director may consider any other relevant rule or statute and shall state the effect the consideration had on the penalty. On review, the Board of county Commissioners or Hearings Officer shall consider the factors contained in 6.5.3(a) of this rule and any other relevant rule or statute.
- (c) If the District finds that the economic benefit of noncompliance exceeds the dollar value of 4 in subsection 6.5.3(a)(iii) of this section, it may increase the penalty by the amount of economic gain, as long as the penalty does not exceed the maximum penalty allowed by rule and statute.
- (d) In any contested case proceeding or settlement in which Respondent has raised economic condition as an issue, Respondent has the burden of providing documentary evidence concerning its economic condition. In determining whether to mitigate a penalty based on economic condition, the Hearings Officer or District may consider the causes and circumstances of Respondent's economic condition.

6.6 STOP WORK ORDERS

6.6.1 Erosion Control Violations. In addition to civil penalties described in Section 6.2, erosion control violations will be enforced by on-site control activities to mitigate existing violations and prevent future violations to the greatest extent possible. Initial violations will result in a written description of requirements for repair of the problem and a 24-hour time period for compliance or a specified time for compliance as included in the Deficiency Notice. If the repair is not performed, or violations continue, the inspector will 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. If the violation is not remedied or the person fails to commence diligently remedying the violation within 24 hours, the District may enter upon the property to abate the violation. Notwithstanding anything herein to the contrary, if the District reasonably believes the violation constitutes an emergency or other circumstance requiring immediate action, the District may take reasonable and necessary

remedial action with or without notice to the owner as deemed appropriate by the District considering the circumstance. Any costs incurred by the District to remedy a violation shall be paid by the owner. If the required repairs are not completed within the specified time frame or if violations continue that require additional site visits, additional daily charges described in Table XIII will be assessed to the owner of the property.

6.6.2 Other Violations. In addition to civil penalties described in Section 6.2, other 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 time period for compliance as included in the Deficiency Notice. If compliance is not achieved, or violations continue, the inspector will 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. If the violation is not remedied or the person fails to commence diligently remedying the violation within 24 hours, the District may enter upon the property to abate the violation. Notwithstanding anything herein to the contrary, if the District reasonably believes the violation constitutes an emergency or other circumstance requiring immediate action, the District may take reasonable and necessary remedial action with or without notice to the owner as deemed appropriate by the District considering the circumstance. Any costs incurred by the District to remedy a violation shall be paid by the owner. If the required repairs are not completed within the specified time frame or if violations continue that require additional site visits, additional daily charges described in Table XIII will be assessed to the owner of the property.

6.7 ABATEMENT

Nothing herein shall prevent the District, following seven (7) days written notice to the discharger, and discharger's failure to act, from entering upon the property and disconnecting, sealing, or otherwise abating any unauthorized connection to the storm water or system discharger violating any permit, this ordinance or water quality standards. As part of this power, the District may perform tests upon the property to trace sources of water quantity or water quality violation.

6.8 COMPROMISE OR SETTLEMENT OF CIVIL PENALTY BY DIRECTOR

6.8.1 Any time subsequent to service of a written notice of assessment of civil penalty, the Director may compromise or settle any unpaid civil penalty at any amount that the Director deems appropriate. Any compromise or settlement executed by the Director shall be final.

6.8.2 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 that 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 set forth in Section 1.1 of these Rules and Regulations.
- (f) The relative strengths and weaknesses of the District's case.

6.9 STIPULATED PENALTIES

Nothing herein shall affect the ability of the District to include stipulated penalties in a Stipulated Final Order or any other agreement.

6.10 COLLECTION OF CIVIL PENALTY

Procedures for the enforcement of the civil penalty shall be as follows:

6.10.1 Time Limit. Any civil penalty imposed shall be a judgment and lien and may be registered with the Court Clerk. The penalty shall be paid in full within fifteen (15) days of the date the decision is final. Payment shall be made either in cash or by certified check made payable to the District.

6.10.2 Relief in Circuit Court. If full payment is not made, the District may take further action, pursuant to collection authority granted under ORS 454.225 or any successor statutes, for collection and/or cause sewer service to be terminated. Alternatively, counsel for the District may, following the authorization of such action by the District, commence an action for appropriate legal and/or equitable relief in the Circuit Court. Notwithstanding the foregoing administrative hearing processes, nothing in this Subsection shall prohibit the District from commencing civil action in the Circuit Court for injunction or other relief or seeking imposition of civil penalties described above by the court.

6.11 ENFORCEMENT

Nothing shall prevent enforcement of these Rules and Regulations or applicable Federal or State statutes or rules or regulations in Federal and State Courts.

6.12 ARTICLE 1, SECTION 18 CLAIM PROCESSING PROCEDURE AUTHORIZATION

6.12.1 The Board of County Commissioners may by resolution adopt, and from time to time amend, a process for consideration of claims brought by property owners for compensation pursuant to Article 1, section 18,

subsections (a) through (e) of the Oregon Constitution. The process shall apply to claims brought relating to regulations, as that term is used in those subsections, which are District regulations. If a process is adopted, a property owner seeking compensation pursuant to that provision shall only be entitled to compensation through adjudication of a claim through such process.

6.12.2 The claims process shall provide, at a minimum, for the following:

- (a) An opportunity for the claimant to provide evidence to support the claim, and an opportunity for the claimant to have a hearing before the Board on the matter.
- (b) Final disposition of a claim by Board Order. The final disposition of any claim may direct payment of the claimed amount, or other appropriate amount, denial of the claim, release of the private real property from the use restriction in lieu of compensation, or such other remedy as the Board deems appropriate.
- (c) Consideration by the Board of the fiscal impact on District programs and services if compensation is paid.

6.12.3 A final disposition of a claim that results in compensation to the property owner, or release of the use restriction in lieu of compensation, shall be recorded in the County deed records with reference to the affected real property. The final disposition may include such conditions and restrictions as the Board deems necessary to carry out its decision and to protect the public interest.

SECTION 7 ADMINISTRATIVE RULES

7.1 COMPLIANCE WITH LAWS

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

7.2 REGULATIONS AND RULES AS CONTRACT

The terms and conditions contained in these Rules and Regulations, and all resolutions, policies and orders adopted pursuant hereto, shall constitute a contract between the District and all users, contractors, and connectors to the system. The consideration for the conditions imposed upon such users and connectors shall be the privilege of the use of, and/or connection to, the District's sewerage and/or surface water systems.

7.3 NO PROPERTY INTEREST ACQUIRED BY PURCHASE OF PERMIT OR CONNECTION TO SYSTEM

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

Nothing contained herein shall require the District to provide service or access to the system to such user 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.

7.4 CONFLICTS WITH EXISTING AND FUTURE REGULATORY REQUIREMENTS OF OTHER AGENCIES

Any provisions or limitations of these Rules and Regulations, or any policy, regulation and order adopted pursuant hereto, are superseded and supplemented by any applicable federal, state, or local requirements existing or adopted subsequent hereto that are more stringent. Any provisions of these Rules and Regulations, or any policy, resolution and order adopted pursuant hereto, that are more stringent than any such applicable federal, state or local requirement shall prevail and shall be the standard for compliance by the users of and connectors to the District sewerage and/or surface water system.

7.5 PREVIOUS RULES AND REGULATIONS, RESOLUTIONS REPEALED

Any portion of any Rules and Regulations, regulation and minute order heretofore adopted

by the District or its predecessor agencies is hereby repealed to the extent that such portion is inconsistent with these Rules and Regulations and any regulation and order adopted pursuant hereto.

7.6 ADMINISTRATION OF THESE RULES AND REGULATIONS

The District, through its Director or other authorized designee or representative, shall have the authority to do all things necessary to administer the provisions of these Rules and Regulations and any rules adopted pursuant thereto.

7.7 SEVERABILITY

If any section, subsection, provision, clause, or paragraph of these Rules and Regulations or policies, rules, or orders adopted pursuant hereto shall be adjudged or declared to be unconstitutional or invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remaining portions of these Rules and Regulations or other such rules, policies and orders adopted pursuant hereto, and it is hereby declared that every other section, subsection, provision, clause, or paragraph is, and shall remain, irrespective of the validity of any other provision.

7.8 EFFECTIVE DATE

The provisions of these Rules and Regulations and the rules herein adopted shall be effective on the date of enactment.

ARTICLE II

This Section sets forth uniform requirements for direct and indirect 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 Clean Water Act and the General Pretreatment Regulations (40 CFR, Part 403), or any successor statutes.

SECTION 8 INDUSTRIAL WASTES

8.1 GENERAL STATEMENT

8.1.1 Scope. The District shall be empowered to enforce Section 307(b) and (c) and 402(b)(8) of the Clean Water Act and any implementing regulations pursuant to these Rules and Regulations, as may be amended from time to time. Enforcement may include injunctive or any other relief in Federal and State courts or through administrative hearings.

The objectives of this section of the Rules and Regulations are to prevent the introduction of pollutants into the public sewerage system that will interfere with the operation of 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 District sewerage system.

This section provides for the regulation of direct and indirect discharges of industrial wastes to the public sewerage system through the issuance of permits 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.

8.1.2 Signatory Requirements. All applications, reports, or information submitted to the District shall be signed and certified in accordance with 40 CFR 403.12(l), as may be amended from time to time.

8.1.3 Provision on Fraud and False Statements. Any reports required in this Rules and Regulations and any other documents required to be submitted to the District or maintained by the Industrial User shall be subject to enforcement provisions of municipal and state law relating to fraud and false statements. In addition, the Industrial User shall be subject to the following, as may be amended from time to time: (a) the provisions of 18 U.S.C. Section 1001 relating to fraud and false statements; (b) the provisions of Sections 309(c)(4) of the Clean Water Act, as amended governing false statements representation or certification; and (c) the provision of Section 309(c)(6) regarding responsible corporate officers.

8.2 INDUSTRIAL WASTEWATER DISCHARGE PERMITS

8.2.1 Requirements for a Permit. All users discharging or proposing to discharge industrial wastes into any sewer outlet within the jurisdiction of the District or that flows to the public sewerage system shall obtain an Industrial Wastewater Discharge Permit from the District if:

- (a) The discharge is subject to promulgated national categorical pretreatment standards; or
- (b) The discharge, as determined by the District, under 40 CFR 403, as may be amended from time to time, 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 sewerage system; or
- (c) The discharge requires pretreatment in order to comply with the discharge limitations set forth in Section 3 of this Rules and Regulations; or
- (d) The discharge contains suspended solids or BOD in excess of 350 mg/l, or in excess of thirty (30) pounds in any one day; or
- (e) The discharge contains wastes requiring unusual quantities of chlorine (more than 20 mg/l) for treatment at the treatment plant; or
- (f) The discharge exceeds an average flow of 10,000 gallons or more in any one day, excluding sanitary, non-contact cooling water and boiler blowdown wastewater, or contributes a maximum instantaneous flow that exceeds ten (10) percent of the capacity of the available lateral or appropriate trunk sewer; or
- (g) Contributes a process waste stream that makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW; or
- (h) The discharge is a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261, as may be amended from time to time.

8.2.2 Permit Applications. 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 sewerage system is to begin.

8.2.3 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 will 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 are discussed. As part of the tour of that plant, an industrial waste sampling point will be identified. The sampling location, if appropriate and acceptable to the District, will be used for both self-monitoring and monitoring by District personnel for water quality and quantity monitoring and permit enforcement. 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.

8.2.4 Issuance of Permit. 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 by an Order of the Board. The permittee shall reapply with the District for reissuance of its permit at least 90 days prior to the permit expiration date. Reapplication shall be on the form provided by the District.

8.2.5 Permit Conditions. Industrial Wastewater Discharge Permits shall specify, where applicable, the following:

- (a) Fees and charges to be paid upon initial permit issuance.
- (b) Limits on the average and maximum wastewater constituents and characteristics.
- (c) Limits on average and maximum rate and time of discharge and/or requirements for flow regulations and equalization.
- (d) Requirements for installation and maintenance of inspection and sampling facilities compatible with facilities of the District.
- (e) Special conditions as the District may reasonably require under particular circumstances of a given discharge including sampling locations, frequency of sampling, number, types, and standards for test and reporting schedule.
- (f) Compliance schedules.
- (g) Requirements for submission of special technical reports or discharge reports where the same differ from those prescribed by this Rules and Regulations.
- (h) An effective date and expiration date of the permit.
- (i) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the District, Oregon DEQ and the EPA, and affording District access thereto 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 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 District sewerage system or any significant change in the production where the permit incorporates equivalent mass or connection limits calculated from a production based standard.
- (l) Requirements for a Slug Control Plan, notification to the District of slug discharges and changes at the Industrial User's facility affecting potential for a slug discharge.
- (m) Other conditions as deemed appropriate by the District to ensure compliance with this 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.
- (o) Duty to reapply and to 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.

8.2.6 Permit Modifications. An Industrial Wastewater Discharge Permit may be 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 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, the change will result in violations of District, State, or Federal laws or regulations will overload or cause damage to any portion of the District 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.

8.2.7 Permit Duration/No Property Interest Acquired. All Industrial Wastewater Discharge Permits shall be issued for a specified time 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. 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.

8.2.8 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.

8.2.9 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; or
- (j) Violation of any applicable pretreatment standard or requirement, 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 are void upon the issuance of a new Industrial Wastewater Discharge Permit.

8.3 PRETREATMENT FACILITIES

8.3.1 General Requirements. If, as determined by the District, treatment facilities, operation changes or process modifications at an Industrial User's facility are needed to comply with any requirements under this Rules and Regulations or are necessary to meet any applicable 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, impact of the waste on the marketability of the District's treatment plant biosolids, and any other appropriate factor.

Existing Sources and New Sources shall meet the deadlines for installation and start-up of equipment and compliance with Categorical Pretreatment Standards established according to 40 CFR 403.6(b), or any successor statutes.

8.3.2 Condition of Permit. Any requirement in Paragraph 8.3.1 may be incorporated as part of an Industrial wastewater Discharge Permit issued under Subsection 8.2 and made a condition of issuance of such permit or made a condition of the acceptance of the waste from such facility.

8.3.3 Plans, Specifications, and Construction. Plans, specifications and other information relating to the construction or installation of pretreatment facilities required by the District under this Rules and Regulations shall be submitted to the District. No construction or installation thereof 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 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 to 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.

8.3.4 Sampling and Monitoring Facility. Any person constructing a pretreatment facility, as required by the District, shall also install and maintain at his own expense a sampling manhole or other suitable monitoring access for checking and investigating the discharge from the pretreatment facility to the public sewer. 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.

8.4 REPORTING REQUIREMENTS

8.4.1 Initial Compliance Report. Within one hundred eighty (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 a baseline monitoring report to the District, as required by the EPA pretreatment regulations, which includes the following:

- (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 wastestream 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; and
- (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 to by a qualified professional engineer.

New sources subject to an effective categorical pretreatment standard issued by the EPA shall submit to the District, 90 days prior to commencement of their discharge into the sewerage system, a report that contains the information listed in items (a) through (e) above, along with information on the method of pretreatment the source intends to use 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 thereto, including the signatory requirements 403.12(l) for industrial user 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.

8.4.2 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 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 twelve (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 to by a qualified professional engineer. A new source is required to achieve compliance within 90 days after commencement of discharge.

If the Industrial Discharger is required to install additional pretreatment or provide additional operation and maintenance, a schedule will be required 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 contract for major components, commencing construction, completing construction, etc.) No increment of progress shall exceed nine (9) months. The Industrial Discharger shall submit a progress report to the District including, at a minimum, whether or not 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 discharger 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 nine (9) months elapse between such progress reports to the District.

8.4.3 Periodic Compliance Reports. Any Discharger that is required to have an Industrial Wastewater Discharge Permit pursuant to this Rules and Regulations shall submit 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 six-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 and 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.

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 Federal Categorical Pretreatment Standard, the frequency shall be not less than that prescribed in the standard. If a Discharger monitors any pollutant at the appropriate sampling location more frequently than required by the District, all monitoring results must be included in the periodic compliance reports.

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

The District may require reporting by Industrial Dischargers that are not required to have an Industrial Wastewater Discharge Permit if information and/or data are needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor that is related to the operation and maintenance of the sewer system.

The District may require self-monitoring by the Discharger, or 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.

8.4.4 TTO Reporting. Those industries that are required by EPA to eliminate and/or reduce the levels of total toxic organics (TTO's) discharged into the public sewerage system must follow the National Categorical Pretreatment Standards for that industry.

8.4.5 Violations. The Industrial User shall notify the District within twenty-four (24) hours of becoming aware of a sampling activity that indicates a violation of the permit. The Industrial User shall repeat the sampling and analysis and submit their results to the District as soon as possible, but in no event later than thirty (30) days after becoming aware of the violation.

8.5 INSPECTION AND SAMPLING

8.5.1 Inspection. Authorized District representatives may inspect the monitoring facilities of any Industrial Waste Discharger to determine compliance with the requirements of the Rules and Regulations. The Discharger shall allow the District to enter upon the premises of the Discharger at all reasonable hours, for the purpose of inspection, sampling, or records examination and copying. The District shall also have the right to set up on the Discharger'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, to those portions of the premises that contain facilities for sampling, measuring, treating, transporting, or otherwise handling wastes, and 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 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 during normal operating or business hours unless an emergency situation exists as determined by the District; and

- (d) The District representative(s) shall comply with all regular safety and sanitary requirements of the facility to be inspected upon entering the premises.

8.5.2 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 by obtaining 24-hour composite samples through flow proportional composite sampling techniques unless time-proportional composite sampling or grab sampling is authorized by the District. Where time-proportional composite sampling is authorized by the District, the samples must be representative of the discharge.

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 Discharger (or a duplicate sample provided in the instance of fats, oils, and greases) 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 amendments thereto. 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 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.

8.5.3 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 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 its representative's access to monitoring facilities on their premises at all 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 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. 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 subject to District approval.

8.6 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 that 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.

8.7 CHANGE IN PERMITTED DISCHARGE

It shall be the responsibility of every Industrial User to promptly 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 discharge. Changes in the discharge involving the introduction of a wastestream(s), or hazardous waste as set forth in 40 CFR Part 261, as may be amended from time to time, 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 as described under Subsection 8.2. Any such reporting shall not be deemed to exonerate 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 not notifying 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.

8.8 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 summaries thereof, 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 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 and appeals have expired.

8.9 CONFIDENTIAL INFORMATION

8.9.1 Public Inspection. 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) or any successor statutes. Such portions of an industrial user's report that qualify as trade secrets shall not be made public. Notwithstanding the foregoing, the United States Environmental Protection Agency and the State of Oregon Department of Environmental Quality shall have access to all records at all times. Effluent data, as defined and set forth in 40 CFR Part 2, as may be amended from time to time and incorporated by reference hereto, shall be available to the public.

8.9.2 Disclosure in the Public Interest. Nothing in paragraph 8.9.1 shall prevent disclosure of any information submitted by an industrial user when the public interest in that case requires disclosure. Disclosure to other governmental agencies for uses related to these Rules and Regulations is in the public interest.

8.9.3 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 type legend or other

suitable form of notice employing language such as "trade secret", "proprietary" or "business confidential". 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 192.501(2) and 40 CFR Part 2 relating to Effluent Data, or any successor statutes.

- (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.
- (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) Any party aggrieved by a ruling of the District may, within three business days of the decision, seek reconsideration by filing a written request accompanied by any additional supporting arguments or explanation supporting or denying confidentiality. 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 to perfect standing to make any confidentiality claims before a court of competent jurisdiction.

8.10 ENFORCEMENT OF STANDARDS THROUGH ADMINISTRATIVE PENALTIES

8.10.1 Enforcement. In addition to the imposition of civil penalties, the District shall have the right to enforce these Rules and Regulations by injunction, or other relief, and seek fines, penalties and damages in Federal or State courts.

Any discharger that fails to comply with the requirements of these Rules and Regulations or provisions of its Industrial Wastewater Discharge Permit may be subject to enforcement actions as prescribed below in addition to those developed by the District.

(a) Violations

- (1) A violation shall have occurred when any requirement of these Rules and Regulations has not been met.
- (2) Each day a violation occurs or continues shall be considered a separate violation.
- (3) For violations of discharge limits, each parameter that exceeds a discharge limit shall be considered a separate violation.
- (4) Significant Non-Compliance: Significant non-compliance with applicable pretreatment requirements exists when a violation by any discharger meets one or more of the criteria defined in Section 2.

(b) Enforcement Mechanisms

- (1) In enforcing any of the requirements of these Rules and Regulations or rules or procedures adopted hereunder, the District may:
 - (i) Take civil administrative action (such as issuance of notices of violations, administrative fines, revocation of a permit) as outlined in herein;

- (ii) Issue compliance orders;
- (iii) Cause an appropriate action (such as civil litigation, criminal prosecution) to be instituted in a court of competent jurisdiction;
- (iv) Terminate sewer service; or
- (v) Take such other action as the District deems appropriate.

(2) The type of enforcement action shall be based on, but not limited by, the duration and the severity of the violation; impacts on water quality, biosolids, disposal, interference, worker health and safety; and violation of the District's NPDES permit. Enforcement shall, generally, be escalated in nature.

(3) Whenever the District finds that any discharger has violated any provisions of these Rules and Regulations, or its waste discharge permit, it shall take appropriate enforcement action against the non-complying industry based on its enforcement response procedures. The discharger will be required to comply with all requirements contained in the enforcement document issued by the District to include such items as responding in a timely fashion to notices of violation letters, compliance inquiry letters, or show cause hearings, and compliance with all terms of compliance orders or other enforcement mechanisms as established by the District.

8.10.2 Imposition of Civil Penalties. The District may impose civil penalties including, but not limited to, fines, damages, modification or revocation of permit and/or cessation of services when any Industrial User: (a) fails to factually report the wastewater constituents and characteristics of its discharge; (b) fails to report significant changes in wastewater constituents or characteristics; (c) tampers with sampling and monitoring equipment; (d) refuses reasonable access to the user's premises by representatives of the District for the purpose of inspection or monitoring; or (e) violates any condition or provision of its permit, these Rules and Regulations, any rule adopted pursuant hereto, or any final judicial order entered with respect thereto. Nothing herein shall prevent the District from seeking injunctive or declaratory relief or any other remedy available under Federal or State law.

8.10.3 Procedure for Imposition of Civil Penalties. Procedures for the imposition of civil penalties on Industrial Users shall be in accordance with Section 6. In addition to any other remedy or penalty, the District may assess civil penalties of at least \$1,000 per day for each violation.

8.10.4 Emergency Suspension of Service and Permits Notwithstanding Any Other Provisions of These Rules and Regulations. In addition to the procedures given in Section 6 for the enforcement of the civil penalty, the District may immediately cause wastewater treatment service and/or the sewer permit of an Industrial User to be suspended when it appears that an actual or threatened discharge presents, or may present, an imminent danger to the health or welfare of persons or the environment, interferes with the operations

of the public sewerage system, or violates any pretreatment limits imposed by these Rules and Regulations, any rule adopted or any permit issued pursuant hereto, or any other applicable law.

The suspension notice shall be served upon the Industrial User by personal, office, or substitute service as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, unless the emergency nature of the suspension makes service impracticable.

Any Industrial User notified of the suspension of the Industrial User's permit and/or service shall cease all discharges within the time determined solely by the District and specified in the suspension notice. If the Industrial User fails to comply voluntarily with the notice of suspension, the District may immediately, in its discretion, enter upon the property and disconnect the service, or seek a temporary restraining order or other relief from the Circuit Court to compel compliance or may proceed judicially or administratively as set forth in these Regulations to insure compliance with these Rules and Regulations. The District shall reinstate the permit and/or service of the Industrial User and may terminate, in its discretion, any proceedings brought upon proof by the user of the elimination of the non-complying discharge or conditions creating the threat of eminent or substantial danger as set forth above.

8.10.5 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 rule adopted or permit issued pursuant hereto, shall inform the District thereof as soon as practicable, but not later than twenty-four (24) hours after first awareness of commencement of the upset. Where such information is given orally, a written follow-up report thereof 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 of the upset, the cause(s) thereof, 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 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 same, 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 pursuant hereto 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 production for all discharges to the extent necessary to maintain compliance with this Rules and Regulations or any rule adopted or permit issued pursuant hereto 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.

8.10.6 Bypass. Bypass means the intentional diversion of waste streams from any portion of an industrial user's treatment facility. 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 twenty four (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: (i) a description of the bypass and its cause; (ii) 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 (iii) 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 Pretreatment Standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of the paragraphs of this section.

8.10.7 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).

8.10.8 Public Notification. 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 twelve (12) months, in accordance with and as defined in 40 CFR 403.8(f)(2)(viii).

SECTION 9 USE OF PUBLIC SANITARY SEWERS

9.1 GENERAL

The owner of any building situated within the District and proximate to any street or sewer easement in which there is located a public sanitary sewer of the District, may request permission, at owner's expense, to connect said building directly to the proper public sewer in accordance with the provisions of and the District Regulations and other applicable codes. Such request shall be made through proper application to connect to the sanitary sewer system.

9.2 DISCONNECTION

A property owner may request disconnection from the District's system provided all applicable statutes, District Regulations, and policies and procedures are complied with. The property owner shall pay a disconnection inspection fee at the time disconnection is requested. The fee shall be due and payable immediately upon billing. The fee may be amended from time to time by order of the Board. No refund shall be made of any previously assessed SDCs or connection charges and shall not remove the obligation to make payments to any assessment district or similar process that may impact the disconnecting property.

9.3 HEALTH HAZARDS

Where it is determined that property not within the boundaries of the District and has a failing subsurface disposal system constituting a health hazard, the property owner may apply to the District for annexation. Annexation will occur by an Order of the Board finding a health hazard, said Order subject to compliance with other applicable statutes. If the property is within the Urban Growth Boundary, the property shall be required to annex to the District and no extraterritorial extension of service will be allowed. If the property is outside the Urban Growth Boundary and the on-site sewage system cannot be repaired, then District may serve the property by extraterritorial extension in its discretion. If the extraterritorial extension is allowed, the property owner shall agree to pay all amounts determined under these Rules and Regulations in the District's applicable assessment formulas or collection sewer charge so that the proportionate fair share for service is fully paid.

SECTION 10 CONNECTION RULES AND SPECIFICATIONS

10.1 GENERAL REQUIREMENTS

10.1.1 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.

10.1.2 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.

10.1.3 Payment of Charges. All system development charges, 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 Section 9.5.

10.1.4 To Whom Permit Issued. The permit shall be issued to the property owner or installer.

10.1.5 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 or building sewer.

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

10.1.7 Separate Service Connection and Building Sewer. A separate and independent service connection and building sewer shall be provided by the owner at his 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 homeowners association, may be permitted in the sole discretion of the Director to use a single service connection and building sewer while 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 his designee, to avoid unnecessary undue hardship, more than one user may share a service connection and private sewer line if the following criteria are met:
 - (1) All parties to the shared service connection and private sewer line have entered into a written agreement recorded in the Clackamas County Real Property Records regarding use and maintenance of the private sewer line and

reciting it is for the benefit of District;

(2) 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;

(3) 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 sewer line, 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;

(4) 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 District's sewerage system;

(5) The District may terminate sewer service to all users of the private sewer line if one of the users shall violate these Rules and Regulations and termination of service is a remedy. District may do so without liability to any user of the private sewer line; and

(6) The agreement is approved by the District prior to recording and no building permit will be issued until the District has so approved.

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.

10.1.8 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.

10.1.9 Existing Sewers. Whenever a sanitary or storm building sewer or service connection has been installed that does not conform to District Regulations, then the portions nonconforming shall be replaced in accordance with such regulations.

10.1.10 Abandoned Sewers. When building sewers are abandoned, they shall be properly plugged or capped at the property line by the property owner at the time the building sewer is abandoned. District inspection and approval of the plugged or capped building sewer is required prior to backfilling the exposed sewer to be abandoned. An abandoned building sewer 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 building sewer after twenty (20) days of being notified to do so, the District may have the work done at the property owner's expense.

10.1.11 Users Requiring Pumping Facilities. If the building is below the available gravity

sewer line, the owner or user shall install pumping facilities in accordance with the Uniform Plumbing Code. The owner or user will be required to enter into an agreement with the District regarding the terms and conditions of connection and pumping. When pumping facilities serve multiple residential users, backup electrical generation facilities to serve the pumping mechanism shall be required and installed.

10.2 GREASE, OIL, AND SCUM TRAPS

All restaurants, fast food, delicatessens, taverns, and other food preparation facilities that prepare food onsite, service stations, automotive repair facilities or any other facility so determined by the District shall install grease, oil, and scum trap separators to remove fats, oils, greases, and scums.

In addition, all proprietors will be responsible for cleaning and maintaining these separators. The District shall also have the authority to enter upon premises drained by any side sewer, at all reasonable hours, to ascertain whether this provision of limiting the introduction of fats, oils, greases, and scums to the system has been complied with. Violators of this provision may be directed to prepare a schedule of corrective action, pay a penalty as prescribed in Section 6, or both.

SECTION 11 PUBLIC SANITARY SEWER EXTENSIONS

11.1 EXTENSION GENERALLY

Whenever any property within the District cannot be served by the existing District sanitary sewer system, any interested person may cause sewers to be constructed to serve the property in accordance with the provisions of the District Regulation. Upon completion of the construction in accordance with the District Regulations, the District will accept title thereto and thereafter such sewer extension shall be owned, operated and maintained by the District as a part thereof. Further, those provisions of Oregon Administrative Rules, Chapter 340, Division 52, Subsection 040, as may be amended, are attached hereto as Table VI and incorporated by reference and shall be followed.

11.2 PLAN REVIEW AND APPROVAL

Applicants proposing sanitary sewer extension or connection to the sanitary sewer system shall be governed the District Regulation and shall submit the plans, reports, studies, and information as required by District Regulations. The submittals shall be reviewed and approved by the District. All sanitary sewer extensions shall be located within the public right-of-way wherever possible.

11.3 EASEMENTS

The Sanitary sewer extension plan shall have provide easements and access for construction, operation and maintenance in accordance with the District Regulations.

11.4 ENGINEERING SERVICES

Any sanitary sewer extension proposed for connection to the District sanitary sewer system shall be designed, constructed and tested under the continuous inspection of a registered professional engineer approved by the District.

11.5 SPECIFICATIONS

All construction and material specifications for any sanitary sewer extension shall be in conformance with the construction, material specifications and District Regulations.

11.6 LICENSED CONTRACTOR

Sanitary sewer extensions shall be constructed by a contractor duly licensed by the State of Oregon and any other licensing political subdivision having jurisdiction over the work.

11.7 ACCEPTANCE BY DISTRICT

Upon the completion of construction and certification by the engineer the District shall inspect, approve and accept the sanitary sewer system for ownership, operation and

maintenance pursuant to the District Regulations.

11.8 WARRANTY / SURETY BOND

The District shall require a warranty bond or surety in the amount of 25% of the cost of construction for a period of time and conditions pursuant to the Sanitary Sewer Standards.

11.9 PERFORMANCE BOND.

If the requirements of Section 11.7 are not completed the permittee shall provide a performance bond or other surety acceptable to the District prior to recording of the plat for residential developments or the issuance of building permits for commercial or industrial developments. The amount of the performance bond shall be in the amount of 125% of the engineer's cost estimate for all approved but uncompleted sanitary sewer extension improvements as shown on the approved plans.

11.10 CONVEYANCE.

A conveyance document supplied by the District transferring all rights, title and interest in the sanitary sewer extension to the District.

11.11 ADDITIONAL INFORMATION.

Information related to engineering services, plans, specifications, sanitary sewer extensions, certification and District acceptance can be found in the District Regulations and adopted Sanitary Sewer Standards. Compliance with all aspects of the Standards is required prior to acceptance by the District of any public sanitary sewer system extension.

ARTICLE III

Article III is the District Surface Water Management requirements regarding development activities to preserve watershed health, which, in turn, benefits human health, fish and wildlife habitat, recreational, and water resources.

SECTION 12 – STORMWATER STANDARDS

12.1 GENERAL STANDARDS

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

- (a) Protect and preserve existing streams, creeks, natural drainage channels and wetlands to the maximum practicable extent, and to meet state and federal requirements.
- (b) Protect property from flood hazards. Provide a flood evacuation route 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 the natural environment, or to property or persons.

12.2 PLAN REVIEW AND APPROVAL

All applicants proposing stormwater management plans shall be governed the District Regulation and shall submit the plans, reports, studies, and information as required by District Regulations. The submittals shall be reviewed and approved by the District. All stormwater conveyance facilities shall be located within the public right-of-way wherever possible.

12.3 ENGINEERING SERVICES

Stormwater management plans and calculations must be stamped and signed by a civil engineer licensed by the State of Oregon and meet the standards of the District. The construction, specifications, and testing must be completed under the direction of the engineer.

12.4 SPECIFICATIONS

All construction and material specifications for any stormwater management plan shall be in conformance with the construction, material specifications and District Regulations.

12.5 LICENSED CONTRACTOR

Stormwater management facilities shall be constructed by a contractor duly licensed by the State of Oregon and any other licensing political subdivision having jurisdiction over the work.

12.6 REDEVELOPMENT

All developments and redevelopments shall provide water quantity, water quality and infiltration facilities as specified in accordance with the Stormwater Standards.

12.7 CONSTRUCTION ACCEPTANCE

Upon the completion of construction and certification by the engineer the District shall inspect and approve the construction of the stormwater management plan.

12.8 PHASING

Development activities shall not be phased or segmented in such a manner to avoid the requirement of the District Regulations.

12.9 WATER COURSE

In the event a development or any part thereof is traversed by any water course, channel, stream or creek, gulch or other natural drainage channel, adequate easements for surface water drainage purposes shall be provided to the District. This does not imply a maintenance obligation by the District.

12.10 MAINTENANCE

Maintenance is required for all stormwater management facilities. The maintenance program must be approved by the District. Proof of maintenance shall be annually submitted in accordance with a schedule approved by the District. If the facility is not maintained, the District may perform the maintenance and charge the owner of the facility.

12.11 EASEMENTS

A stormwater management plan shall provide easements and access for construction, operation and maintenance in accordance with the District Regulations.

12.12 WARRANTY / SURETY BOND.

The District shall require a warranty bond or surety in the amount of 25% of the cost of construction for a period of time in accordance with the Stormwater Standards.

12.13 PERFORMANCE BOND.

If the requirements of Section 12.7 are not completed the permittee shall provide a performance bond or other surety acceptable to the District prior to recording of the plat for residential developments or the issuance of building permits for commercial or industrial developments. The amount of the performance bond shall be in the amount of 125% of the engineer's cost estimate for all approved but uncompleted surface water and buffer improvements.

SECTION 13 – NATURAL RESOURCE PROTECTION

13.1 STUDY

The District shall require the applicant to provide a study identifying areas on the parcel which are or may be sensitive areas when, in the opinion of the District:

- (a) An area or areas on a parcel may be classified as a sensitive area; or
- (b) The parcel has been included in an inventory of sensitive areas adopted by the District and more site specific identification of the boundaries is needed; or
- (c) A natural resource is located within 200-feet of the property.

13.2 UNDISTURBED BUFFER REQUIRED

New development or a division of land adjacent to sensitive areas shall preserve and maintain an undisturbed buffer wide enough to protect the water quality functioning of the sensitive area. The undisturbed buffer is a facility required to prevent damage to the sensitive area caused by the development. The width of the undisturbed buffer shall be as specified in Table 13.1.

Undisturbed buffers shall be protected, maintained, enhanced or restored as follows: Vegetative cover native to the region shall be maintained or enhanced, or restored, if disturbed in the buffer. Invasive non-native vegetation may be removed from the buffer and replaced with native vegetation. Only native vegetation shall be used to enhance or restore the buffer. This shall not preclude construction of energy dissipaters at outfalls and as approved by the District. Any disturbance of the buffer requires prior written District approval.

Uncontained areas of hazardous materials are prohibited in the buffer.

Starting point for measurements from the Sensitive Area begin at:

- Either the edge of bankfull stage or 2-year storm level for streams; and
 - An Oregon Division of State Lands approved delineation marking the edge of the wetland area.
- (a) Where no reasonable and feasible option exists for not encroaching within the minimum undisturbed buffer, such as at a road crossing or where topography limits options, then onsite mitigation on the intrusion of the buffer will be on a ratio of 1.5 to 1 (one). All encroachments into the buffer, except those listed in 13.2.3, require a written variance from the District. The Surface Water Manager may grant a variance. The District shall give notice by First Class mail of its decision to grant or deny a variance to the applicant and to owners of property within 250 feet of the affected property.

Table 13.1 – Undisturbed Buffers

<i>Sensitive Area</i>	<i>Upstream Drainage Area</i>	<i>Slope Adjacent to Sensitive Area</i>	<i>Width of Undisturbed Buffer</i>
Intermittent Creeks, Rivers, Streams	Less than 50 acres	Any slope	25 feet
Intermittent Creeks, Rivers, Streams	50 to 100 acres	<25%	25 feet
Intermittent Creeks, Rivers, Streams	50 to 100 acres	≥25%	50 feet
Intermittent Creeks, Rivers, Streams	Greater than 100 acres	<25%	50 feet
Intermittent Creeks, Rivers, Streams	Greater than 100 acres	≥25%	100 to 200 feet
Perennial Creeks, Rivers, Streams	Any upstream area	<25%	50 feet
Perennial Creeks, Rivers, Streams	Any upstream area	≥25%	100 to 200 feet
Wetlands, lakes (natural), and springs.	Any drainage	<25%	50 feet
Wetlands lakes (natural), and springs.	Any drainage	≥25%	100 to 200 feet

Note: See Stormwater Standards for details for application of undisturbed buffer.

13.3 PERMITTED USES WITHIN AN UNDISTURBED BUFFER

No future structures, development, or other activities shall be allowed which otherwise detract from the water quality protection provided by the buffer, as required by state and federal regulations, except as allowed below:

- (a) A road crossing the undisturbed buffer to provide access to the sensitive area or across the sensitive area.
- (b) Utility construction or approved plans by a governmental agency or public utility subject to Public Utility Commission regulation, providing the buffer is restored and a restoration plan approved by the District.
- (c) A walkway or bike path not exceeding eight feet in width, only if it is part of a regional system of walkways and trails managed or adopted by a public agency.
- (d) A pervious walkway or bike path, not exceeding eight feet in width that does not provide access to the sensitive areas or across the sensitive areas. If the walkway or bike path is impervious, then the buffer must be widened by the width of the path. The average distance from the path to the sensitive area must be at least 60% of the total buffer width. At no point shall a path be constructed closer than ten feet from the boundary of the sensitive area, unless approved by the District.**
- (e) Measures to remove or abate hazards, nuisances, or fire and life safety violations.
- (f) Homeowners are allowed to take measures to protect property from erosion, such as protecting river banks from erosion, within limits allowed by State and Federal regulations.

- (g) The undisturbed buffer shall be left in a natural state. Gardens, lawns, or other landscaping shall not be allowed except with a plan approved by the District. The proposal shall include information to demonstrate that improvement and maintenance of improvements will not be detrimental to water quality.
- (h) Fences: The District may require that the buffer be fenced, signed, delineated, or otherwise physically set apart from parcels that will be developed.

13.4 LOCATION OF UNDISTURBED BUFFER

In any new development or redevelopment, the District may require a separate tract, conservation easement or some other mechanism to ensure protection of the undisturbed buffer. Restrictions may include permanent signage, fencing, documentation with the title of the property, or other acceptable methods. All methods shall be approved by the District and the City of Happy Valley.

13.5 CONSTRUCTION IN THE UNDISTURBED BUFFER

With approval of the District and an approved plan, noxious vegetation may be removed and replaced with native vegetation. Any disturbance of the buffer shall be replaced with native vegetation and with the approval of the District.

SECTION 14 – EROSION CONTROL RULES

14.1 GENERAL – EROSION CONTROL

This section shall apply during construction and until permanent measures are in place following construction as described herein, unless otherwise noted.

14.1.1 The District requires temporary and permanent measures for all construction projects to lessen the adverse effects of site alteration on the environment. The owner or his/her agent, contractor, or employee, shall properly install, operate and maintain both temporary and permanent works as provided in this section or in an approved plan, to protect the environment during the useful life of the project. These erosion control rules apply to all parcels within the authority of the District.

Nothing in this section shall relieve any person from the obligation to comply with the regulations or permits of any federal, state, or local authority.

14.2 EROSION CONTROL

14.2.1 Intent. It is the District's intent to prevent erosion and to minimize the amount of sediment and other pollutants reaching the public storm and/or surface water system resulting from development, construction, grading, filling, excavating, clearing, and any other activity as prescribed in the current version of the Erosion Prevention and Sediment Control Manual. And as required by water quality standards set forth in OAR 340-41-445 through 340-41-470, as may be amended from time to time.

14.2.2 Erosion Prohibited. No visible or measurable erosion shall leave the property during construction or during activity described in Section 14.2.1. 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 clean up, fines, and damages. Clean up responsibilities involve public facilities and sensitive areas including, but not limited to:

creeks, drainageways, wetlands, catch basins and storm drains, and sensitive areas, impacted by a project.

14.2.3 Exposed Soil. No soils shall remain exposed for more than fourteen (14) days in the wet weather season unless an advanced sedimentation or filtration process is used. District must approve such process prior to implementation.

14.2.4 Erosion Control Permit. All development activities disturbing an area of square feet or greater as specified in the Stormwater Standards will obtain an erosion control permit pursuant to the Standards.

14.2.5 Performance. The District may require the Applicant to submit a bond, cashiers check or irrevocable letter of credit from an acceptable financial institution to secure performance of the requirements of this section. Upon default, the District may perform work or remedy violations and draw upon the bond or fund. If the District does not require a bond and the Developer does not perform the erosion control plan in whole or in part, the District may, but shall not be obligated to, perform or cause to be performed corrective work and charge the Developer the cost of such remediation. Such amount shall bear interest at 9% per annum and shall be a lien upon the property foreclosable in accordance with ORS Chapter 88, or any successor statutes.

14.2.6 Maintenance. The applicant shall maintain the facilities and techniques contained in the approved Erosion Control Plan so as to continue to be effective 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's 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 applicant to implement interim control measures prior to submittal of a revised Erosion Control Plan and without limiting the District's right to undertake enforcement measures. Upon approval of the revised plan by the District, the permittee shall immediately implement the revised plan. The developer shall implement fully the revised plan within three (3) working days of approval by the Director, or their designee.

14.2.7 Inspection. The erosion control measures necessary to meet the requirements of Section 14.2.2 shall be installed by the owner or their representative and shall be inspected by the District prior to the start of any excavation work.

14.2.8 Re-Inspection Fee. Re-inspection fees may be charged for those sites that are notified of deficiencies and fail to complete corrective actions in full by the time of the next inspection.

14.2.9 Permit Fee. The District may collect all fees for the review of plans, administration, enforcement, and field inspection(s) to carry out the regulations contained herein as established and amended by the District.

14.2.10 Permit Duration.

- (a) Development or construction must be initiated as per the approved final development plans within one (1) year of the date of erosion control permit issuance or the permit will be null and void. If a Hearings Officer or the Board of County Commissioners specify a time period for commencement of a development, that time period shall supersede.
- (b) Erosion Control permits (excluding 1200-C permits) shall expire and become null and void twenty four (24) months after the date of permit issuance unless extended by

the District. 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. The District may extend the time for action by the permittee for a period not exceeding twelve (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) 1200-C 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.

14.3 AIR POLLUTION

14.3.1 Dust. Dust and other particulate matters caused by development activity containing pollutants may not settle on property and / or be carried to waters of the state through rainfall or other means. Dust shall be minimized to the extent practicable.

14.4. PRESERVE WATER QUALITY

14.4.1 Construction of new facilities between stream banks shall be pursuant to permits issued by state and federal agencies having jurisdiction and applying their regulations.

14.4.2 Pollutants such as, but not limited to, fuels, lubricants, asphalt, concrete, bitumens, raw sewage, and other harmful materials shall not be discharged into rivers wetlands, streams, impoundments, undisturbed buffers or any storm drainage system, or at such proximity that the pollutants flow to these watercourses, buffers, or systems.

14.4.3 The use of water from a stream or impoundment, wetland or sensitive area, shall not result in altering the temperature or water quality of the water body in violation of Oregon Administrative Rules, and shall be subject to water rights laws.

14.4.4 All sediment-laden water from construction operations shall be routed through sedimentation basins, filtered, or otherwise treated to remove the sediment load before release into the surface water system.

14.5 FISH AND WILDLIFE HABITAT

Construction shall be done in a manner to minimize adverse effects on wildlife and fishery resources pursuant to the requirements of local, state, and federal agencies charged with wildlife and fish protection.

14.6 NATURAL VEGETATION

14.6.1 As far as is practicable, natural native vegetation shall be protected and left in place in undisturbed buffer areas. Work areas shall be carefully located and marked to reduce potential damage. Trees shall not be used as anchors for stabilizing working equipment.

14.6.2 During clearing operations, trees shall not be permitted to fall outside the work area. In areas designated for selective cutting or clearing, care in falling and removing trees and brush shall be taken to avoid injuring trees and shrubs to be left in place.

14.6.3 Where natural vegetation has been removed, or the original land contours disturbed, the site shall be revegetated per a submitted and approved seeding and maintenance plan from a list approved by the District as soon as practicable after

construction has commenced, not later than September 1. After that date a reseeding and stabilization plan approved by the District must be used.

14.7 PESTICIDES, FERTILIZERS, CHEMICALS

14.7.1 The use of hazardous chemicals, pesticides, including insecticides, herbicides, defoliants, soil sterilants, and the use of fertilizers, must strictly adhere to federal, state, county, and local restrictions.

14.7.2 All materials defined in Section 12.7.1 delivered to the job site shall be covered and protected from the weather. None of the materials shall be exposed during storage. Waste materials, rinsing fluids, and other such material shall be disposed of in such a manner that pollution of groundwater, surface waste, or the air does not occur. In no case shall toxic materials be dumped into drainageways.

14.8 CONTAMINATED SOILS

In the event the construction process reveals soils contaminated with hazardous materials or chemicals, all parties shall stop work immediately to ensure no contaminated materials are hauled from the site, remove work forces from the contaminated areas, leaving all machinery and equipment, and secure the areas from access by the public until such time as a mitigation team has evaluated the situation and identified an appropriate course of action. The Owner and the Contractor shall notify OSHA and DEQ of the situation upon discovery. The Owner and the Contractor must comply with OSHA and DEQ statutes and rules. Failure to comply with OSHA and DEQ statutes and rules shall be deemed a failure to comply with these Rules and Regulations.

TABLE II

TOXIC POLLUTANTS

1. Acenaphthene
2. Acrolein
3. Acrylonitrile
4. Benzene
5. Benzidine
6. Carbon Tetrachloride
7. Chlorobenzene
8. 1,2,4-Trichlorobenzene
9. Hexachlorobenzene
10. 1,2-Dichloroethane
11. 1,1,1-Trichloroethane
12. Hexachloroethane
13. 1,1-Dichloroethane
14. 1,1,2-Trichloroethane
15. 1,1,2,2-Tetrachloroethane
16. Chloroethane
17. Bis (2-Chloroethyl) Ether
18. 2-Chloroethyl Vinyl Ether (mixed)
19. 2-Chloronaphthalene
20. 2,4,6-Trichlorophenol
21. Parachlorometa Cresol
22. Chloroform (Trichloromethane)
23. 2-Chlorophenol
24. 1,2-Dichlorobenzene
25. 1,3-Dichlorobenzene
26. 1,4-Dichlorobenzene
27. 3,3-Dichlorobenzidine
28. 1,1-Dichloroethylene
29. 1,2-Trans-dichloroethylene
30. 2,4-Dichlorophenol
31. 1,2-Dichloropropane
32. 1,2-Dichloropropylene (1,3-Dichloropropene)
33. 2,4-Dimethylphenol
34. 2,4-Dinitrotoluene
35. 2,6-Dinitrotoluene
36. 1,2-Diphenylhydrazine
37. Ethylbenzene
38. Fluoranthene
39. 4-Chlorophenyl Phenyl Ether
40. 4-Bromophenyl Phenyl Ether
41. Bis (2-Chloroisopropyl) Ether

**TABLE II
TOXIC POLLUTANTS
(Continued)**

42. Bis (2-Chloroethoxy) Methane
43. Methylene Chloride (Dichloromethane)
44. Methyl Chloride (Chloromethane)
45. Methyl Bromide (Bromomethane)
46. Bromoform (Tribromomethane)
47. Dichlorobromomethane
48. Chlorodibromomethane
49. Hexachlorobutadiene
50. Hexachlorocyclopentadiene
51. Isophorone
52. Naphthalene
53. Nitrobenzene
54. 2-Nitrophenol
55. 4-Nitrophenol
56. 2,4-Dinitrophenol
57. 4,6-Dinitro-o-cresol
58. N-nitrosodimethylamine
59. N-nitrosodiphenylamine
60. N-nitrosodi-n-propylamine
61. Pentachlorophenol
62. Phenol
63. Bis (2-Ethylhexyl) Phthalate
64. Butyl Benzyl Phthalate
65. Di-n-butyl Phthalate
66. Di-n-octyl Phthalate
67. Diethyl Phthalate
68. Dimethyl Phthalate
69. Benzo (a) Anthracene (1,2-Benzanthracene)
70. Benzo (a) Pyrene (3,4-Benzo-pyrene)
71. 3,4-Benzofluorathene (Benzo (b) Fluoranthene)
72. Benzo (k) Fluoranthene (11,12-Benzofluoranthene)
73. Chrysene
74. Acenaphthylene
75. Anthracene
76. Benzo (ghi) Perylene (1,12-Benzoperylene)
77. Fluorene
78. Phenanthrene
79. Dibenzo (ah) Anthracene (1,2,5,6-Dibenzanthracene)
80. Indeno (1,2,3-cd) Pyrene (2,3-o-Phenylene-pyrene)
81. Pyrene

**TABLE II
TOXIC POLLUTANTS
(Continued)**

82. Tetrachloroethylene
83. Toluene
84. Trichloroethylene
85. Vinyl Chloride (Chloroethylene)
86. Aldrin
87. Dieldrin
88. Chlordane (Technical Mixture & Metabolites)
89. 4,4-DDT
90. 4,4-DDE (p,p-DDX)
91. 4,4-DDD (p,p-TDE)
92. Alpha Endosulfan
93. Beta Endosulfan
94. Endosulfan Sulfate
95. Endrin
96. Endrin Aldehyde
97. Heptachlor
98. Heptachlor Epoxide (BHC-Hexachlorocyclohexane)
99. Alpha-BHC
100. Beta-BHC
101. Gamma-BHC (Lindane)
102. Delta-BHC (PCB-Polychlorinated Biphenyl)
103. PCB-1242 (Arochlor 1242)
104. PCB-1254 (Arochlor 1254)
105. PCB-1221 (Arochlor 1221)
106. PCB-1232 (Arochlor 1232)
107. PCB-1248 (Arochlor 1248)
108. PCB-1260 (Arochlor 1260)
109. PCB-1016 (Arochlor 1016)
110. Toxaphene
111. Antimony (Total)
112. Arsenic (Total)
113. Asbestos (Total)
114. Beryllium (Total)
115. Cadmium (Total)
116. Chromium (Total)
117. Copper (Total)
118. Cyanide (Total)
119. Lead (Total)
120. Mercury (Total)
121. Nickel (Total)

**TABLE II
TOXIC POLLUTANTS
(Continued)**

- 122. Selenium (Total)
- 123. Silver (Total)
- 124. Thallium (Total)
- 125. Zinc (Total)
- 126. 2,3,7,8-Tetrachlorodibenzo-o-dioxin (TCDD)

**TABLE III
LOCAL LIMITS**

Expressed as daily maximum concentrations:

0.1 mg/l	arsenic (As)
0.5 mg/l	cadmium (Cd)
1.8 mg/l	copper (Cu)
0.2 mg/l	cyanide (total)
0.5 mg/l	lead (Pb)
0.05 mg/l	mercury (Hg)
1.0 mg/l	nickel (Ni)
0.4 mg/l	silver (Ag)
1.2 mg/l	zinc (Zn)
2.0 mg/l	total chromium (Cr)
3.0 mg/l	phenolic compounds or any amount which cannot be removed by the District's wastewater treatment processes.
2.1 mg/l	Total Toxic Organics (TTO) which is the summation of all quantifiable values greater than 0.01 mg/l for the toxic organics in Table II

**TABLE VII
ASSIGNMENT OF EQUIVALENT DWELLING UNITS TO CLASSES OF SERVICE
NORTH CLACKAMAS SEWER SERVICE AREA**

CLASS OF SERVICE	SYSTEM DEVELOPMENT CHARGE	SEWER USER CHARGE
<u>RESIDENTIAL</u>		
01. Single Family Dwelling	1 EDU	1 EDU per dwelling unit
02. Duplex	.8 EDU per dwelling unit	1 EDU per dwelling unit
03. Triplex	.8 EDU per dwelling unit	1 EDU per dwelling unit
04. Multi-Family (4 plex & Up)	.8 EDU per dwelling unit	1 EDU per dwelling unit
05. Trailer/Mobile Home Parks provided sewer service	.8 EDU per rental space	1 EDU per rental space provided sewer service
<u>INSTITUTIONAL</u>		
10. High schools	1 EDU per 29 students(A.D.A.)	1 EDU per each 1,000 cu.ft. or fraction thereof per month of metered water consumption
11. Junior High	1 EDU per 29 students(A.D.A.)	
12. Elementary schools and Pre-schools	1 EDU per 65 students(A.D.A.)	
13. Community Colleges	1 EDU per 29 students(A.D.A.)	
14. Churches	1 EDU per 180 seats*	
- if parsonage	1 EDU, additional	
- if weekday child care or church school	1 EDU per 65 students, additional	
- if full time business office	1 EDU per 1,900 sq. ft. office additional	
- if evening programs conducted 3 nights or more per week	1 EDU per 1,900 sq. ft. meeting area, additional	
15. Hospitals - general	1 EDU per bed	
16. Convalescent/rest homes	1 EDU per two beds	
<u>COMMERCIAL</u>		
20. Hotels, Motels	1 EDU per 2 rooms	1 EDU per each 1,000 cu.ft. or fraction thereof per month of metered water consumption
- if quality restaurant	1 EDU per 10 seats, additional	
21. Quality Restaurants	1 EDU per 10 seats	
22. Fast Food	1 EDU per 11 seats	
23. Tavern/Lounge	1 EDU per 18 seats	
24. Service stations (w/o car wash)	1.7 EDUs	
25. Car wash - Wand	1.2 EDUs per stall	
26. Rollover (w/ service station)	5.6 EDUs	
27. Tunnel (w/ service station)	16 EDUs	

**TABLE VII
ASSIGNMENT OF EQUIVALENT DWELLING UNITS TO CLASSES OF SERVICE
NORTH CLACKAMAS SEWER SERVICE AREA (Continued)**

CLASS OF SERVICE	SYSTEM DEVELOPMENT CHARGE	SEWER USER CHARGE
COMMERCIAL (Continued)		
28. Laundromats	1 EDU per machine	1 EDU per each 1,000 cu ft. or fraction thereof per month of metered water consumption
29. Mini Storage	1 EDU per office unit plus 1 EDU per dwelling unit	
30. Other Commercial (shall include all classes not otherwise included on this table) or	The lesser of a) 1 EDU per 1,900 sq. ft. or less of interior floor space, b) 1 EDU per quarter acre or fraction thereof of land acre but not less than 50% of maximum charge resulting from a) or b) above	
INDUSTRIAL		
31. Light industrial waste with a) 30 lbs to 200 lbs of S.S. per day, or b) 30 lbs to 200 lbs of B.O.D. per day, and c) less than 10,000 gallons per day	Same as 30	1 EDU per each 1,000 cu. ft. or fraction thereof per month of metered water consumption and actual cost to District for removal of SS and BOD per pound for amount resulting from sewage strength
32. Heavy industrial waste waste with more than a) 200 lbs of S.S. per day or b) 200 lbs of B.O.D. per day or c) 10,000 gallons or more per day	Based on actual cost to District but not less than Class 30	in excess of domestic sewage strength. Based on District Cost per pound for removal of BOD and SS and cost per gallon for processing sewage flow.

PUBLIC AUTHORITIES

40. Cities

A.D.A. = Average Daily Attendance

*Where seating is on benches or pews, the number of seats shall be computed on the basis of one seat for each 18 inches of bench or pews length.

NOTE: For the purpose of Equivalent Dwelling Units for connection charge purposes, the quotient will be carried to two decimal places.