



RULES AND REGULATIONS

DENVER SOUTHEAST SUBURBAN WATER AND SANITATION DISTRICT
d/b/a
PINERY WATER AND WASTEWATER DISTRICT

PART I

GENERAL RULES AND REGULATIONS

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PART I
GENERAL RULES AND REGULATIONS

ARTICLE 1
GENERAL PROVISIONS

- 1.1 General Purpose and Authority: The purpose of these Rules and Regulations is to provide for the orderly construction, management, operation and control of the public utility systems, facilities and improvements of the Denver Southeast Suburban Water and Sanitation District, d/b/a Pinery Water and Wastewater District (the “District”), including additions, extensions and connections thereto. The District is a governmental entity and political subdivision of the State of Colorado and a body corporate with all powers of a public or quasi-municipal corporation which are specifically granted or implied for carrying out the objectives and purposes of the District.

These Rules and Regulations are promulgated and adopted pursuant to the provisions of Section 32-1-1001(1)(m), Colorado Revised Statutes, as amended from time to time. The Board of Directors of the District (the “Board”) has determined to adopt these Rules and Regulations in order to implement the decisions and policies of the Board. Any Person desiring to use the District’s facilities shall comply with these Rules and Regulations. No Person shall be entitled to any exemption from the applicability of these Rules and Regulations due to the failure of that Person to become familiar with policies and standards of the District contained herein, and in amendments or supplements hereto. This Part I replaces and supersedes Part I of the Rules and Regulations of the Denver Southeast Suburban Water and Sanitation District.

- 1.2 Public Health, Safety and Welfare: It is hereby declared that the Rules and Regulations hereinafter set forth serve a public interest and are necessary for the protection of the health, safety, prosperity, security, and general welfare of the District and its Customers.
- 1.3 Name: The official name of the District is Denver Southeast Suburban Water and Sanitation District. To better define the geographic area served by the District and to facilitate Customer identification, the District operates unofficially under the name Pinery Water and Wastewater District.
- 1.4 Scope of Rules and Regulations: These Rules and Regulations shall be treated and considered as a new and comprehensive regulation, governing the operations and functions of the District and shall supersede all previous compilations of Rules and Regulations and informal practices and policies of the District, which may be in conflict with the provisions hereof.
- 1.5 Rules of Construction: These Rules and Regulations are promulgated pursuant to statute in the exercise of the Board’s discretion to provide a tool for management of the District and for the orderly provision of essential services. These Rules and Regulations shall be liberally construed to effect the general purposes set forth herein, and each and every part

hereof is separate and distinct from all other parts. Nothing contained herein shall be so construed as to prejudice or affect the right of the District to secure the full benefit and protection of any law now in effect or any law which may subsequently be enacted by the Colorado General Assembly pertaining to the affairs of the District or to be a waiver of any immunity granted to the District under Colorado law. No omission or additional material set forth herein shall be construed to alter, waive or deviate from any grant of power, duty, responsibility, or limitation or restriction imposed or conferred upon the Board by statutes now existing or amended in the future or under any contract or agreement existing between the District and any other governmental entity. The Board reserves the right to construe any provision hereof in its sole discretion in order to effectuate lawful purposes of the District and to attempt to ensure orderly and non-discriminatory treatment of all Persons or entities subject to these Rules and Regulations now or in the future.

- 1.6 Amendment, Modification, Waiver or Suspension: These Rules and Regulations may be amended, modified, waived or suspended, from time to time, by the Board, as it deems appropriate. Absent any specific provision to the contrary, notice of such amendments, modifications, waivers or suspensions shall not be required to be provided by the District prior to exercising its amendment, modification, waiver or suspension powers, and no public hearing shall be required. The District has the power to revise its Rules and Regulations from time to time by either formal action of the Board or by implication and has authority to waive the application of its Rules and Regulations to its own activities, or to the activities of others. Any formal action of the Board to revise, amend or modify these Rules and Regulations shall be deemed incorporated herein notwithstanding whether such revision, amendment or modification is codified herein. Supplemental policies of the District may be adopted from time to time in order to assist the Board in managing the affairs of the District. The Board, or the District Manager, shall have the sole authority to amend, waive, suspend or modify these Rules and Regulations. Any Person claiming the benefit of such a waiver, suspension or modification shall be required to obtain a written waiver authorized by the Board or the District Manager, and signed by the District Manager. No refusal, failure or omission of the Board or its agents to apply or enforce these Rules and Regulations shall be construed as an alteration, waiver, or deviation from any grant of power, duty or responsibility, or any limitation or restriction upon the Board by virtue of statutes now existing or subsequently amended, or under any contract or agreement existing between the District and any other entity. Any express waiver shall not be deemed an amendment of these Rules and Regulations. However, an express waiver or variance from these Rules and Regulations by the Board or the District Manager shall supersede these Rules and Regulations regarding the subject matter of the express waiver. No waiver shall be deemed a continuing waiver. No Customer shall obtain any right or cause of action against the District or its management arising as a result of the enforcement or lack of enforcement of the Rules and Regulations by the District.
- 1.7 Inclusion into Contracts: These Rules and Regulations are automatically incorporated into every contract, written or oral, with the District whether expressly referenced or not, to the extent they are not inconsistent with the terms of said contract .

- 1.8 Rights and Authority: The District reserves the right to temporarily discontinue service to any property, at any time, for any reason deemed necessary or appropriate. The District shall have the right to revoke service to any property for violations of these Rules and Regulations in accordance with the procedures set forth in these Rules and Regulations.
- 1.9 Authority to Enter and Inspect: As partial consideration for the provision of water service and sewer service, the Customer grants authorized representatives of the District the express right to enter upon private property for the purposes stated herein. Authorized representatives of the District, upon presentation of identification, shall be permitted to enter upon all properties at all reasonable times for the purpose of inspection, observation, measurement, sampling, testing, and inspection of records of the water or sewer system, in accordance with the provisions of these Rules and Regulations. Failure to permit such inspections, observations, measurements, samplings, testing, and/or inspection of records upon the written request of the Manager to the Property Owner may result in the disconnection of water service or sewer service to the property occupied by the party failing to permit the desired access, or other remedies as allowed under these Rules and Regulations, subject to the hearing and appeal procedures set forth herein.
- 1.10 Limitations on Liability: Service from the District is a privilege. As partial consideration for said privilege, the Customer or any other person agrees that except as provided by the Colorado Governmental Immunity Act, 24-10-101 *et seq.*, C.R.S., as the same may be amended from time to time (“Colorado Governmental Immunity Act”), no claim for damage shall be made against the District because of, or as a direct or indirect consequence of, a cause including but not limited to the following: blockage, breaking or failure of a Water Main or Sewer Main, Water Service Line or Sewer Service Line, valve or meter; failure of the water supply; inadequate pressure or interruption of service; shutting off or turning on water in the Water Mains; Water Main flushing; the making of connections or extensions; damage to property resulting from work on any portion of the District’s system; damage caused by water running or escaping from open or defective faucets; poor water quality; failure of a stub-in to be located where the record drawing indicates it should be; damage to water heaters, boilers, other appliances and customer piping resulting from shutting water off, turning water on, inadequate or sporadic pressures or water quality; the shutting off of the sewer lift stations and possible backflow resulting therefrom; blockage in the sewer system; or for doing anything to the water and/or sewer systems of the District deemed necessary by the Board of Directors or its agents. Additionally, the District shall have no responsibility for notification to any Customer or other person of any of the foregoing conditions. Nothing in these Rules and Regulations may be deemed a waiver by the District of any rights under Colorado Law including, but not limited to, the Colorado Governmental Immunity Act. No act or inaction by the District shall be construed as a waiver in whole or in part of the protections provided by the Colorado Governmental Immunity Act.
- 1.11 Savings Clause: If any provision or any part of a provision of these Rules and Regulations shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable legal requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Rules and Regulations.

- 1.12 Effective Date: These Rules and Regulations shall be effective immediately upon adoption by the Board.

ARTICLE 2

DEFINITIONS

Unless the context specifically indicates otherwise or unless more specifically defined herein, the meaning of the terms used herein shall be as follows: (Note that these definitions also apply to Parts II and III of these Rules and Regulations.

- 2.1 Air Gap: a physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel installed in accordance with standard ASME A112.1.2.
- 2.2 Backflow: the undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the public water systems distribution system from any source or sources other than its intended source.
- 2.3 Backflow Contamination Event: backflow into a public water system from an uncontrolled cross connection such that the water quality no longer meets the Colorado Primary Drinking Water Regulations or presents an immediate health and/or safety risk to the public.
- 2.4 Backflow Prevention Assembly: means any mechanical assembly installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the mechanical assembly is appropriate for the identified contaminant at the cross connection and is an in-line field-testable assembly.
- 2.5 Backflow Prevention Method: means any method and/or non-testable device installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the method or non-testable device is appropriate for the identified contaminant at the cross connection.
- 2.6 Bedrock Aquifers: water contained in the Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifers (the “Bedrock Aquifers”).
- 2.7 Board: the Board of Directors of the Denver Southeast Suburban Water and Sanitation District, d/b/a Pinery Water and Wastewater District.
- 2.8 Certified Cross-Connection Control Technician: a person who possesses a valid Backflow Prevention Assembly Tester certification from one of the following approved organizations: American Society of Sanitary Engineering (ASSE) or the American Backflow Prevention Association (ABPA). If a certification has expired, the certification is invalid.
- 2.9 Connection: the physical connection to the water or wastewater system of the District.
- 2.10 Containment: the installation of a backflow prevention assembly or a backflow prevention method at any connection to the public water system that supplies an auxiliary water system, location, facility, or area such that backflow from a cross connection into the public water

system is prevented.

- 2.11 Containment by Isolation: the installation of backflow prevention assemblies or backflow prevention methods at all cross connections identified within a customer's water system such that backflow from a cross connection into the public water system is prevented.
- 2.12 Contractor, District: an independent contractor hired by the District to perform work and/or furnish materials for the benefit of the District.
- 2.13 Contractor, Private: an independent contractor hired by any person other than the District to perform work and/or furnish materials for the benefit of such person, but affecting the District and/or its operations.
- 2.14 Controlled: having a properly installed, maintained, and tested or inspected backflow prevention assembly or backflow prevention method that prevents backflow through a cross connection.
- 2.15 Cross Connection: any connection that could allow any water, fluid, or gas such that the water quality could present an unacceptable health and/or safety risk to the public, to flow from any pipe, plumbing fixture, or a customer's water system into a public water system's distribution system or any other part of the public water system through backflow.
- 2.16 Customer: any person, together with any lessee or tenant of such person, whose property is supplied with or whose property is capable of being supplied with water and/or sewer services by the District.
- 2.17 Dedicate or Dedication: to set aside an interest in land or water rights to some public use, made by the owner and accepted by the District for such use by or on behalf of the public.
- 2.18 Developer: any person, partnership, corporation or firm who is the owner of land and is subdividing said land for resale.
- 2.19 Disconnection Fee: the charge assessed against a customer for disconnection of a Water Service Line or Sewer Service Line from the District's facilities.
- 2.20 Disconnection (Involuntary): the disconnection of a customer's service because the account is delinquent or because the facilities do not conform to the District's Rules and Regulations.
- 2.21 District: Denver Southeast Suburban Water and Sanitation District, d/b/a Pinery Water and Wastewater District.
- 2.22 Districtwide Facility: a water and /or sewer improvement of any type, including wells, tanks, and pump stations, which serves a large number of units and is owned and maintained by the District. Water mains of a size greater than 12 inches and sewer mains of a size greater than 8 inches are considered a Districtwide Facility. [Note: Districtwide Facilities were identified as "Townwide" Facilities in the May 12, 1998 Rules and Regulations and previous documents. The terms are synonymous.]

- 2.23 District Manager: the person appointed by the Board to manage the affairs of the District and to enforce the District's Rules and Regulations.
- 2.24 Domestic Purposes: water which is used for normal household purposes inside a residential or commercial unit and water used outside such unit for normal household purposes, including irrigation of lawns and landscaping.
- 2.25 Groundwater Protection Zone: a zone established and described in the Rules and Regulations to protect the District's alluvial water supply.
- 2.26 Inspection Fee: the charge assessed for inspecting and administering connections to the District's systems.
- 2.27 Inspector: the District Manager or the District Manager's duly authorized representative.
- 2.28 Intract Facility: a water and/or sewer improvement which serves a small geographic area and cannot be extended to serve new areas.
- 2.29 Multi-Family: a single residential connection to the public water system's distribution system from which two or more separate dwelling units are supplied water.
- 2.30 Notice: Unless otherwise provided by statute or specific provision hereof to the contrary, whenever Notice is required to be given to any person pursuant to the provisions hereof, such Notice shall be deemed to be duly given by delivery of written notice sent by certified U.S. Mail, postage prepaid to the last known address of the Customer or other person that is the subject of such Notice. Notice shall be deemed delivered seven (7) days after deposit in the U.S. Mail. As an accommodation, the District may, but is not required to, attach a Notice to the front door of the Customer's unit. Failure to do so will not render Notice by certified mail ineffective.
- 2.31 Owner: same as Property Owner defined herein.
- 2.32 Person: a person, firm, joint venture, partnership, trust, corporation or other entity.
- 2.33 Property Owner: the owner, as identified in the public records of any lot, tract, or parcel of real property receiving water and sewer services from the District.
- 2.34 Readiness-to-Serve Charge: the charge described in C.R.S. 32-1-1006(1)(h), under the name "availability of service or facilities" charge.
- 2.35 Reconnection Fee: a charge assessed for reconnecting water service and/or sewer service for a customer whose service has been disconnected.
- 2.36 Sanitary Sewer System: all sanitary Sewer Mains, manholes, cleanouts and/ or lift stations and related appurtenances used for collecting, pumping, treating and disposition of Sewage owned and operated by the District.

- 2.37 Sewer Main: any sanitary sewer pipe line, or system of pipelines owned by the District and designed for carrying sewage within public rights-of-way or designated easements.
- 2.38 Sewer Service Lines: the sanitary sewer line extending from the public sewer main to a residence, building or other source of sanitary wastes, and serving only one unit. The Customer and/or Owner shall be responsible for the maintenance and replacement of the Sewer Service Line and related appurtenances from the saddle tee to the structure to which the Sewer Service Line serves.
- 2.39 S. F. E.: means single family equivalent, and shall be defined as peak demand, as calculated in the AWWA Manual of Water Supply Practices, AWWA M22, entitled "Sizing Water Service Lines and Meters" except that (1) each Single Family tap shall be assessed a demand of no less than 1 (one) S.F.E.; and (2) each Multi-Family tap shall be assessed a demand of no less than one (1) S.F.E. for every three (3) dwelling units. The estimated annual water consumption for 1 SFE is 0.55 acre-feet per year.
- 2.40 Shall or will: as used in these Rules and Regulations, is mandatory.
- 2.41 Single Family: a single dwelling designed and intended to be occupied by a single family and supplied by a single service line.
- 2.42 Technical Specifications: the technical specifications governing all water and sewer design and construction activities for both public and private facilities which connect to the District Water system or Sanitary Sewer System, and governing component design related to groundwater protection within the District, contained in that document entitled "Technical Specifications," as revised, together with construction details found in that document entitled "Standard Details," as revised, which are incorporated into these Rules and Regulations as if fully set forth herein by this reference, both of which documents are available for inspection in the District office.
- 2.43 Unit: one residence, commercial structure, or industrial facility, regardless of whether said structure is owned separately or in common. No outbuilding of any single-family residence shall be considered a unit. A condominium is considered one commercial structure, but each individual townhome of a multi-unit building is considered one unit.
- 2.44 Uncontrolled: not having a properly installed and maintained and tested or inspected backflow prevention assembly or backflow prevention method, or the backflow prevention assembly or backflow prevention method does not prevent backflow through a cross connection.
- 2.45 Water Main: a transmission or distribution line which is located in an easement or public right-of-way and is a minimum of 4-inch diameter.
- 2.46 Water Service Lines: the water line extending from the water meter pit to a residence, building or other structure.
- 2.47 Water Supply System: a water distribution system, piping, connection fittings, valves and appurtenances within a building, structure, or premises. Water supply systems are also referred to commonly as premise plumbing systems.

- 2.48 Miscellaneous: Any technical term not defined herein shall be as defined in the “Glossary - Water and Sewer Control Engineering,” A.P.H.A., A.W.W.A., A.S.C.E., and W.P.C.F., latest editions, and AWWA Manual of Water Supply, 3rd Edition.

ARTICLE 3

OPERATING PRINCIPLES AND LIMITS

- 3.1 Connection to Public Facilities: No unit shall be constructed in the District unless it is connected to the water and sewer systems if such systems are within “400 feet of such premises” as stated in C.R.S. 32-1-1006 or unless approved otherwise by the Board. If and when public sewer or water lines are within 400 feet, the property owner will be required to connect to the system upon notification by the District. All applicable fees, then in effect, must be paid.

No Person shall uncover, make any connection with or opening into, use, alter or disturb any public water main, sewer main line or appurtenance without written approval of the District.

- 3.2 Use of District Water: All water supplied to District customers shall be used for domestic purposes. Construction of private irrigation sumps and wells within the District is prohibited.
- 3.3 Service Curtailment: The District shall have the right to shut off the water supply at any time, for any reason deemed appropriate. Whenever there exists, in the opinion of the Board, a shortage of water, due to any reason whatever, the Board shall have the power to regulate and curtail water usage. The District may adopt the suggested stages of water consumption restrictions outlined in the District’s Drought Response Plan (2022) when curtailing water use during drought conditions.
- 3.4 Authority of District Personnel: The District Manager, Inspectors, and other duly authorized employees of the District shall, upon display of their credentials, be permitted to enter upon all properties served by the District at reasonable times, for the purpose of inspection, observation, measurement, sampling and testing. This right of entry shall be a condition of service from the District.

In the event that the District Manager, Inspector, or other duly authorized representative of the District is refused admission or unreasonably delayed, such refusal or delay shall constitute a violation of these Rules and Regulations and may result in enforcement action pursuant to these Rules and Regulations, including disconnection of water service.

The District Manager shall be the principal interpreter of these Rules and Regulations and the District’s Technical Specifications. If a matter cannot be adequately resolved to the satisfaction of the party raising the issue, such matter, upon appropriate written request, may be referred to the Board for interpretation pursuant to the hearing and appeals provisions of these Rules and Regulations.

- 3.5 Meters and Meter Pits: Meters, yorks, pits and covers are the property of the District and will be maintained by the District. If requested by the Customer, meter accuracy will be checked by the District. Should the accuracy be within 3%+/- of actual flow, the Customer will be

charged a fee as determined by the Board for the verification. Meter pits shall not be located in driveways or parking areas, or closer than 5 feet to such areas unless a written waiver is granted by the District Manager.

- 3.6 Regulations by Other Governmental Entities: Any limitation, restriction, or prohibition validly placed upon the District by any governmental entity or by any agreement between the District and any other governmental entity is hereby incorporated into these Rules and Regulations by this reference and shall constitute a limitation, restriction and/or prohibition on each Customer of the District, whether specifically stated or not.
- 3.7 Elimination of Lot Lines. The District will approve written requests to eliminate lot lines within the District subject to the following: (1) compliance with any applicable State or County requirements; (2) full payment of readiness-to-serve charges on all subject property; and (3) full payment of tap and system development fees on all subject property. If the property is ever re-subdivided, all readiness-to-serve charges which would have been required to be paid if the lot line(s) had not been eliminated will become due and payable at the time the property is re-subdivided.
- 3.8 Buildings Occupying More Than One Lot: Any person constructing a residence, commercial, public or other building which occupies two to more lots, without eliminating the lot line(s), will be assessed “readiness to serve” charges against all lots involved except for one lot.
- 3.9 Service Outside the District Boundaries: Services may be provided outside the District boundaries pursuant to contract approved by the Board.
- 3.10 Involuntary Disconnection for Reasons Other than Non-Payment; Right to Public Hearing: The District will give Notice to any Customer whose water, sewer, or septic system is deemed by the District to constitute a health hazard. Such Notice shall inform the Customer of the problem which justifies terminating service, the date the District intends to physically disconnect the property from the District’s facilities, and the provisions for reconnection and resumption of service. If no response is received from the Customer at the District’s offices within the time specified in the Notice, the District shall involuntarily disconnect the Customer’s Water Service Line and/or Sewer Service Line from the District’s facilities. Any Customer who feels the District is not justified in disconnecting his unit may appeal such disconnection pursuant to the hearing and appeal provisions of these Rules and Regulations.

ARTICLE 4

CUSTOMER RESPONSIBILITIES

- 4.1 New Installations and Repairs: Any improvements or repairs to a Customer’s outside Water Service Lines or Sewer Service Lines must be completed in accordance with the District’s Rules and Regulations and District’s Technical Specifications.
- 4.2 Maintenance of Service Lines and Lawn Irrigation Systems: Water Service Lines, Sewer Service Lines, lawn irrigation systems, water features, swimming pools and other water using devices are the responsibility of the Customer and shall be maintained in a good state of repair to prevent wasting of water, plugging of sewers and overloading of District facilities. The District assumes no responsibility or liability for the operation or maintenance of Water

Service Lines or Sewer Service Lines, but does regulate their design, installation and repair. (See District's Technical Specifications.) Failure to discharge a duty or refusal to remedy a problem identified by the District shall be considered a health hazard and may result in disconnection of service. Service will only be restored upon correction of the problem and payment of required fees. Any leak or break in a Water Service Line, Sewer Service Line, or lawn irrigation system line shall be repaired by the Customer within seventy-two (72) hours of Notice of such condition by the District. If a leak or break has not been repaired within seventy-two (72) hours of Notice or, if said leak or break endangers the District's systems, the District shall have the right either to repair it or have it repaired. The Customer shall be assessed the District's costs for repair. Such assessments, if not paid in a timely manner, shall be subject to collection by the District pursuant to the provisions of these Rules and Regulations. The use of Copper Sulfate for control of root intrusion in Sewer Service Lines is prohibited.

- 4.3 Special Needs: Customers having appliances or other devices dependent on a specific pressure of water or on a continual supply, shall provide, at their expense, suitable safety or storage devices for the protection required. The District assumes no liability for injury or damage to persons or property due to the failure of such devices, high or low water pressure or loss of water service.
- 4.4 Wasting Water: It is prohibited for any Person to waste water supplied by the District. Water Waste is defined as an application of water which does not result in a beneficial use of the water.
- 4.5 Water Efficiency: Consistent with the District's Water Efficiency Master Plan (2017) the District encourages water-wise landscaping and regular maintenance of customers' irrigation systems.
- 4.6 Large Water Meter: The customer shall furnish water meters 1-1/2" and larger. The meter(s) shall be installed by a plumber licensed by the State of Colorado hired by the Customer with inspection by the District.

ARTICLE 5

LICENSING AND PERMIT REQUIREMENTS

- 5.1 Service Line Letter of Availability: Connection of a Water Service Line or Sewer Service Line to the District's facilities will require a Letter of Availability from the District and payment of the applicable fees. Applications, available from the District, must be fully completed and signed by the Property Owner. If any fees due the District are outstanding against the property, such fees must be paid in full at the time of application. Each Letter of Availability will allow only one Unit to be connected to the District water or sewer system. Letters of Availability are issued to specific lots and may not be transferred. Letters of Availability issued by the District do not include permission to perform work within public rights-of-way, and a separate permit must be obtained from Douglas County.
- 5.2 Commercial and Industrial Connections: Connection of a commercial or industrial facility to the District's water and/or sanitary sewer system will require approval from the District, submittal of design data and drawings as required by the District, and payment of the

applicable fees. As a condition for obtaining approval, the applicant must comply with the District's Rules and Regulations and Technical Specifications for installation, and obtain approval of the District.

- 5.3 Commercial and Industrial Irrigation Approval: Approval for a separate, interruptible metered service may be obtained by a commercial or industrial facility for irrigation of approved lawn and landscaped areas at the rates established by the District for irrigation use. Irrigation must be done between the hours of 10:00 p.m. and 6:00 a.m. in accordance with conservation measures established by the District. If irrigation is carried on at other hours without previous approval of the District, the customer will be subject to a penalty and increased charges as determined by the Board.
- 5.4 Swimming Pool Approval: Connection of a swimming pool, having a separate filtration and backwash system, to the District's facilities will require approval from the District, provision of approved backflow prevention device, and payment of applicable fees. Filling of swimming pools may be interrupted or prohibited without prior notice as deemed necessary by the District. Specific approval from the District is required for the connection of pool drains to the District sewer system.

ARTICLE 6

CONNECTION, DISCONNECTION, AND CROSS CONNECTION CONTROL

- 6.1 General: In addition to the information included in this Article, all applicable provisions of the District's Technical Specifications shall be observed. All Water Service Lines and Sewer Service Lines shall be connected to District facilities unless approved otherwise by the Board.
- 6.2 Limits of Public Sewer and Water Lines: The public sewer shall consist of the Sewer Mains and individual service wyes or taps located within public rights-of-way or easements granted to the District. The public Water Mains shall consist of the mains, a minimum of 4-inch diameter, located within public rights-of-ways or easements granted to the District and the individual service lines from the main to, and including the meter pit located near the edge of rights-of-way.
- 6.3 Inspection: All Water Service Lines and Sewer Service Lines, fire lines, irrigation system connections and swimming pool connections must be inspected and approved by the District before being covered and placed into service. A copy of the "Application for Service", signed by the District inspector, will be provided to the installer upon approval. Requests for inspection shall be made to the District office at least 24 hours in advance of when the facility is ready for connection to the District's system, and the installer shall familiarize himself as to the scheduled periods when District inspectors are available.
- 6.4 Disconnection By Owner: No Water Service Line or Sewer Service Line may be disconnected from the District's systems without the written permission of the District Manager.
- 6.5 Involuntary Disconnection for Reasons Other Than Non-Payment; Right to Public Hearing: The District may terminate any Customer's water or sewer service, including physical disconnection from the District's system, for non-payment of fees and charges, for failure of the customer's facilities to conform to the District's Technical Specifications, for discharge of

non-approved substances to the sewer, for violation of any rule or regulation of the District, for unprotected cross-connections, for defects found in an installed backflow prevention assembly, or for unauthorized connection of facilities to the District's systems. Further, the District may terminate any Customer's water or sewer service if such Customer's water, sewer, or septic system is deemed by the District to constitute a health hazard. A termination and reconnection fee will be assessed. The District will give Notice to any Customer, informing him of the problem which justifies terminating service, the date the District intends to physically disconnect the property from the District's facilities, and the provisions for reconnection and resumption of service. If no response is received from the Customer at the District's offices within the time specified in the Notice, the District shall involuntarily disconnect the Customer's Water Service Line and/or Sewer Service Line from the District's facilities. Any Customer who feels the District is not justified in disconnecting his unit may appeal such disconnection pursuant to the hearing and appeal provisions of these Rules and Regulations.

- 6.6 Water Meters: For each residential, commercial, industrial and major irrigation service, the District will provide and install a water meter. The meter size shall be determined by total demand and guidelines set forth by AWWA Manual of Water Supply Practices and District criteria. In all subdivisions fully approved and accepted by the District for maintenance, water meters will be set when the service installation is inspected and approved. Water meter pits must remain clear and readily accessible to District personnel. If the meter pit cannot be readily accessed as determined by the District, including covering with landscaping or sod, planting of landscaping close enough to obscure the meter pit, etc., the Property Owner shall remedy the situation within 30 days of notification of such condition by the District. If the meter pit has not been made accessible within 30 days, the District shall have the right to correct the problem and assess the cost of the work to the Property Owner. The District will not be liable for any Customer improvements removed or damaged in correcting the problem. Meters will not be installed, and service cannot be provided when driveways, sidewalks, or other permanent structures are located within 5 feet of the meter pit or service line.
- 6.7 Service Lines: Those portions of the Water Service Lines and Sewer Service Lines within the public rights-of-way or easements will be constructed by or under the District's inspection and are intended to provide services to the Customer's property. The District will maintain these services except as provided otherwise herein. That portion of the Water Service between the Water Main and the Meter Pit will be maintained by the District unless damaged or destroyed by the Customer. Although Sewer Service lines may be provided to the Customer's property line, the Customer will always be responsible for maintenance and replacement of the Sewer Service line and appurtenances from the building to the saddle tee. The saddle tee will be maintained by the District. The use of Copper Sulfate for control of root intrusion into a Sewer Service Line is prohibited. Before constructing a new facility on a lot, the Customer is required to ascertain the physical location of the Water and Sewer Service lines. The District assumes no liability in the event the Water Service Lines and/or Sewer Service Lines are not where they are indicated on general District drawings.
- 6.8 Cross Connection Control: a Backflow Prevention Cross-Connection Control Program has been established to protect the community from contaminants or pollutants entering the water supply system through the service connections. These Rules and Regulations do not apply to single-family-residential service connections unless the public water system becomes aware

of a cross connection at the single-family connection. The authority to implement and maintain these controls and regulations on cross-connection is contained in the following legislation, regulations, and acts:

- (a) Clean Water Act 33 U.S.C. §1251 et seq. (1977).
- (b) Safe Drinking Water Act; Title XIV – Safety of Public Drinking Water Systems of Public Health Service Act, codified as 42 U.S.C. §300f et seq. (1974), Public Law 99-399 Safe Drinking Water Act Amendments of 1986.
- (c) National Primary Drinking Water Regulations authorized through the Safe drinking Water Act; 42 U.S.C. §300g-1.
- (d) Colorado Department of Health Law Title 25-1-114, 25-1-114.1, C.R.S.
- (e) Colorado Primary Drinking Water Regulations Section 11.39 (Hazardous Cross-Connections).
- (f) Occupational Safety and Health Administration Federal Register #202 part 2, Page 22234, Subpart J.
- (g) Title 15, Building and Construction, of this Code.
- (h) Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, Chapter 10, Sections 1001, 1002, 1003.2.0, 1987 or latest edition adopted by Section 15.04.010 of this Code and amended in Section 15.04.050.

6.9 Adoption: The District adopts by reference the following primary code:

- (a) Colorado Cross-Control Manual published by the Colorado Department of Public Health and Environment (most current edition);
- (b) The Manual of Cross Connection Control by the Foundation for Cross Connection Control and Hydraulic Research (most current edition); and
- (c) The National Fire protection Association pamphlets number thirteen (13) and twenty-four (24), published by the National Fire Protection Association (most current edition).

The subject matter of these codes concerns a minimum standard for cross-connection control. Adoption includes all supplements to the codes.

6.10 Installation, Maintenance, and Plan Approval: Cross connection control design requirements and the plan approval process can be found in the District's Technical Specifications. Inspection, Testing and Repair requirements are found in the District's Technical Specifications.

6.11 Reporting and Recordkeeping: Copies of records of test reports, repairs and retests, or replacements shall be kept by the customer for a minimum of three (3) years. Copies of records of test reports, repairs and retests shall be submitted to the District by the testing company or testing technician within 72 hours of testing. Information required on the records of test reports can be found in the District's Technical Specifications.

6.12 Structures Over Water and Sewer Facilities: No driveway or other structure shall be constructed closer than 5 feet to any Water Service Line or Sewer Service Line. Driveways may not be manipulated with bends or curves to meet the separation requirements from Water

Service Lines, Sewer Service Lines, or meter pits. Plot plans shall be submitted with all applications for service and must show the Water Service Line, Sewer Service Line, meter pit, private walkways, driveways, and any other permanent structures or features.

- 6.13 Exceptions: Driveways may cross District Water Main or Sewer Main located in public rights-of-way at approximately a 90 degree angle. Water valves or sewer manholes which fall within the limits of the driveway shall be set at the grade of the driveway in accordance with the District's Technical Specifications. The District will not be responsible for settlement or other damage to the driveway in the vicinity of the Water Service Main or Sewer Service Main.
- 6.14 Variances: Variances may be granted by the District Manager in appropriate cases upon written request made on a form prepared by the District and upon payment of the required fee. Variances shall only be granted on the condition that all Owners of the property for which the variance is sought sign an agreement acceptable to the District in form and substance, that: (1) no driveway or other structures will be placed over or within 5 feet of the water meter pit and Water Service Line or Sewer Service Line in the right-of-way; (2) any Water Service Line which crosses under the driveway will be properly encased; (3) the water meter pit shall be kept clear and accessible at all times; (4) Sewer Service Lines located under or within 5 feet of the driveway or other structure shall be bedded and backfilled in accordance with the District's Technical Specifications as they relate to sewers in roadways; (5) the District shall be held harmless from any damage which may occur to the driveway or any other property as a result of a leak in the Water Service Line, blockage in the Sewer Service Line and settlement; and (6) the District will be held harmless from any damage which may occur as a result of excavation and related activities performed by the District in connection with the Property Owner's Sewer Service Lines or Water Service Lines including payment of all costs incurred by the District as a result of having to remove any portion of the driveway or other structures in order to perform work. The foregoing variance agreement between the Owner(s) and the District will be recorded in Douglas County and shall run with the property.
- 6.15 Expansion of Service. The District may, in its sole discretion, require dedication of such additional renewable water rights for applicants for new or expanded water service for properties within the District when the District determines that the use or proposed use: (a) would exceed available supplies at peak or average use times or seasonally; (b) would pose a risk that the District would lack sufficient water for service to other users within the District at peak or average use times or seasonally; (c) would exceed the expected demand of the property under District water master planning; or (d) would be for a location or type of use not permitted under water right decrees or contractual limitations. The District's Board retains, in the Board's sole discretion and judgment at a public meeting, the right to deny an in-District user's application for a new or amended tap permit, temporary, irrigation, or otherwise, or to deny / suspend service to a changed or expanded use that increases the peak or average water usage demand, when the District lacks capacity to provide such service or for any other legally permissible reason. The factors that the District's Board may consider, not by way of limitation, include: physical capacity of the District's existing water production facilities and water and wastewater treatment, transmission and storage infrastructure for peak and average flow and for the quality of wastewater projected; contractual limitations and capacity of the District under intergovernmental agreements with other service providers; the legal capacity of the District, including but not limited to the quantity and timing of the District's existing water rights, use restrictions under any decree provisions, and the long-term, renewable nature

of the water rights; and the District's financial capacity to fund all required infrastructure and water rights under District capital plans within creating detriment or harm to existing customers.

- 6.16 Amendment of Tap Permits: Anytime a tap permit has been issued, and subsequent thereto the meter size is changed, or the classification of the property or level of service needed under said permit is changed or recalculated by the District, so as to increase the level of service necessary, the quantity of water or sewage, or amount of water or wastewater treatment necessary, or to substantially change the timing or use of the water, the owner shall apply for an amended tap permit and pay such additional fee as applicable. The District may deny the amended tap permit if all service requirements are not met or if the District lacks the capacity to serve the new or changed use, as set forth in Section 6.15 of this Part I. The District may require dedication of additional water resources in accordance with Article 9 of this Part I.

ARTICLE 7

USES OF PUBLIC SANITARY SEWER SYSTEM

- 7.1 Waste Discharges: No wastes, other than normal domestic or commercial sewage or industrial wastes comparable to domestic sewage in strength and character which fall within the classifications of waste identified herein shall be discharged into the District sewer system. In addition, no storm water runoff, groundwater, footer drains, roof drainage or cooling water shall be discharged into the District sewer system. Industrial wastes, or wastes of a special character, may only be discharged to the sewer system upon express prior written approval of the District.
- 7.2 Traps: Customers shall provide grease, oil and sand traps for commercial and industrial facilities when, in the opinion of the District, they are necessary for the proper handling of liquid wastes. All traps shall be of a type and capacity approved by the District and shall be located so as to be readily accessible for inspection and cleaning. Waste haulers must be currently licensed for handling and disposing of such wastes by the applicable regulatory agencies. Where traps are required, they shall be installed and maintained by the Customer. They are subject to inspection at any time by the District upon notification of the Customer and shall be cleaned at least once a year. Evidence of such cleaning shall be submitted to the District by the Customer, Contractor or agency hired to do the work. Failure to maintain traps in good condition will be cause for action under these Rules and Regulations. The use of microbial grease digestants, or similar enzyme based grease trap additives which allow grease and other wastes to move through the grease traps in a liquid form into the Sanitary Sewer System are prohibited. Customers who use microbial grease digestants or similar enzyme based grease trap additives in violation of this Section shall be jointly and severally liable for all costs and expenses associated with cleaning and unclogging the Sanitary Sewer System as a result of the discharge of grease in liquid form into Sewer Mains. Customers shall be responsible for any and all costs of reinspections due to improper maintenance. Customers subject to Part II of these Rules and Regulations shall comply with the regulations therein.
- 7.3 Classifications of Wastes: Sanitary and industrial wastes are classified into three main categories as defined below. Determination of the classification of the wastes shall be done by the District in accordance with the Department of Health and EPA standards, and such determination shall be final and binding.

- (a) Normal Sewage: Sewage which can be treated at the wastewater treatment plant without pretreatment and contains not more than 300 milligrams per liter (mg/l) of suspended solids and not more than 250 mg/l of B.O.D. based on the daily average flow.
 - (b) Industrial Waste: Any predominately liquid waste which does not conform to normal sewage but which can be accepted by the District following acceptable pretreatment by the user. In special cases where the District allows dumping of recreational vehicles, or portable toilets, the deodorizing agent shall be biodegradable and shall not contain Formaldehyde. No discharge of Industrial Waste shall be permitted without the prior written approval of the District. The District shall have the right and option to attach additional requirements and/or conditions to any authorization permitting the discharge of Industrial Waste.
 - (c) Prohibited Sewage: Any wastewater discharge which, in the opinion of the District, may harm the wastewater collection system or the treatment plant or may be inflammable or explosive, including seepage. Also prohibited are storm drainage, downspouts and other liquids of sufficient volume to effect the collection and treatment facilities.
- 7.4 Penalty for Impairment of District Facilities: If improperly treated industrial wastes or prohibited sewage is discharged into the public sewer, the violator will be assessed a penalty for such violation in accordance with the enforcement, violations, and penalties provisions of these Rules and Regulations.
- 7.5 Connection of Old Facilities: Existing sewer lines, or portions thereof, shall not be used as a part of new mains or service lines unless specifically approved by the District. Connection to the outlet side of a septic tank is prohibited.
- 7.6 Sampling Manhole: When required by the District, the owners of a property served by a Sewer Service Line carrying industrial wastes shall construct a manhole or other structure of a design acceptable to the District with the necessary meters or other appurtenances to permit sampling, observation and measurement of the wastes.

ARTICLE 8

FEES, RATES AND CHARGES

- 8.1 General: The Board is empowered to fix and from time to time to increase or decrease fees, rates, tolls, penalties or charges for services, programs, or facilities furnished by the District pursuant to Section §32-1-1001(1)(j)(I)1006, Colorado Revised Statutes, as amended from time to time. The fees, rates and charges as herein described apply to services within the District. Fees, rates and charges in the case of out of District services shall be as specified in applicable out of District service contracts, except when such contracts do not set forth any fees, rates or charges, the fees, rates and charges set forth herein shall apply. Except where specifically set forth herein, a copy of the District's current fees, rates and charges is available upon request from the District ("Current Fee Schedule"). Nothing contained herein shall limit the ability of the Board to modify fees, rates and charges or to change any classification.
- 8.2 Water Service Charges: Water use shall be metered by the District and charges established based on the gallons used during a billing cycle with a base charge for a minimum usage based on the Customer's classification and meter size. The billing cycle is monthly. Rates for

various ranges of use shall be set from time to time as determined by the Board. Charges shall commence at the time of installation of the water meter for all fees, rates and charges, except Readiness to Serve Charges.

- 8.3 Sewer Service Charges: Sewer service charges shall be as set forth in the Current Fee Schedule. The billing cycle is monthly.
- 8.4 Water Project Fee: The Water Project Fee is as set forth in the Current Fee Schedule. Revenue from the Water Project Fee shall be segregated from other revenue shown on the District's financial statements. Projects and financing for eligible water supply projects shall be shown in the same accounting.
- 8.5 Watering Restrictions; Violations: The District may impose restrictions upon irrigation as determined necessary. Monetary penalties for violation of such restrictions shall be set forth in the Current Fee Schedule and shall be applied to the monthly bill.
- 8.6 Courtesy Turn On and Turn Off Fee: The Courtesy Turn On and Turn Off Fee shall be as set forth on the Current Fee Schedule, which is available from the District upon request. Such fee shall be added to any outstanding water and sewer charges for the Unit and shall be due at the time of the sale of the Unit.
- 8.7 Large Irrigator and Golf Course Charges: Commercial Customers may request a separate meter for irrigation use only. In such case, the Customer must pay all tap, system development, connection and inspection fees applicable to a building service connection. Water use shall be billed monthly at a rate per one thousand gallons with a base fee payable each month regardless of the amount used.
- 8.8 Bulk Water Use for Construction: Temporary use of water for construction purposes shall be furnished at the discretion of the District. Fees for access to such water shall be charged on a flat fee basis as determined from time to time by the District and water usage will be billed at a rate per one thousand gallons as set forth in the Current Fee Schedule.
- 8.9 Shutoff Fee: If service is shut off for non-payment, the Customer will be required to pay a Shutoff Fee as set forth on the Current Fee Schedule, plus all amounts due before service is restored. Payment must be in cash or certified funds. The entire responsibility for payment of water and sewer fees lies with the Owner of the property, and a lien will be placed against the property for non-payment. If the property is rented or leased, the Owner assumes full responsibility for collecting user fees and late charges from the tenant.
- 8.10 Disputed Bills: Disputes regarding invoiced fees, rates, tolls, penalties or charges for services, programs, or facilities furnished by the District shall be made and heard subject to the Hearing and Appeal Procedures set forth in Article 12 of these Rules and Regulations.
- 8.11 Fees to be Paid Prior to Obtaining a Letter of Availability: Tap and connection fees and any other charges required to be paid for connection to the facilities of the District shall be paid in full, in certified funds or as evidenced by canceled check, before connection to the District's facilities. If the actual connection(s) to the system is not completed within one year from the date of payment, applicant shall be subject to any increase in such fees which may have

occurred subsequent to the payment date. If a tap is not used for two years or abandoned for any reason by the applicant, the amount paid to the District shall be retained as damages. The fee will be retained and shall be credited toward the fees for a future tap for the subject property for a period of five years from the date of the original Letter of Availability. After this date, the project will be considered abandoned and all fees will be retained by the District without further credit.

- 8.12 Tap Fee: A tap fee will be charged for extending the Water Service Lines and/or Sewer Service Lines from the main to the Customer's lot line where such connections do not exist as part of the subdivision development, or where the District has agreed to reimburse a Developer for such costs as part of the development agreement, or for structures for which outside irrigation is provided through central irrigation systems with separate water meters as addressed in these Rules and Regulations. This fee typically applies to older sections of the Pinery where service lines were not built to the lot lines. These fees will vary depending on the development served and are available from the District office.
- 8.13 Tap and Connection Fee: A fee, as established and adjusted from time to time by the Board, charged to help defray the cost of construction, replacement and acquisition of water, sewer and administrative facilities and water rights necessary to meet regulatory requirements and customer needs on a District-wide basis. This is a one time charge assessed at the time of connecting to the system and is based on the classification of the customer and the size of the water tap.
- 8.14 Readiness to Serve Fee: An availability of service charge, also known as a Readiness to Serve Fee, will be assessed on a monthly basis for water availability or water and sewer availability, as the case may be, for the purpose of paying principal and interest on outstanding District indebtedness. This charge will be assessed against all vacant lots within the District which have available water and/or sewer facilities, as the case may be, in accordance with the provisions of C.R.S. §32-1-1006(1)(h), as amended.
- 8.15 Temporary Fire Hydrant Service: Upon application and payment of deposit, the District may allow water to be acquired from a hydrant. Approval will be given on an availability basis depending on the District having a meter available and subject to any Use Agreements or policies as may be adopted by the District from time to time. Water shall only be taken from a hydrant approved by the District. Connections to hydrants must be water tight and hoses must extend at least 10 feet from the hydrant. All trucks or other water carrying vessels must have an approved anti-siphon device. Filling operations must cease during the duration of a fire.

Charges will include a monthly rental charge for the meter, plus a charge for the gallons used. The applicant/responsible party shall be responsible for any charges in excess of the deposit, which shall be invoiced and paid in accordance with Section 8.17.

In the event a meter is lost, stolen or damaged, the user shall be responsible for the cost of replacing the meter or paying for the repairs. The person obtaining the meter will be responsible for checking its working condition and reporting any problems prior to placing it into service.

When opening or closing a hydrant valve to which a meter is connected, care shall be taken to

perform the operation slowly so as not to damage the meter or cause surges in the water main. Large water meters for direct connection to a hydrant shall be equipped with a separate valve to avoid using the hydrant valve for repeated operations. Such separate valves must be preapproved by the District prior to connection to any hydrant.

- 8.16 Services of District's Personnel and Consultants: When requested or required, services by District personnel will be charged at the billing rates set by the District Manager to cover the cost of payroll, benefits and overhead. A copy of such rates will be furnished upon request. Other charges such as outside consultants' fees, contractors, travel, rental of special equipment, blueprints, copies and similar items will be charged at their cost plus 10%, or at a rate set by the District Board.
- 8.17 Inspection and Obtaining Copies of District Records: Pursuant to the provisions of the Colorado Open Records Act, C.R.S. §§ 24-72-200.1, *et seq.* ("CORA"), public records of the District may be inspected during normal office hours by requesting the desired documents in writing and directed to the designated custodian of records. General emails to the District or inquires on the District's website or social media sites will not be treated as valid records requests under CORA. The District Manager is hereby designated as the Official Custodian of District Records. Authority is hereby delegated to said Official Custodian to designate one or more permanent full-time employee(s) of the District to manage such records on a day to day basis.

All requests must contain the following information:

- Description of the records being requested. Describe the request as specifically as possible. If you are uncertain about which records contain the information you are seeking, provide a description of the type of information you are searching for, including date ranges.
- If photocopies or electronic copies are being sought, your contact information and preferred method of delivery of the records.

Limitations

The Official Custodian may deny or limit the right of inspection in accordance with the applicable provisions of CORA.

Fees and Costs

Fees for research and retrieval of public records are set forth in the District's CORA Policy, as may be adopted by the District from time to time.

If manipulation of data is necessary to produce a record or document in a form not normally used by the District, the District will charge the actual cost to manipulate the data and generate the record or document. Such data manipulation may not be required under CORA but may be provided voluntarily by the District to assist in satisfying a request. Requesting parties will be notified of the estimated fees and costs, and said fees and costs should be collected from the requesting party before any such costs are incurred by the District. Only actual costs will be charged, and if the estimate exceeded the actual expense of filling the request, the excess will be refunded to the requestor.

These rules may be supplemented and/or superseded by a separate CORA Policy, as may be adopted by the District from time to time.

- 8.18 Confidentiality: The District shall implement measures to prevent the release of confidential information; however, neither the District nor its employees shall be held legally responsible for release of information if they have acted in good faith.
- 8.19 Payment Responsibility: Bills for water and sewer services are payable upon receipt and become delinquent after the due date indicated on the billing statement. Delinquent accounts shall be subject to application of a late fee consistent with the Current Fee Schedule. Delinquent accounts will result in a notice on the customer's next billing statement indicating that water and sewer service will be shut-off at the property being served without further notice if the total balance is not paid in full by a specified time and date. Until paid, delinquent accounts shall be further subject to accrued interest at the rate of one percent per month or fraction thereof. Should a check be returned for lack of funds, a \$30 charge will be added to the account and full payment must then be made in cash, certified check or money order.

ARTICLE 9

INCLUSION; OUT OF DISTRICT SERVICE; EXTENSION OF SERVICE; CHANGES TO LOT LINES

- 9.1 Statement of Policy: Owners of any property for which inclusion into the District is sought or for which an out of District service contract is sought must provide sufficient water rights to serve the water requirements as determined by the District, for all development projected by the petitioners or parties requesting out of District service. Future water demands in excess of such projected amount will not be supplied by the District unless and until additional water resources, acceptable to the Board in its sole discretion, are dedicated to the District.
- 9.2 Extension of Service: The District will not require its existing Customers to subsidize the development of any inclusion of property or extension of service. All facilities necessary for the District to service the development must be built in accordance with the District's Technical Specifications and financed solely by the Developer of the property. No water and/or sewer mains may be constructed within the jurisdiction of the District prior to the District's approval of a formal written application, which shall be evidenced exclusively by a separate written agreement between the Developer and the District.

Applications for extension of the District's water and/or sewer mains shall be accompanied by (i) a complete set of plans and specifications prepared by a Colorado registered professional engineer showing in detail the proposed design for the water and/or sewer main extension(s) and related facilities; and (ii) a schedule setting forth a detailed timetable for construction and estimated completion of the same. As used herein, "related facilities" includes, without limitation, pumps, pumping station, wells, lift stations, metering devices, and any other structure, equipment, or facility which will become integrated into the District's water distribution system and/or Sanitary Sewer System. Water and/or sewer main extensions, and related facilities, shall be installed within public rights-of-way, easements granted for the District's use, or upon real property that is owned by, or will be conveyed to the District. All easements benefitting the District shall be in a form acceptable to the District, which shall be

recorded prior to the submission of any formal subdivision plat. The Developer shall be required to pay for title insurance insuring any real property interest to be conveyed to the District. The District shall select the title insurance company. The District, in its sole discretion, may further require the Developer to obtain and pay for an ALTA (or similar) survey setting forth the location of the proposed easement and the location of existing improvements and other matters of public record identified as exceptions to the commitment for title insurance.

9.3 Information Required for Inclusion: The District will begin evaluating the potential for inclusion of property upon receipt of two paper copies and one electronic copy of all the following information:

- (a) Accurate legal description of the property, to surveying standards acceptable to the District, including the total acreage.
- (b) Map of the property showing its location with respect to the current District boundaries.
- (c) Existing and proposed zoning.
- (d) A plan showing land uses, lot and tract sizes, proposed densities and other significant information necessary for the District to determine the effects of the development on its water and sewer systems.
- (e) Proposed development schedule.
- (f) Complete description of all water rights associated with the property, including copies of court decrees and well permits.
- (g) If the water right is used for irrigation, the number of acres presently being irrigated and a legal description and/or map of the acreage irrigated.
- (h) A copy of the documents by which the present owners of each water right appurtenant to the property received title to the water right.
- (i) A copy of all diversion records for each water right proposed for dedication to the District (unless this requirement is waived by the District).
- (j) A description of the historical use of the water right proposed for dedication to the District, including the amount and time of diversions and, if the use was irrigation, the type of irrigation, the number of acres irrigated, the crops grown, and a description of any other water rights used on the land irrigated.
- (k) Complete financial statement of the Developer with balance sheet.
- (l) Name and address of the property owner(s), including principal stockholders or partners as applicable.

9.4 Water Rights:

9.4.1 Any person applying for the inclusion of property into the District's service area or for which an out of District service contract is sought, as a condition of such inclusion and as a condition of water service by the District, shall dedicate to the District, at no cost to the District, all of the applicant's rights in and to any water contained in the Bedrock Aquifers beneath the inclusion property not later than thirty (30) days following the completion of the inclusion process. The amount of credit given by the District for each acre-foot of fully consumable water contained in the Bedrock Aquifers tendered to the District in satisfaction of the water rights dedication requirements shall be as follows:

Arapahoe Aquifer	100%
Lower Dawson Aquifer	90%
Denver Aquifer	0%
Laramie-Fox Hills Aquifer	0%

- 9.4.2 In addition to dedicating all of its rights to water in the Bedrock Aquifers, any person applying for the inclusion of property into the District's service area or for an out of District service contract shall provide evidence of dedication of water in an amount of at least 0.55 acre-feet per year per S.F.E. in the proposed development (the "Water Supply Requirement"). Not more than 30% of the Water Supply Requirement may be in the form of fully consumable water from the Bedrock Aquifers. A minimum of 70% of the Water Supply Requirement must be in the form of tributary water rights acceptable to the District. If the person required to make the dedication is unable to furnish either the amount of water required to satisfy the Water Supply Requirement, or the minimum percentage of tributary water rights acceptable to the District, the District, in its sole discretion, may accept a cash-in-lieu payment equal to the number of acre-feet of water required to be dedicated times the amount per acre-foot which the District has established for cash-in-lieu of tributary water rights payments.
- 9.4.3 If the total number of S.F.E.s in the proposed development is greater than thirty (30), the District may, in its discretion, require an engineering report prepared at the Developer's expense by a person experienced in water rights matters, which report is determined by the District to sufficiently analyze the historical use of the water rights proposed for dedication to the District.
- 9.4.4 The sufficiency of water rights shall be determined in the sole discretion of the Board upon advice of the District's water attorney and other consultants. The cost of such determination shall be borne by the Owner(s) of the property being included or requesting service.
- 9.4.5 In the event that the water rights offered to the District for dedication provide raw water credits in excess of those required by these Rules and Regulations, the Developer shall offer any excess water rights to the District at current fair market value. The District may enter into a written agreement to purchase all or part of any such excess water rights and, in that event, the District may require the Developer to grant to the District a right of first refusal to purchase such excess water rights in the future.
- 9.4.6 If a person required to dedicate or transfer water or water rights pursuant to this Article can establish by a preponderance of the evidence that the actual volume of raw water needed to serve a proposed use or uses will be less than that calculated on the basis of S.F.E.s, he or she shall be entitled to a proportionate reduction in the dedication or transfer requirement, as approved by the Board.
- 9.4.7 All facilities and water rights must be conveyed to the District free and clear of all liens and encumbrances.

- 9.4.8 The dedication requirement shall be satisfied by the person seeking approval of the extension of water service, subdivision, annexation, or a change in land use, whether or not that person will be the ultimate user of the District water service.
- 9.4.9 All costs and expenses to transfer water rights (including shares in ditch and reservoir companies or contract rights to water) to the District shall be paid by the person required to dedicate or transfer water rights to the District pursuant to this Article. All Bedrock Aquifer water rights shall be adjudicated in the Water Court at the applicant's expense prior to dedication to the District. All costs and expenses necessary to change dedicated water rights so they can be diverted and used by the District for municipal use shall be paid by the person required to dedicate or transfer water rights to the District pursuant to this Article, and the District shall be the applicant or co-applicant in any application to change such water rights.
- 9.4.10 As used in this Section 9.4, "fully consumable" shall mean the net amount of water remaining after deduction of any relinquishment or augmentation requirement applicable to the subject Bedrock Aquifer water rights.
- 9.5 Cash in Lieu of Water Rights: In the sole discretion of the District, cash payments in lieu of the conveyance of such water rights may be paid to the District. The amount of such payments shall be in the reasonable determination of the District based upon the value of water rights at the time a request to make such payment in lieu of dedication of water rights is requested.
- 9.5.1 Approval of cash payment in lieu of the dedication of water rights shall be at the sole discretion of the District and shall be subject to the following conditions: (a) The District has sufficient unallocated water rights in its portfolio to meet the new water service obligation; (b) the Customer or Applicant does not have access to the type of water rights that meets the District's criteria for acceptance of water rights; (c) any historical water rights appurtenant to the land to be served have been previously severed; (d) cash payments shall be valued based on the current local market value of senior water rights along Cherry Creek per consumptive acre-foot of water delivered, currently \$30,000 per S.F.E.; and (e) cash payments shall be paid to the District to be used, at the discretion of the District, to develop and/or acquire additional water for the District.
- 9.5.2 In the event water service is no longer required or desired, any refund of a cash-in-lieu payment previously paid shall be at the sole discretion of the District. Where the District decides in its sole discretion to refund a cash-in-lieu payment, the District may charge a cancellation fee. The District will not refund a cash-in-lieu payment once the property to which water service has been extended has obtained land use approval unless such land use approval is revoked or otherwise terminated by the relevant land use authority.
- 9.6 Lease of Water: If the owner of the property proposed to be included within the District desires to retain the land or any portion thereof, in agricultural production or as open space prior to development, he or she may, pursuant to written agreement with the District, be permitted to lease back, on an annual basis for irrigation, aesthetic and recreational purposes only, all or part of the water rights dedicated to the District pursuant to this Article. The terms of any such leases shall be at a rate such that the District's expenses are paid for by the lease as determined

by the District and on such other terms and conditions as are determined by the District. If the water rights are decreed only for irrigation use, then the lease shall require the owner to document use of the water. Said lease shall provide that, in the event any portion of the land for which the water is leased is platted during the term of the lease, the District may cancel the lease, in whole or in part, to the extent any portion of the leased water is determined by the District to be necessary for water service to the property so platted.

- 9.7 Extension and Oversizing of Facility/Line: As a condition of receiving water or sewer service, the Developer, Owner or Customer may be required, in the District's sole discretion, to construct Water or Sewer lines or facilities beyond the capacity required to serve a particular property or properties or extend such lines or facilities beyond the location required to serve a particular property or properties in order to effectively provide Water or Sewer Service to additional properties within the District's Service Area at a later date.
- 9.8 Cost Recovery: The part of the costs of a facility or line to be installed within, or for, a particular property or properties, but which the District has also assigned a transmission function which results in the need for oversizing or extension as described in these Rules and Regulations, which are eligible for a credit or reimbursement to the Developer, Owner or Customer shall be determined on a case-by-case basis in the sole discretion of the District and shall be described in an agreement with the District.
- 9.9 Conveyance of Property Rights: As a condition of receiving Water or Sewer Service, the Developer, Owner or Customer may be required, in the District's sole discretion, to convey right-of-ways, parcels, easements or other property interests to the District or other governmental entities in order to ensure that the District can provide Water or Sewer Service.
- 9.10 Reimbursement for Condemnation: The District may require a Customer or Developer to reimburse the District for costs of condemnation when, in the District's sole discretion, condemnation is required to provide water and/or sanitary sewer service.
- 9.11 Tap Purchase Agreement/Development Agreement: As a condition of receiving Water or Sewer Service, the Developer, Owner or Customer may be required, in the District's sole discretion, to enter into a tap purchase agreement, development agreement or other agreement with the District.
- 9.12 Denial or Revocation of Application: The District reserves the right to deny an application for Water or Sewer Service when, in the opinion of District:

- (a) The Water or Sewer Service applied for would create an excessive demand on the District's water or sewer system;
- (b) There has been misrepresentation in the application as to the property and fixtures contained on the property;
- (c) Water or Sewer Service would not be in the best interests of the existing Customers of the District;
- (d) The Applicant has not paid the fees due;
- (e) There is inadequate capacity of the existing system or no ability to connect to the District's facilities;
- (f) The Water or Sewer Service is otherwise not in the best interests of the District; or
- (g) The District's Manager finds the application deficient in any manner.

Denial may also be based upon an unresolved obligation between the District and the Applicant, inadequate documentation of right-of-ways, parcels and easements for facilities that serve the property, or any other reason as determined by District. The District reserves the right to revoke Service for any violation of these Rules and Regulations.

- 9.13 Application Fee for Inclusion, Out of District Service, or Extension of Service: All applications for inclusion, out of district service, or extension of service shall be accompanied by an administrative fee in the amount of \$10,000 plus \$1,000 for each acre of property sought to be included, and is intended to cover the District's costs in evaluating the application. If the costs are expected to exceed the initial fee paid, the applicant will deposit additional funds with the District for such estimated amounts. The initial fee will be assessed regardless of whether the application is completed or approved.

ARTICLE 10

ENVIRONMENTAL PROTECTION MEASURES

- 10.1 Erosion and Sedimentation Control: Douglas County has adopted a Storm Drainage and Technical Criteria Manual which sets forth the minimum design and technical criteria for the analysis and design of erosion control plans. Prior to any demolition or development, the Owner shall submit an erosion control plan that complies with the criteria specified therein for review by Douglas County.
- 10.2 Wellhead Protection: Adequate protection shall be provided to all wellheads to prevent vandalism or accidental damage to the wellhead. Entry to wellhead areas is limited to District personnel and District approved contractors.
- 10.2.1 Groundwater Monitoring Wells: Groundwater Monitoring Wells shall be capped and secured as described in the District's Technical Specifications. A four foot square concrete base shall be constructed around the well surface casing to reduce the potential for a surface contaminant to be conducted down the well bore. Barrier posts, approved by the District, shall be provided where vehicle traffic has the potential to damage the wellhead.

- 10.2.2 Production Wells: Perimeter fencing shall surround all well surface appurtenances no less than 25 feet from the well and provide an area sufficient for access to service vehicles. Prior to fencing, each production well site shall be leveled, cleared of vegetation, and the gravel placed. In addition, a four foot square concrete base shall be constructed around the well surface casing to reduce the potential for a surface contaminant to be conducted down the well bore.

For wells in areas that are currently developed or targeted for development, security fencing shall consist of a six foot high fence compatible with the surrounding area and approved by the District.

For wells in areas that are currently undeveloped and are not targeted for future development, security fencing shall consist of treated cedar, redwood, or Douglas Fir posts, rails, and braces set to a minimum height of 4 feet or District approved equivalent. Three strands of barbed wire shall then be drawn tight and fastened to the posts. Painted metal double gates shall be placed at the site access point.

ARTICLE 11

ENFORCEMENT, VIOLATIONS AND PENALTIES

- 11.1 Violations: Any action in contravention of these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement shall be considered a violation and is subject to the provisions of this Article.
- 11.2 Unauthorized Use or Tampering With District Facilities and Equipment: No unauthorized Person or entity shall uncover, use, alter, disturb or make any connection with, disconnect from, make any opening into, use, uncover, alter, disturb or open the District's Sanitary Sewer System and/or water system without the District's prior written approval.
- 11.3 Prohibited Use of Sanitary Sewer System: Prohibited uses of the Sanitary Sewer System include, but are not limited to, an unauthorized draw from or discharge into the Sanitary Sewer System, an unauthorized Connection or disconnection of Sewer Service Line, or tampering with or in any way modifying any part of the District's Sanitary Sewer System, or modifying Sewer Service Lines in any way without the District's express prior written authorization.
- 11.4 Special Penalties for Unauthorized Use of Water or Tampering with District Equipment: It shall be a violation of these Rules and Regulations for any person to:
- (a) obtain water from any hydrant or other source within the District without approval ("Unauthorized Use"); or
 - (b) Physically alter or interfere with the operation of any District facility, including connecting any pipe, tube, hose, stopcock, wire, cord, socket, motor, or other instrument or contrivance to any District Water Main, service pipe, or other

medium conducting or supplying water to any Unit without the District's prior written approval, or altering, bypassing, obstructing or interfering with any meter measuring or registering the quantity of District water passing through said meter ("Tampering with District Equipment").

In addition to all other remedies available to the District at law or under these Rules and Regulations, each instance of Unauthorized Use and/or Tampering with District Equipment shall result in a levy of a \$1,000.00 penalty by the District to the account of any Customer whose property is benefitted, or if not a Customer, then upon the Property Owner (in each case, a "Responsible Party"). Unauthorized connections to the District's water system shall be further subject to a penalty in an amount equal to double the then-current Tap Fee.

Each such charge or penalty levied shall be due and payable on the date specified in the Responsible Party's normal bill for water service charges. If payment of such charges is not received in the District office on or before the due date specified in the bill, such charge shall be delinquent, and bear interest from the due date at the lesser of 12% per annum or the maximum rate permitted pursuant to Colorado Revised Statutes.

The District reserves the right to immediately terminate any instance of Unauthorized Use. Service shall not be reinstated until the District is satisfied that the system or use is and will remain in compliance with these Rules and Regulations and all penalties and fees, including without limitation fees for service disconnection and reconnection, are paid in full.

Nothing contained in this Section shall preclude the District from pursuing all available remedies, including without limitation asserting liens against property of a Responsible Party, reporting Unauthorized Use to authorities for criminal prosecution, or any other statutory, legal, or equitable remedy.

Any state, county, or local law enforcement officer or personnel of the District is hereby authorized by the District to operate a hydrant or main water line valve. Any state, county, or local law enforcement officer or personnel of the District is hereby authorized to file a sworn complaint with the Douglas County Sheriff, requesting that a summons issue, and a warrant be requested for the arrest of persons unlawfully operating such valves. The penalty for said violation shall be as determined by law.

- 11.5 Imposition of Penalties for Other Violations of District Rules and Regulations: Notwithstanding other legal remedies set forth in these District Rules and Regulations and the laws of the State of Colorado, the District may, pursuant to Section 32-1-1006(1)(d), C.R.S., impose monetary penalties and may shut off or discontinue water or wastewater services for any violation of the District Rules and Regulations.

- 11.6 Enforcement Remedies:

- (a) Notification of Violation: Whenever the District finds that any Person has violated or is violating these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement, the District shall give Notice to the Person who is alleged to be responsible for such violation. The Customer receiving a Notice of

Violation shall cure the violation prior to a date set forth in the Notice of Violation (the "Compliance Date"). If the violation remains uncured on or after the Compliance Date, the District may impose a monetary penalty not to exceed \$100.00 for each such violation ("Violation Fees"). Each day that such violation remains uncured shall be deemed a separate violation for purposes of imposition of the penalties described herein. The Notice shall contain a written statement setting forth the Violation Fees. If all amounts set forth in such statement are not paid within thirty (30) days of the date thereof, the District shall have a perpetual lien against the property for the Violation Fees and attorneys' fees and any other costs associated with such Violation Fees. All such sums due to the District shall bear interest from the due date until paid at the rate of 1% per month or fraction thereof. Nothing herein shall prevent the District from pursuing any other remedies to which it is entitled under applicable Colorado law. In the event of late payment or non-payment of any rates, tolls, charges, fines, fees and/or assessments, the District is not required to send any notification beyond the billing statement, unless otherwise required by law. Should the violation still exist after the time limit on the Notice has elapsed, the District may suspend services, revoke a Tap Certificate or assess charges, fines and/or penalties as provided in these Rules and Regulations.

- (b) Emergencies: If an emergency is deemed to exist, the District may take any reasonable actions to remediate the emergency, including, but not limited to immediately notifying the Colorado Department of Public Health and Environment or any other appropriate department or agency and disconnecting any Water and/or Sewer Service Line from the District Facilities or take any other action deemed necessary or prudent to protect the District, the District Facilities and/or the Developers, Customers or Owners, until such time as the District has received adequate assurance that any and all violations of these Rules and Regulations will cease and will not occur in the future. The District will, as soon as possible, provide written Notice as described in these Rules and Regulations.

11.7 Penalty for Violations:

- (a) Penalty: Any Person in violation of these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement may be assessed penalties in an amount to be determined by the Board or as set forth in the Current Fee Schedule, which is available from the District upon request. Each violation is subject to a penalty and each day of a violation shall be considered a separate violation. Penalties may be added to the Developer's, Customer's or Owner's next bill.
- (b) Late Fee: At any time a Developer, Customer or Owner is fifteen (15) days late in payment of any rates, tolls, charges, fines, fees and/or assessments due the District, the District shall have the right to assess a penalty on the unpaid balance in the amount shown on the Current Fee Schedule, which is available from the District upon request.

- (c) Interest: Unpaid rates, tolls, charges, fines, fees, assessments and/or penalties may, after thirty (30) calendar days, be assessed interest, which shall accrue thereafter at a rate as shown on the Current Fee Schedule, which is available from the District upon request.
- (d) Perpetual Lien/Foreclosure: In accordance with 32-1-1001(1)(j)(I), Colorado Revised Statutes, as may be amended from time to time, until paid all fees, rates, tolls, penalties or charges (including legal, engineering, accounting and administrative costs) shall constitute a first and perpetual lien on or against the entire property served, including all Units served by a common service and on or against any property benefited by a Water and/or Sewer Service Line or main line extension. Any such lien may be foreclosed in the manner provided by law. The District may file a lien statement against any property on which an account has been delinquent for 45 or more days. Liens will be released only after all outstanding amounts, including recording and attorney's fees, have been paid in full.
- (e) Certification of Amount to County Treasurer: In addition to any other means provided by law, the Board may elect to have certain delinquent fees, rates, tolls, penalties, charges or assessments together with all fees, costs, and attorney's fees incurred in the process of such certification certified to the treasurer of the county to be collected and paid over by the treasurer of the county in the same manner as taxes in accordance with Section 32-1-1101(1)(e), Colorado Revised Statutes, as may be amended from time to time.
- (f) Suspension of Service: Should a Customer remain in violation of these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement after the time limit stated on a violation Notice issued pursuant to these Rules and Regulations has elapsed, the District may suspend Service. In the event of a proposed suspension of Water and/or Sewer Service, the Developer, Customer or Owner shall be given not less than ten (10) days advance notice in writing of the suspension, which notice shall set forth the following:
 - (i) The reason for the suspension and the date Service shall be terminated;
 - (ii) That the Developer, Customer or Owner has the right to contact the District and the manner in which the District may be contacted for the purpose of resolving the obligations; and
 - (iii) That there exists an opportunity for a hearing in accordance with these Rules and Regulations.

If the obligations are not resolved or a request for a hearing, accompanied by a deposit equal to the amount of any fees, rates and/or charges specified in the Notice, is not received by the District within ten (10) days, the District may suspend the Service and the Customer may be assessed the cost of the disconnection. The Developer, Customer or Owner's deposit for service, if any, shall be applied against the outstanding obligation.

- (g) Revocation of Tap Certificate: In addition to the other rights and remedies set forth in these Rules and Regulations, any Customer who violates these Rules and Regulations, any conditions of the Tap Certificate, or any applicable local, state and federal regulations, is subject to having his or her Tap Certificate revoked after receipt of Notice of such proposed revocation in substantially the same manner as provided in these Rules and Regulations. If the Tap Certificate is revoked, the Developer, Customer or Owner may obtain a new Tap Certificate only by reapplying for Sewer Service in accordance with the Rules and Regulations, and after paying all fees due and owing the District and the then-current Tap Fees charged by the District under these Rules and Regulations for the use in question and complying with all other applicable requirements of the District.
- (h) Civil Liability: Any Person who intentionally or negligently violates any provision of these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement may be subject to civil liability to the District.
- (i) Criminal Liability: Nothing herein is intended to abrogate or lessen any applicable criminal penalties that may otherwise apply to any act constituting a violation of these Rules and Regulations.
- (j) Other Remedies Provided at Law: The District may exercise any other rights or remedies it may be entitled to under law or in equity to enforce these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement.
- (k) Reimbursement of District Costs: Any Person that violates any of the provisions of these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement shall become liable to the District for any expense, loss or damage occasioned by reason of such violation, including, but not limited to, administrative, attorneys', engineering, collection, court and accounting fees and costs.

ARTICLE 12

HEARING AND APPEAL PROCEDURES

- 12.1 General: If an Owner, Customer or Developer wishes to dispute any rates, tolls, charges, fines, fees, assessments and/or penalties imposed by or determination made by the District, the Customer may appeal such rates, tolls, charges, fines, fees, assessments and/or penalties or determination by following the procedure set forth below (a Customer filing an appeal is referred to in the remainder of this section as the "Appellant"). Notwithstanding the filing of an appeal, the Appellant is required to pay any rates, tolls, charges, fines, fees, assessments and/or penalties assessed by the District and such rates, tolls, charges, fines, fees, assessments and/or penalties shall be held by the District until such time as the appeal is final. The hearing and appeal procedures established below shall apply to all disputes concerning the interpretation,

application or enforcement of the rates, tolls, charges, fines, fees, assessments and/or penalties of the District and application and enforcement of these Rules and Regulations, as they now exist or may hereafter be amended. In the event a proper and timely request for an appeal is not made as provided herein, the right to an appeal shall be deemed forever waived.

- 12.2 Appeal to District Management: The Appellant must first file a written request with the District Manager within ten (10) days of being notified of a proposed revocation of Water and/or Sewer Service or other determination of the District or of the due date specified for a fee, rate or charge of the District. Within thirty (30) days of receiving the request from the Appellant, the District Manager, after a full and complete review of the record, shall deliver notice to the appellant containing a written determination regarding the application or enforcement of the rates, tolls, charges, fines, fees, assessments and/or penalties of the District and/or application and enforcement of these Rules and Regulations, as may be applicable (the “Manager’s Determination”).
- 12.3 Hearing Before Board of Directors: If the Appellant wishes to appeal the Manager’s Determination, the Appellant must file a written request with the District for a hearing within ten (10) days of the date of the Notice to the Appellant. The request for a hearing shall set forth with specificity the nature of the dispute, the facts upon which the Appellant is relying, and a brief statement of the Appellant’s requested relief. Upon request for a hearing, the Manager’s decision shall be stayed pending the outcome of the hearing before the Board; except that an appeal shall not stay the District from shutting off water or sewer service for non-payment; and provided that if the Manager determines the public health, safety and welfare or District property are in danger of imminent and serious harm, any action required of the alleged violator in the Manager’s Notice to Appellant shall not be stayed.
- 12.3.1 Notice: Notice shall be given to the Appellant, specifying the time and place of the hearing to be held by the Board regarding the appeal and directing the Appellant to present evidence of why the determination regarding the application or enforcement of the fee, rate or charge of the District and/or application and enforcement of these Rules and Regulations, as may be applicable, is not correct.
- 12.3.2 Conduct of Hearing: The hearing shall be administrative in nature. At the hearing, the District Manager and the Appellant shall be entitled to present all evidence that is relevant and material to the dispute, and to examine and cross-examine witnesses. The Board may establish rules and procedures governing the hearing. A record of the hearing shall be maintained.
- 12.3.3 Written Determination: Based on the record established, the Board shall issue a written decision (“Board’s Determination”) concerning the disposition of the dispute presented to it and shall cause notice of the decision to be sent by certified mail to the Appellant within forty-five (45) days after the hearing.
- 12.3.4 Board of Directors’ Determination Final: The Board’s Determination shall constitute the final administrative action of the District, subject only to appeal to the Douglas County District Court pursuant to the provisions of C.R.C.P. 106(a)(4).

- 12.4 Non-Impairment: Nothing in this Article 12. shall be deemed to abrogate or limit authority of the District Manager to take any measures necessary to protect the health, safety and welfare of the public or District property from damage.



RULES AND REGULATIONS

Part II

Industrial Pretreatment Program

DENVER SOUTHEAST SUBURBAN WATER AND SANITATION DISTRICT

d/b/a

PINERY WATER AND WASTEWATER DISTRICT

Adopted: _____



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1 General Provisions

1.1 Purpose:

For the health, safety, and welfare of the public, it is necessary to regulate the collection and treatment of wastewater discharged to THE PINERY Wastewater Treatment Plant. This Code of Rules and Regulations (hereinafter “Rules and Regulations”) outlined herein, sets forth uniform requirements for commercial, and industrial users of the wastewater collection system. It is intended to enable the Publicly Owned Treatment Works (POTW) to comply with its National Pollutant Discharge Elimination System (“NPDES”) permit, Permit # CO-0041092, issued from the State of Colorado as well as all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403.

1.2 Objectives:

The objectives of these Rules and Regulations are:

- Prevent the introduction of pollutants into the POTW, which will interfere with its operation, including interference with its use or disposal of municipal sludge.
- Prevent the introduction of pollutants into the POTW which will pass through the treatment works or be incompatible with the POTW.
- Protect utility personnel who may be affected by wastewater and sludge in the course of their employment and to protect the health, safety, and welfare of the general public.
- Improve the opportunity to recycle and reclaim water and sludges from the POTW.
- To provide for equitable distribution among users of the cost of the POTW and THE PINERY Pretreatment Program; and
- Enable The District to comply with its CDPS Permit conditions, federal and state requirements applicable to sludge use and disposal, and any other federal or state laws or regulations to which the POTW is subject.

1.3 Authority of the Manager:

Except as otherwise provided, the District Manager shall administer, implement, and enforce the provisions of these Rules and Regulations. Any powers granted to, or duties imposed upon the District Manager may be delegated by the District Manager to other qualified personnel.

1.4 Definitions:

The following definitions supplement those set forth in Part I of the Rules and Regulations of the District but pertain solely to this Part II. Unless specifically indicated otherwise, the meaning of the terms herein shall be as follows. Unless the context specifically indicates otherwise, the following terms and phrases, as used in these Rules and Regulations, shall have the following meanings. Words not otherwise defined, shall be given their common and ordinary meaning.

1.4.1 “Act” or “The Act” is the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. 1251, *et seq.*, as amended.

1.4.2 “Application” means those forms required for THE PINERY’s review, action, and record- keeping purposes.

1.4.3 “Authorized Premises” is the land area, and improvements thereto, to which sewer service is limited under a Tap Authorization.

1.4.4 “Authorized Representative” or “Duly Authorized Representative of the Industrial User” is:

1.4.4.1 If the Industrial User is a corporation:

- The president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for reporting requirements established by the District; if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

1.4.4.2 If the Industrial User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

1.4.4.3 If the Industrial User is a limited liability company, the managing member(s) of the limited liability company.



- 1.4.4.4 If the Industrial User is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or designee of such official.
- 1.4.4.5 The individuals described in Subsections (1) through (4) above, may designate another Duly Authorized Representative if the authorization is made in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to THE PINERY.
- 1.4.5 “Best Management Practices” or “BMPs” are schedules of activities, prohibitions of practices, maintenance procedures, and other management practices. BMPs may also 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. BMPs shall be considered local limits and Pretreatment Standards for the purposes of these Rules and Regulations and Section 307(d) of the Act, as specified at 40 CFR Section 403.5(c)(4).
- 1.4.6 “5-Day Biochemical Oxygen Demand” or “BOD₅” is the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees (20°) Celsius, expressed in milligrams per liter (mg/L) by weight, using methods approved under 40 CFR Part 136.
- 1.4.7 “Board” is THE PINERY Board of Directors.
- 1.4.8 “Categorical Industrial User” is an Industrial User subject to a Categorical Pretreatment Standard. These Users are under the jurisdiction of the EPA in THE PINERY district.
- 1.4.9 “Categorical Pretreatment Standard” means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, as amended, which apply to a specific category of industrial users and that appear in 40 CFR chapter I, subchapter N, Parts 405-471.
- 1.4.10 “Chemical Oxygen Demand (COD)” is the measure of the oxygen equivalent of that portion of organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant under laboratory procedures.
- 1.4.11 “Colorado Discharge Permit System Permit” or “CDPS Permit” is a permit issued by the Colorado Department of Public Health and Environment, pursuant to Regulation 61, that establishes special and general conditions for discharging treatment plant effluent into waters of the State by THE PINERY POTW.

- 1.4.12 “Composite sample” is a representative flow-proportioned sample containing at least 12 aliquots and collected within a twenty-four (24) hour period or the industrial user’s operating data as appropriate. The aliquots are combined according to flow. Time- proportional composite samples consisting of at least 12 aliquots may be approved or used by THE PINERY where time-proportional samples are believed representative of the discharge.
- 1.4.13 “Control Mechanism” is a document used by THE PINERY to apply these Rules and Regulations to an Industrial User and may include permits, registrations, authorizations to discharge, notice of discharge requirements or other written communications.
- 1.4.14 “Cooling water” includes:
- Contact: Water used for cooling purposes which comes in contact with any raw material, intermediate product, waste product or finished product.
 - Noncontact: Water used for cooling purposes which does not come in contact with any raw material, intermediate product, waste product or finished product and the only pollutant added is heat.
- 1.4.15 “Daily Maximum Discharge Limit” means the maximum allowable discharge limit of a pollutant that may be discharged during a twenty-four (24) hour period or as specified in the Industrial Wastewater Discharge Permit or other PINERY control mechanism. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the sampling period. Where daily maximum limits are expressed in terms of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken during that sampling period.
- 1.4.16 “Direct Discharge” is the discharge of treated or untreated wastewater directly to the waters of the State of Colorado.
- 1.4.17 “Dissolved Solids” means that concentration of matter in the wastewater consisting of particulate matter one micron in diameter or less, and both organic and inorganic molecules and ions present in solution.
- 1.4.18 “District Manager” is the person designated by THE PINERY to manage and direct the overall operations and business of THE PINERY, subject to the direction and control of the Board.

- 1.4.19 “Domestic or Sanitary Wastewater” is water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments, and other places, of similar volume or chemical make-up to that of a residential dwelling unit unless otherwise regulated at an Industrial User by an applicable Categorical Pretreatment Standard.
- 1.4.20 “Enforcement Response Plan” or “ERP” is a document outlining the specific framework for investigating and responding to Industrial User violations of these Rules and Regulations or any control mechanism issued by THE PINERY. The ERP is maintained on file at THE PINERY offices.
- 1.4.21 “Environmental Protection Agency” or “EPA” is the U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Regional Administrator or other duly authorized official of said Agency.
- 1.4.22 “Fecal Coliform” is the bacteria common to the intestinal tract of humans and animals whose presence in sanitary sewage is an indicator of pollution.
- 1.4.23 “Flow” is the volume of wastewater per unit of time.
- 1.4.24 “Fats, Oils and Grease” or “FOG” means non-petroleum organic polar compounds derived from animal or plant sources such as fats, non-hydrocarbons, fatty acids, soaps, waxes, and oils that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using the approved method for Hexane Extractable Materials in the analytical procedures established in 40 CFR Part 136.
- 1.4.25 “Food grinder” is any device installed in the plumbing or sewage system for grinding food waste or food preparation by-products for the purpose of disposing it in the sewer system.
- 1.4.26 “Food Service Establishment” or “FSE” means an Industrial User where preparation, manufacturing, processing of food or washing/sanitizing of dishes or equipment occurs.
- 1.4.27 “General Pretreatment Regulations for Existing and New Sources of Pollutants” are regulations adopted by EPA and published at 40 CFR Part 403. These regulations establish procedures, pretreatment standards and requirements for EPA, states, municipalities, and industrial users to prevent the introduction of pollutants that would adversely impact a POTW, receiving water, the environment or the health and safety of workers and the public.
- 1.4.28 “Grab Sample” is a sample which is taken from a wastestream on a one-time basis with no regard to the flow in the wastestream and over a period not to exceed fifteen (15) minutes.

- 1.4.29 “Gravity Grease Interceptor” or “GGI” is an in-ground tank containing at least one baffle in which solids, greases and oils are separated from wastewater, located outside the FSE’s building, and made accessible by at least two manhole covers. May be referred to as an Oil- Grease Interceptor (OGI).
- 1.4.30 “Grease trap” or “Hydromechanical Grease Interceptor” or “HGI” is a small device hooked directly to the outgoing drains of sinks located inside a commercial food preparation facility that allows for the separation of fats, oils, and grease of a non-petroleum nature from wastewater prior to being discharged into the POTW. A HGI is only authorized under a variance.
- 1.4.31 “Hazardous waste” is any waste designated as hazardous under the provisions of 40 CFR Part 261 and 6 CCR 1007-3.
- 1.4.32 “Holding Tank Sewage” is any wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, sealed vaults, and vacuum-pump trucks.
- 1.4.33 “Individual (Private) Wastewater Disposal System” is a septic tank, cesspool or similar self-contained receptacle or facility which collects and/or treats or otherwise disposes of wastewater and which is not connected to the POTW.
- 1.4.34 ‘Industrial’ or ‘Non-Domestic Waste’ means a liquid or solid waste from industrial manufacturing processes, trade, or business activities distinct from domestic wastewater.
- 1.4.35 “Indirect Discharge” is the discharge or introduction of pollutants into the POTW from any Industrial User as defined in these Rules and Regulations and all other industrial users regulated under Section 307(b), (c) or (d) of the Act (33 U.S.C. 1317), including holding tank waste from a non-domestic user discharged into the POTW.
- 1.4.36 “Industrial Surcharge” is that charge calculated annually in accordance with THE PINERY rate model and assessed against industrial customers based upon the amount that the strength of their discharged wastewater exceeds normal domestic strength in the parameters of BOD₅, COD, or TSS as specified in Part II, 1.4.43 of these Rules and Regulations.
- 1.4.37 “Industrial User” is a source of Indirect Discharge, or any other industrial or commercial facility or business that has a sewer connection to the POTW, whether the user discharges non-domestic wastewater. All commercial, government, and industrial facilities are classified as an Industrial User.
- 1.4.38 “Industrial Wastewater Discharge Permit” is a type of Control Mechanism issued by The District to an Industrial User that allows, limits and/or prohibits the discharge of pollutants or flow to the POTW.

- 1.4.39 “Interceptor” means any major trunk line conveying wastewater to the POTW.
- 1.4.40 “Interference” means a discharge which, alone or in conjunction with a discharge or discharges from other sources, that interferes with the complete or individual process of the POTW, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and therefore is a cause of a violation of any requirement of THE PINERY CDPS permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory or regulatory provisions or permits issued thereunder, or more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act (SWDA), including Title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- 1.4.41 “Instantaneous Discharge Limit” means the maximum or minimum concentration or measurement for a pollutant or pollutant property allowed to be discharged at any time as determined by use of a grab sample or direct measurement.
- 1.4.42 “Local Limit” is a discharge limit developed by THE PINERY in accordance with 40 CFR Section 403.5(c) and (d) which is a Pretreatment Standard.
- 1.4.43 “Normal Domestic Strength Wastewater” means wastewater, when analyzed in accordance with procedures established in 40 CFR Part 136, as amended, contains no more than three hundred (300) mg/L of 5-Day Biochemical Oxygen Demand (BOD₅) or two hundred fifty (250) mg/L of Total Suspended Solids or three hundred (300) mg/L of Chemical Oxygen Demand (COD). Discharges to the POTW that exceed these concentrations may be surcharged for the concentrations above these levels.
- 1.4.44 “North American Industry Classification System” or “NAICS Code” is the industrial classification scheme developed by the United States Office of Management and Budget used to classify business establishments for the collection, tabulation, presentation, and analysis of statistical data describing the U.S. economy. Also, see Standard Industrial Classification.
- 1.4.45 “Pass- Through” means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of an CPDS Permit issued to THE PINERY, including an increase in the magnitude or duration of a violation.

- 1.4.46 “Person” means any individual, partnership, co-partnership, firm, company, association, joint stock company, trust, estate, society, corporation, group, government, governmental agency or other legal entity, or their legal representatives, agents, or assigns. The definition includes all federal, state, and local government entities.
- 1.4.47 “THE PINERY” is a quasi-municipal entity which has users that discharge to THE PINERY collection system. The term “Connector” shall include both customers of THE PINERY and Special Connectors.
- 1.4.48 “pH’ is the intensity of acid or base condition of the solution expressed as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution and reported as Standard Units (SU).
- 1.4.49 “Petroleum, Oil, Grease, and Sand separator” or “POGS separator” is a plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept sand (or other aggregate) and petroleum-based oil and grease from a wastewater discharge and are designed considering retention times, volumes in gallons calculated for each facility, and gravity separation; such interceptors include baffle(s) and a minimum of two compartments and as specified in 5.9.2
- 1.4.50 “Pollutant” means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, explosives, munitions, medical waste, chemical wastes, corrosive substance, biological material, biological nutrient, toxic substance, radioactive materials, heat, malodorous substance, wrecked or discharged equipment, rock, sand, slurry, cellar dirt, untreatable waste, or industrial, domestic, or agricultural wastes and certain characteristics of wastewater (e.g. pH, temperature, TSS, turbidity, color, BOD5, COD, toxicity or odor) discharged into or with water.
- 1.4.51 “Pretreatment” is the reduction of the mass 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 POTW. The reduction or alteration can be obtained by physical process, biological process, or by other process or means, except as prohibited by 40 CFR Section 403.6(d). Appropriate pretreatment technology includes but not limited to; control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW.
- 1.4.52 ‘Pretreatment Requirement’ is any substantive or procedural requirement related to Pretreatment, other than a Pretreatment Standard, imposed on an Industrial User.



- 1.4.53 “Pretreatment Standard” is any regulation containing pollutant limitations promulgated by the EPA accordance with Section 307(b) and(c) of the Act and implemented through CDPS permits or as established by THE PINERY which applies to industrial users. The term includes prohibited discharge limits or standards, BMPs, local limits and specific prohibitions established by THE PINERY. In cases of differing Standards, the more stringent shall apply.
- 1.4.54 Process Wastewater: Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.
- 1.4.55 “Publicly Owned Treatment Works” or “POTW” is a treatment works as defined by Section 212 of the Act (33 U.S.C. 1292). This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature and any sewers, pipes or other conveyances which convey wastewater to the treatment plant. The term also means the municipality having jurisdiction over indirect discharges to and the discharges from such a treatment works.
- 1.4.56 “Sanitary Sewer” is a sewer owned by a THE PINERY which carries sewage and to which storm, surface, and ground waters are not intentionally admitted, including the pipe or conduit system and appurtenances, for the collection, transportation, pumping and treatment of sewage. This definition shall also include the terms "public sewer", "sewer system", "sewer", and "collection line" and is part of the POTW.
- 1.4.57 “Sector Control Program” is a set of regulations designed to control specific pollutants from industrial users with similar operations, waste generation or treatment through the implementation of Pretreatment Standards and Requirements, including Best Management Practices.
- 1.4.58 “Septic Tank Waste” is sewage and solids from domestic activities pumped from a septic tank serving one or more private residences, wastes from chemical toilets, campers, trailers, or cesspools.
- 1.4.59 “Service Area” is the geographic area in which wastewater is generated and discharged to the POTW. Location within the service area does not create an entitlement to service.
- 1.4.60 “Service Line” or “Customer Line” is the wastewater collector line extending from the wastewater disposal facilities of the premises up to and including the connection to the municipal sanitary sewer.
- 1.4.61 “Shall”, ‘May’ to be treated as follows: “shall” is mandatory; "may" is permissive.
- 1.4.62 “Significant Industrial User” or “SIU” is:



1.4.62.1 A Categorical Industrial User as defined in 1.4.8 and 1.4.9.

1.4.62.2 A Significant Industrial User that:

1. Discharge an average of 25,000 gpd or more of process wastewater to the POTW (excluding domestic, noncontact cooling and boiler blowdown wastewater); or
2. Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
3. Is designated as a SIU by the District Manager on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

1.4.63 "Sludge" is the accumulated solids separated from liquids, such as water or wastewater, during processing, or deposits on bottoms of streams or other bodies of water, or the precipitate resulting from chemical treatment, coagulation, or sedimentation of water or wastewater.

1.4.64 "Slug Load" or "Slug Discharge" is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate THE PINERY Rules and Regulations or Control Mechanism conditions. This includes a discharge which exceeds the hydraulic or design of an Industrial User's treatment system or any part of the treatment unit.

1.4.65 "Special Connector" is a Connector that has signed a Special Connector's Agreement with THE PINERY, including but not limited to any agreement for the District to provide extra-territorial service for wastewater collection and/or treatment.

1.4.66 "Standard Industrial Classification Code" or "SIC Code" is a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget 1972, as amended. Also, see North American Industry Classification System.

1.4.67 "Standard Specifications" are the current specifications used by THE PINERY.

1.4.68 "State" is the State of Colorado.

1.4.69 "Stormwater" means that portion of precipitation, including snowmelt, that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features of a stormwater drainage system into a receiving water or stormwater facility.



- 1.4.70 "Tap Authorization Application" is a form submitted by a User to obtain a Letter of Availability before any connection of any kind is made to the sanitary sewer. A Tap Application must be filed with The District in which the User's premises to be served or located. Additionally, for commercial and industrial facilities, an Application must be filed with The District, and shall contain such information and data as may be required from The District.
- 1.4.71 "Tap Authorization or Letter of Availability" is official written permission to make a physical connection to the sewer system to discharge wastewater in compliance with District requirements and for industrial users, these Rules and Regulations.
- 1.4.72 "Total Suspended Solids" or "TSS" means the solids that either float on the surface of or are suspended in water, sewage, or other liquid, and which are removable by laboratory filtering in accordance with procedures approved in 40 CFR Part 136, as amended.
- 1.4.73 "Toxic pollutant" is any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under Section 307(a) of the Act or as otherwise listed in 40 CFR Part 122, Appendix D.
- 1.4.74 "User" is any person who contributes, causes, or permits the contribution of wastewater into the POTW.
- 1.4.75 "Wastewater" or "Sewage" means the liquid and water-carried industrial or domestic wastes from residences, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are discharged to the POTW.
- 1.4.76 "Wastewater Treatment Plant" is that portion of the POTW or any portion thereof designed to provide treatment of wastewater.
- 1.4.77 "Watercourse" means any channel in which a flow of water occurs, either continuously or intermittently.
- 1.4.78 "Waters of the State" means any and all surface and subsurface waters which are contained in or flow in or through this State and are designated as such by the State.

1.5 Abbreviations:

The following abbreviations shall have the designated meanings:

BMP	Best Management Practices
BOD ₅	5-Day Biochemical Oxygen Demand
°C	degrees Celsius
CDPHE	Colorado Department of Public Health and Environment
CDPS	Colorado Discharge Permit System
CFR	Code of Federal Regulations
CIU	Categorical Industrial User
COD	Chemical Oxygen Demand
DFU's	Drainage Fixture Units
EA	Establishing Agreement
EPA	Environmental Protection Agency
°F	degrees Fahrenheit
FOG	Fats, Oils and Grease
FSE	Food Service Establishment
gpd	gallons per day
GCD	Grease Control Device
GGI	Gravity Grease Interceptor
IU	Industrial User
IWS	Industrial Waste Survey
mgd	million gallons per day
mg/L	milligrams per Liter
NAICS	North American Industry Classification System
O&G	Oil and Grease
O&M	Operation and Maintenance
THE PINERY	THE PINERY
PIA	Pretreatment Intergovernmental Agreement
PIF	Plant Investment Fee
POGS	Petroleum, Oil, Grease, and Sand
POTW	Publicly Owned Treatment Works

1.6 Manhole Covers:

No person shall open any sewer owned or controlled by The District without approval.

1.7 Prohibited Connections:

No person shall make, allow or cause to be made any connection to the POTW for the purpose of servicing property that lies outside the legal boundaries of a Connector.

1.8 Tap Authorizations:

1.8.1 All Industrial or Commercial sewer lines must have an appropriately sized, lockable gate valve installed prior to discharge commencement. This valve must be outside the building and shall be accessible to District personnel at all times.

1.8.2 Commercial, Government and Industrial.

1.8.2.1 New Industrial User connections to the POTW: The Industrial User shall obtain a Tap Authorization from THE PINERY before connecting to and/or discharging to the collection system.

1.8.2.2 Tap Authorization Applications: Industrial users shall submit to THE PINERY the following information to obtain approval to discharge:

- 1) Submit all plans, drawings, specifications, and methods of work, together with a completed Tap Application request to THE PINERY. All drawings submitted must be prepared and stamped by a licensed engineer.
- 2) Submit a completed and signed Industrial Waste Survey to THE PINERY. Forms are available from THE PINERY. THE PINERY will review and notify the Industrial User of any follow-up based on the contents of the Survey.
- 3) Any other data, information or fees as required by THE PINERY; and
- 4) Comply with industry-specific requirements:
 - a) Significant Industrial Users:
 - b) Food Service Facility (FSE)
 - c) Petroleum, Oil, Grease and Sand Facilities:
 - d) Other Industrial Users:

1.8.2.3 THE PINERY shall generally approve a tap authorization for the applicant if it finds that all the following conditions are met:

- 1) The applicant has submitted all required information and documents as required by The District in response to information provided by the applicant in the Industrial Waste Survey.
- 2) The proposed discharge would comply with these Rules and Regulations.



- 3) The POTW has the available hydraulic or loading capacity to accept such waste.
- 4) The proposed discharge would permit the normal and efficient operation of the POTW; and
- 5) The proposed discharge would not result in a violation by THE PINERY of the terms and conditions in its CDPS permit.

1.9 Tap Authorization Denial and Appeal.

- 1.9.1 In the event an application for a tap authorization is denied, THE PINERY shall notify the applicant in writing of such denial. Such notification shall state the grounds for denial with a degree of specificity, which will inform the applicant of the measures, or actions, which must be taken by the applicant prior to issuance of a tap authorization.
- 1.9.2 Upon notification of denial of a tap authorization, the applicant may follow the appeal procedure laid out in Part 1, Article 12 of these Rules and Regulations.

2 Connecting Jurisdictions

All Special Connector's Agreements shall be subject to THE PINERY Rules and Regulations.

2.1 Connector Responsibilities:

The provisions and requirements herein shall apply to all users, and each Connector shall have responsibility to enforce such provisions and requirements as to all users within its legal boundaries, in accordance with the following:

- 2.1.1 In the operation and protection of a Connector's sanitary sewer system and THE PINERY POTW, all applicable provisions of THE PINERY Rules and Regulations, and the CDPS discharge permit issued to THE PINERY shall be the minimum standards for the Connector's system. Each Connector shall abide by all applicable State and Federal laws, rules, regulations, standards or permits, including but not limited to those of the Environmental Protection Agency (EPA), the State of Colorado Department of Public Health and Environment, and the Denver Regional Council of Governments Clean Water Plan, as they are or become effective or implemented.
- 2.1.2 Connectors shall inform all users, contractors and subcontractors of such laws, standards, rules, and regulations upon inquiry from such persons, and shall not furnish any information inconsistent therewith. It shall be the responsibility of each Connector to obtain from the appropriate governing body the applicable requirements.

- 2.1.3 To the extent possible, the provisions of these Rules and Regulations shall be interpreted in such a way as to remain consistent with all applicable laws, standards, rules, regulations, and permits, including but not limited to those of the agencies or entities mentioned; provided however, that no provision or requirement of any other agency or entity shall be, by reason of this section 2, dispositive of any conflict or controversy between THE PINERY and such agency or entity, or binding upon THE PINERY except in accordance with applicable law or a valid agreement to which THE PINERY is a party, or which is a Prior Agreement as herein defined. In the event of a perceived conflict or inconsistency between these Rules and Regulations and other laws, standards, rules, regulations, permits, or agreements, the Board shall determine the proper interpretation of these Rules and Regulations, and the proper resolution of any such conflict or inconsistency.
- 2.1.4 Each Connector shall, at all times, properly maintain its sewer system and shall rectify any problems or conditions which have been determined by the Connector or THE PINERY to be detrimental to THE PINERY treatment process. Should THE PINERY determine that any discharge enters the sewer system contrary to governing laws, ordinances, statutes, rules, regulations, or permits, upon written notice of same, the Connector shall proceed at once, or as determined by THE PINERY, to take whatever lawful means may be necessary to rectify any such problem or condition.
- 2.1.5 Each Connector shall maintain, at its own expense, all of its collection system lines, or those collection system lines now owned and operated by a Connector, or within its legal boundaries, and THE PINERY assumes no responsibility should any of a Connector's lines become blocked, damaged, or require maintenance.
- 2.1.6 Any Connector shall refuse to serve a User or potential User, disconnect the service of a User pursuant to appropriate law, or take other appropriate action in the event of violation of or non-compliance by such User with these Rules and Regulations, rules, permits or regulations of THE PINERY.

2.2 Regulation of Industrial Users from Special Connectors.

The District may allow an Industrial User to discharge industrial wastewater into THE PINERY POTW if The District determines that it has available capacity, treatment capability and the legal authority to regulate and control such discharges. The District and Connector municipalities shall enter into a Pretreatment Intergovernmental Agreement (PIA) or similar agreement when industrial users discharge wastewater to the collection system. Such agreement shall affix responsibilities in an enforceable manner to ensure that The District Pretreatment Program is fully administered and enforced in all Connector jurisdictions and to ensure that The District has adequate legal authority to oversee implementation and enforcement of THE PINERY Rules and Regulations. THE PINERY also requires that the jurisdiction adopts adequate legal authority to ensure that emergency termination of a non-complying Industrial User discharge can be made.

2.3 Information Requirements

Prior to entering into the Pretreatment PIA, THE PINERY shall collect the following information from the connector district:

- 2.3.1 A description of the quality and volume of wastewater discharged to the POTW by the contributing jurisdiction.
- 2.3.2 An inventory of all industrial users located within the connector district that are discharged to THE PINERY POTW.
- 2.3.3 Other requirements as necessary for The District to guarantee the effective administration and enforcement of the Pretreatment Program.

2.4 PIA Requirements

A Pretreatment PIA under this Section shall, at a minimum, contain the following provisions:

- 2.4.1 A requirement for the connector to adopt a sewer use or pretreatment ordinance or rules which establish pretreatment standards and requirements at least as stringent as these Rules and Regulations, along with a requirement to revise such Rules and Regulations. Alternatively, the jurisdiction may adopt sewer use code or rules language that delegates all authority to THE PINERY to implement and enforce the pretreatment program for all industrial users located within THE PINERY Wastewater district.
- 2.4.2 A requirement for the connector to submit a revised Industrial User inventory on an annual basis, or more frequently if requested by THE PINERY.
- 2.4.3 A requirement for THE PINERY to provide an Industrial Waste Survey to all new Industrial User tap authorizations or for businesses that are obtaining building permits for construction.
- 2.4.4 A provision specifying which pretreatment implementation activities, including, but not limited to, issuing permits or other control mechanisms, conducting compliance inspections, sampling, and enforcement will be conducted by THE PINERY and which activities will be conducted by The Connector.
- 2.4.5 A provision ensuring THE PINERY access to the facilities of all industrial users within THE PINERY collection system for inspection, sampling, and to confirm that the pretreatment program is properly administered, and that industrial users are properly categorized; and
- 2.4.6 Provisions for addressing any breach of the terms of the Pretreatment Intergovernmental Agreement.

2.5 Existing pretreatment PIAs.

Existing pretreatment intergovernmental agreements that are not in compliance with the provisions of this Part shall be amended to conform or shall be superseded by a pretreatment PIA that conforms to the requirements of this Part.

2.6 Industrial Users with no PIA In-Place.

Until such time as THE PINERY and Connector enter into a PIA for pretreatment program responsibilities, THE PINERY shall have the option to exercise any of the following options:

- 2.6.1 Prohibit the discharge of non-domestic wastewater from an Industrial User located in The Connector that was not previously approved by THE PINERY or does not comply with these Rules and Regulations.
- 2.6.2 THE PINERY shall issue a permit or other control mechanism such as a BMP, to the Industrial User that is equivalent to all Pretreatment standards and requirements consistent with these Rules and Regulations.

3 High Waste Strength Cost Recovery

3.1 Industrial Waste Cost Formula:

If any water or wastes are discharged, or are proposed to be discharged to the POTW which contain the substances or possess the characteristics that exceed Normal Domestic Strength Wastewater and, in the judgment of the Pretreatment Manager may have a deleterious effect upon the collection works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, THE PINERY may also charge the following fees:

- 3.1.1 Require payment to cover the added cost of handling and treating the wastes considered as “industrial wastes”, by imposing the following formula:

$$SC = QM * 8.34 [UCo (AOD) + UCs (ASS)].$$

SC	surcharge in dollars and cents.
QM	volume of sewage in million gallons per year discharged to the public sewer
8.34	conversion factor; 1 gallon of water to pounds
UCo	unit charge for AOD (additional oxygen demand) in dollars per pound as calculated in THE PINERY current year rate model
AOD	(COD-normal COD Strength)
COD	chemical oxygen demand strength in milligrams per liter
UCs	unit charge for SS in dollars per pound as calculated in THE PINERY current year rate model
TSS	suspended solids strength in milligrams per liter

ASS	additional suspended solids = SS – normal SS strength
Normal SS Strength	prior calendar years annual influent average in milligrams per liter
Normal COD Strength	prior calendar years annual influent average in milligrams per liter

The application of the above formula provides for a surcharge for BOD₅, COD and for TSS. If the strength index of BOD₅, COD or SS is less than the established Normal Domestic Strength Wastewater that is being subtracted from it, then there shall be no surcharge for that category, nor shall there be a credit given to the total surcharge.

3.2 Industrial Cost Recovery (ICR):

Industries affected shall be those identified in the Standard Industrial Classification Manual, (SIC) 1987 as revised, Divisions A through I, with the specific exception of those industries which discharge only non-process, segregated domestic wastes, or wastes from sanitary conveniences. Significant industrial users shall be required to monitor their discharge in addition to any THE PINERY monitoring to determine strength levels. This shall be accomplished according to these Rules and Regulations. The results of sampling and analysis will be recorded, reported to the affected industry, and reported to regulatory agencies per their current directive. Adjustments to individual rates will be made as needed to reflect cost to treat a wastewater and administrative costs or whenever evidence is received that a major change in wastewater volume and/or characteristics has occurred. Payment will commence within one (1) year of the date of initiation of service.

4 Industrial Pretreatment Program

4.1 Applicability:

These Rules and Regulations of THE PINERY set forth uniform requirements for all Industrial Users that discharge domestic and/or non-domestic wastewater into the Publicly-Owned Treatment Works (POTW) and enables The District to comply with all applicable Federal and State laws, including the applicable sections of the General Pretreatment Rules and Regulations at 40 CFR Part 403, the Colorado Discharge Permit System (CDPS) Permit issued by the Colorado Department of Public Health and Environment (CDPHE). These Rules and Regulations shall apply to all industrial users connected to the POTW.

4.2 Discharge by Industrial Users:

If wastewaters containing any pollutant, including excess flow, or as otherwise defined in these Rules and Regulations, are discharged, have the potential to discharge in the opinion of the District Manager or proposed to be discharged to the POTW, the District Manager may take any action necessary to:

4.2.1 Prohibit the discharge of such wastewater.

- 4.2.2 Require an Industrial User to demonstrate that in-plant facility modifications will reduce or eliminate the discharge of such substances in conformity with these Rules and Regulations.
- 4.2.3 Require treatment, including storage facilities or flow equalization necessary to reduce or eliminate the potential for a discharge to violate these Rules and Regulations.
- 4.2.4 Require the Industrial User making, causing, or allowing the discharge to pay any additional cost or expense incurred by The District for handling, treating, disposing or remediation costs because of wastes discharged to the wastewater treatment system.
- 4.2.5 Require the Industrial User to apply for and obtain a permit, registration, certification, authorization to discharge or other control mechanism.
- 4.2.6 Require timely and factual reports from the Industrial User.
- 4.2.7 Sample and analyze any proposed or currently discharged wastewater from the Industrial User; or
- 4.2.8 Take other such actions as may be necessary to meet the objectives of these Rules and Regulations.

4.3 Wastewater Discharge Prohibitions and Limitations.

4.3.1 General Prohibitions.

No Industrial User shall introduce into the POTW any pollutant which causes Pass Through or Interference. These general prohibitions and the specific prohibitions in 4.3.2 of this Section apply to all industrial users of the POTW whether they are subject to a Pretreatment Standard, or any other national, state, or local Pretreatment Requirement.

4.3.2 Specific Prohibitions.

No Industrial User shall introduce or cause to be introduced into the POTW the following pollutants:

- 1) Any substance which, either alone or by interaction with other substances, creates a fire or explosive hazard in the POTW, including, but not limited to wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade) using the test method specified in 40 CFR Section 261.21. The District Manager may require Industrial Users with the potential to discharge flammable, combustible, or explosive substances to install and maintain an approved combustible gas detection meter or explosion hazard meter. No two (2) successive readings on an explosion hazard meter at the point of discharge shall be more than five percent (5%), nor any single reading more than ten percent (10%), of the Lower Explosive Limit (LEL) of the meter.
- 2) Wastewaters having a pH of less than 5.0 or greater than pH 12.5, or any wastewater capable of causing corrosive structural damage to the POTW unless the POTW is specifically designed to accommodate such discharges.
- 3) Solid or viscous pollutants in amounts which cause obstruction to the flow in the POTW resulting in Interference, including any solids greater than one-half inch (1/2") in any dimension.
- 4) Any pollutant, including oxygen-demanding pollutants (BOD, COD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW.
- 5) Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40 °C (104 °F) unless the District, upon request, approves alternate temperature limits.
- 6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin that will cause or contribute to Pass Through or Interference.
- 7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity which may cause acute worker health and safety problems or pollutants which singly or cumulatively or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent or interfere with entry into the sewers for their maintenance and repair.
- 8) Trucked or hauled pollutants, except at discharge points designated by The District and as authorized in writing by The District.
- 9) Wastewater which contains grease, oil, or any other substances that will solidify or become discernibly viscous at temperatures between thirty-two degrees (32°) Fahrenheit (0° Celsius) and one hundred fifty degrees (150°) Fahrenheit (65.5° Celsius).



- 10) Wastewater from food service facilities containing free or floating oil and grease, or any discharge containing animal fat or grease by-product more than two hundred milligrams per liter (200 mg/L). This limit will not apply if the Industrial User has installed an appropriately sized Gravity Grease Interceptor (GGI), is properly operating and maintaining the GGI, and implementing all required BMPs.
- 11) Wastewater generated because of waste pumped from GGIs, hydromechanical grease interceptors or grease traps, oil/water separators or other storage tanks or treatment units back into the POTW, either directly or indirectly, without written approval of the District Manager.
- 12) Wastewater which imparts color to the POTW's effluent such as, but not limited to, dye wastes and vegetable tanning solutions.
- 13) Wastewater containing any radioactive wastes or isotopes, except in compliance with applicable State and federal regulations.
- 14) Medical waste that causes or contributes to Pass Through or Interference or violates applicable federal or State standards.
- 15) Stormwater, surface water, groundwater, subsurface drainage, yard drainage, roof drain, condensate, deionized water, effluent from groundwater pump- and-treat systems and unpolluted water shall not be discharged through any direct or indirect connection to the municipal sanitary sewer system unless authorized in writing by The District.
- 16) Any substance that causes The District to violate its CDPS Permit or applicable Water Quality Standards.
- 17) Sludge, screenings, or other residues from the pretreatment of Industrial Wastes or industrial processes except as authorized by an Industrial Wastewater Discharge Permit, special approved discharge authorization or other control mechanism issued by The District.
- 18) A Slug Discharge as defined in 1.4.64.
- 19) Any substance which may cause the POTW's effluent or treatment residues, sludge, or sludge products produced for public distribution or scums, to be unsuitable for reclamation or reuse or which otherwise interferes with the reclamation process.
- 20) Any waste designated as hazardous under the provisions of 40 CFR Part 261 and 6 CCR 1007-3.

- 21) Any pesticides, herbicides or fungicides that cause or contribute to Pass Through, Interference, or other problems at the treatment works or in the receiving waters. In no case, shall an Industrial User discharge wastewater that is generated from the rinsing of any container that contains or contained any concentrated or formulated pesticide, herbicide, or fungicide.
- 22) No chemicals, materials, or substances, including but not limited to, paints, solvents, boiler or water treatment chemicals, sludges, chemicals, or wastes shall be stored in proximity to a floor drain or other sewer openings unless secondary containment is provided or there are physical barriers to entry to the wastewater collection system. The storage of any chemicals, materials, substances, or wastes that leak or have potential to leak or discharge into the POTW which may create an explosion hazard or in any way have a deleterious effect on the POTW or constitute a nuisance or a hazard to POTW personnel, the public, the environment, or the receiving stream shall be prohibited.
- 23) Bulk, expired, outdated, or concentrated prescription or non-prescription drugs.
- 24) Wastewater or pollutants discharged directly into a manhole or other opening to the POTW, unless specifically authorized in writing by The District or as otherwise specifically allowed under these Rules and Regulations. Opening of a manhole is otherwise prohibited.
- 25) Wastewater contaminated because of discharge from aboveground and/or underground gasoline, diesel fuels, fuel oil, kerosene, and jet fuel tanks, tank accessories, and/or pipelines without applying for and obtaining authorization prior to discharge.
- 26) Wastewater causing, alone or in conjunction with other sources, the POTW effluent to fail a Whole Effluent Toxicity (WET) test.
- 27) Detergents, surfactants and other surface-active agents, or other substances which may cause excessive foaming in the POTW or cause or contribute to Pass Through or Interference.
- 28) Discharge of Nonylphenol from the use of bulk or concentrated Nonylphenol containing detergents as employed by some industrial or commercial laundries, car washes, asphalt manufacturers, and other industrial users.
- 29) Discharge of any wastewater containing perchloroethylene (PCE) (also known as Tetrachloroethene and Tetrachloroethylene) from any Industrial User involved in the dry-cleaning business.
- 30) Discharge of any pollutant or pollutant property that interferes with UV transmittance or UV disinfection.



- 31) Hazardous waste pharmaceuticals or DEA controlled substances to the POTW by a healthcare facility or reverse distributor pursuant to 40 CFR Section 266.505 shall be prohibited.
- 32) Discharge from any Dental facility except in full compliance with these Rules and Regulations, 40 CFR Part 441, and have provided The District with a copy of all required reports submitted by the Dental facility to EPA or the CDPHE.

4.3.3 Dilution Prohibited.

Dilution is prohibited as a substitute for treatment and shall be a violation of these Rules and Regulations. Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no Industrial User shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial, or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard or Requirement. The District may impose mass limitations on Industrial Users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations is appropriate.

4.3.4 Maximum Allowable Industrial Load (MAIL).

The District may implement local limits through allocation of the MAIL to Significant Industrial Users and specific permitted non- Significant Industrial Users.

4.3.5 Most Stringent Limits.

The District Manager may establish more stringent pollutant limits, additional site-specific pollutant limits, Best Management Practices, or additional Pretreatment Requirements when, in the judgment of the District Manager, such limitations are necessary to implement the provisions of these Rules and Regulations.

4.4 Categorical Pretreatment Standards.

An Industrial User that is approved to discharge to the POTW and is a Categorical Industrial User as defined in Definitions, 1.4.8, shall notify EPA and CDPHE of their business activity pursuant to 40 CFR Section 403.12. The Industrial User shall copy The District on all communications from the EPA and CDPHE regarding any information, self-monitoring, or compliance with 40 CFR Part 403 or a Notice of Discharge Requirements issued by the EPA.

4.5 Pretreatment and Monitoring Facilities.

4.5.1 Treatment Required.

An Industrial User shall provide wastewater treatment required to comply with these Rules and Regulations and shall achieve compliance with all applicable federal, state, and local pretreatment standards and requirements within the time limitations specified by The District. Any pretreatment facilities necessary for compliance with these Rules and Regulations shall be provided, operated, and maintained at the Industrial User's expense and satisfy applicable requirements established by The District or The District building and plumbing codes. Unless waived by The District, such reports shall be prepared under the supervision of, and bear the seal of, a professional licensed engineer and submitted to The District for review. The review and acceptance of the engineering report, plans, specifications and operation and maintenance manual, shall in no way relieve the Industrial User from its obligation to comply with the provisions of these Rules and Regulations, including modification of its pretreatment facility as necessary to produce a discharge that complies with these Rules and Regulations.

4.5.2 Proper Operation and Maintenance.

The Industrial User shall always properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) by qualified personnel which are installed or used by the Industrial User. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by an Industrial User when the operation is necessary to achieve or assure compliance with an authorization to discharge and these Rules and Regulations. Calibration of meters and monitoring equipment shall be performed as required by manufacturers specification or The District.

4.5.3 Monitoring Facilities.

Industrial Users shall be required to monitor, analyze, and report as required by The District. The Industrial User shall install at its expense, a monitoring manhole or 4" cleanout on the discharge line to the municipal collection system. For some industrial users, The District may require suitable monitoring facilities or equipment that allows for the representative sampling and accurate observation of wastewater discharges. Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with The District requirements and all applicable construction standards and specifications. Monitoring equipment and structures shall be maintained in proper working order, calibrated as required by manufacturer's recommendations, and always kept safe and accessible to District personnel. The monitoring equipment shall be located and maintained on the Industrial User's premises outside of the building unless otherwise approved by The District.

When such a location would be impractical, The District may allow such facility to be constructed in the public street or easement area, with the approval of The District or other agency having jurisdiction over such street or easement and located so that it will not be obstructed by public utilities, landscaping, or parked vehicles. No Industrial User shall cover any manhole, sewer cleanout, or other openings in the wastewater collection system with earth, paving, or otherwise render it inaccessible.

4.5.4 Wastewater Discharge Control.

The District may require an Industrial User to restrict discharge during peak flow periods, designate that certain wastewater be discharged only into specified sewers, relocate and/or consolidate points of discharge, separate domestic wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and demonstrate the Industrial User's compliance with the requirements of these Rules and Regulations.

4.5.5 Flow Equalization.

The District may require any Industrial User discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A Control Mechanism may be issued solely for flow equalization.

4.5.6 Multitenant Buildings.

When more than one Industrial User can discharge into a common service line, The District may require installation of separate monitoring equipment, treatment, or structures for each Industrial User.

4.5.7 Safety and Access.

There shall be unobstructed, safe, and easy access to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and associated equipment shall be always maintained in a safe and proper operating condition by the user.

4.5.8 Flow, pH, LEL and other meters and equipment.

If The District determines an Industrial User is required to measure and report (a) wastewater flow, (b) discharge process wastewaters necessitating continuous pH measurement, or (c) discharge wastewater that may contain flammable substances or other pollutants of concern, The District may require the Industrial User to install and maintain, at the Industrial User's expense, approved meters, and equipment.



4.5.9 Tampering with metering devices prohibited.

No person shall install, change, bypass, adjust, remove, alter, or otherwise tamper with any metering device or any piping arrangement connected to a metering device to show the quantity of water used at or discharged from the facility is different than the actual quantity used or discharged.

4.6 Special Agreements and Contracts

No statement contained in these Rules and Regulations shall be construed as prohibiting special written agreements between The District and any Industrial User allowing industrial waste or wastewater of unusual strength or character to be discharged to the POTW, provided said Industrial User compensates The District for any additional costs of treatment or administration costs. Such agreement, however, shall not allow or cause:

- 1) Any adverse effect to the POTW.
- 2) A violation of the POTW CDPS permit.
- 3) A violation of a General or Specific Prohibition.
- 4) A Maximum Allowable Industrial Load (MAIL) to be exceeded; or
- 5) A violation of State or Federal law or regulation.

Application for a special approved discharge authorization shall be submitted at least ninety (90) days prior to the requested discharge date.

4.7 Right of Entry.

4.7.1 Whenever it shall be necessary for the purposes of these Rules and Regulations, The District may enter upon any Industrial User's property that has a sewer connection that discharges wastewater that enters THE PINERY POTW and shall have ready access to all parts of the premises subject to these Rules and Regulations for the purposes of:

- 4.7.1.1 Performing all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by Industrial User, compliance or noncompliance with applicable Pretreatment standards and requirements by an Industrial User. Compliance monitoring and inspection shall be conducted at a frequency as determined by The District and may be announced or unannounced.
- 4.7.1.2 Setting up on the Industrial User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the Industrial User's discharge.

- 4.7.1.3 Examining and copying any records required to be kept under the provisions of these Rules and Regulations or of any other local, State, or federal regulation.
- 4.7.1.4 The District may document and photograph any areas of the facility deemed necessary for carrying out the duties of The District Industrial Pretreatment Program including, but not limited to, documentation of the Industrial User's compliance status and for reinforcement of required written reports. The Industrial User shall be allowed to review copies of photographs for trade secret claims upon request.
- 4.7.1.5 Inspecting any monitoring equipment or method, pretreatment system equipment and/or operation.
- 4.7.1.6 Sampling any discharge of wastewater into POTW; and
- 4.7.1.7 Inspecting any production, manufacturing, fabricating or storage area where pollutants, regulated under these Rules and Regulations, could originate, be stored, or be discharged to the POTW.
- 4.7.2 The occupant of such property or premises shall render all proper assistance in such activities. Where an Industrial User has security measures in place which require proper identification and clearance before entry into its premises, the Industrial User shall make necessary arrangements with its security personnel so that authorized representatives of The District will be permitted to enter without delay to perform their specified functions.
- 4.7.3 The District Manager and other duly authorized agents and employees of The District are entitled to enter all Industrial User properties through which The District or any connecting jurisdiction holds an easement or similar access or occupancy right.
- 4.7.4 In the event The District or other duly authorized representative of The District is refused admission or unreasonably delayed, such refusal or delay is a violation of these Rules and Regulations and may result in enforcement action as allowed for under these Rules and Regulations including revocation of an authorization to discharge.
- 4.7.5 Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the Industrial User at the written or verbal request of the District Manager and shall not be replaced. The costs of clearing such access shall be borne by the Industrial User.

4.7.6 Disconnection; Enforcement Referral.

If The District is refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of these Rules and Regulations, that there is a need to inspect and/or sample as part of a routine/ nonroutine inspection and sampling program of The District designed to verify compliance with these Rules and Regulations or any permit, order or other control mechanism issued hereunder, or to protect the overall public health, safety and welfare of the community, the District Manager may shut off access to the collection system and/or refer the violation to appropriate enforcement jurisdictions.

4.8 Recordkeeping.

- 4.8.1 In addition to any recordkeeping requirements set forth in a Control Mechanism issued by The District, all industrial users subject to the reporting requirements of these Rules and Regulations and any reports required by EPA or the CDPHE shall retain and make available for inspection and copying, all records, reports, monitoring, calibration logs or other data, applications, permits, control mechanisms and all other information and documentation required by these Rules and Regulations, including documentation associated with Best Management Practices.
- 4.8.2 Industrial users shall retain such records and shall keep such records available for inspection for at least three (3) years. This recordkeeping period shall be extended automatically for the duration of any litigation concerning the Industrial User's compliance with any provision of these Rules and Regulations, or when the Industrial User has been specifically and expressly notified of a longer records retention period by the District Manager.
- 4.8.3 Written reports will be deemed to have been submitted on the postmarked date. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report by The District shall govern.

4.9 Confidentiality.

- 4.9.1 All records, reports, data, or other information supplied by any person or Industrial User because of any disclosure required by these Rules and Regulations or information and data from inspections shall be available for public inspection, except as otherwise provided in this Section and the Colorado Open Records Act (C.R.S. 24-72-201, *et seq.*).

- 4.9.2 These provisions shall not be applicable to any information designated as a trade secret by the person supplying such information. Materials designated as a trade secret may include, but shall not be limited to, processes, operations, style of work or apparatus or confidential commercial or statistical data. Any information and data submitted by the Industrial User which is desired to be considered a trade secret shall have the words "Confidential Business Information" stamped in a reasonably noticeable manner on each page containing such information. The Industrial User must demonstrate to the satisfaction of The District that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the Industrial User.
- 4.9.3 Information designated as a trade secret pursuant to this Section shall remain confidential and shall not be subject to public inspection. Such information shall be available only to officers, employees or authorized representatives of The District charged with implementing and enforcing the provisions of these Rules and Regulations and properly identified representatives of the U.S. Environmental Protection Agency and the Colorado Department of Public Health and Environment.
- 4.9.4 Effluent data from any Industrial User, whether obtained by self-monitoring, monitoring by The District, or monitoring by any state or federal agency, shall not be considered a trade secret or otherwise confidential. All such effluent data shall be available for public inspection.

4.10 Sample Collection and Analytical Methods.

4.10.1 Sample Collection.

Compliance determinations with respect to prohibitions and limitations in these Rules and Regulations may be made based on either grab or composite samples of wastewater as specified by The District. Such samples shall be taken at a point or points which The District determines to be suitable for obtaining a representative sample of the discharge. Composite samples may be taken over a twenty-four (24) hour period, or over a longer or shorter time span, as determined by The District to meet specific circumstances.

4.10.2 Sample Type.

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report and based on data that is representative of conditions occurring during the reporting period.

4.10.2.1 Except as indicated in 4.10.2.2, below, the Industrial User must collect representative wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is required by The District. Where time-proportional composite sampling or grab sampling is authorized by The District, the samples must be representative of the facility operations and discharge.

4.10.2.2 Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and applicable EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composited samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by The District, as appropriate. In addition, grab samples may be required to show compliance with instantaneous discharge limits, including pH.

4.10.3 Analytical Requirements

All pollutant analysis required under these Rules and Regulations shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by The District or other parties approved by the EPA.

4.10.4 Records for all Samples.

The Industrial User shall include the following information in reports:

- 1) The date, exact place, method, and time of sampling and the name of the person(s) taking the samples.
- 2) The date(s) and time analyses were performed.
- 3) The name of the person performing the analyses.
- 4) The analytical techniques/methods used, including method detection limits and QA/QC sample results.

- 5) All chain-of-custody records; and
- 6) The results of such analyses.

4.11 Reporting and Notification Requirements.

4.11.1 Periodic Compliance Reports (PCR).

4.11.1.1 A PCR shall be submitted to The District as required by a Control Mechanism. All PCRs must be signed and certified in accordance with 4.11.6, herein. Sampling and analysis that is conducted by the Industrial User at the designated sampling location using the procedures specified in 4.10, herein, more frequently than is required by the Control Mechanism shall be included in the report.

4.11.1.2 The District may agree to perform sampling and analysis in lieu of the Industrial User for certain pollutant parameters. If The District agrees to perform such sampling and analysis, The District may charge the Industrial User for such activities based upon the costs incurred by The District for the sampling and analyses, including personnel time. Any such charges shall be invoiced to the Industrial User.

4.11.2 24 Hour Notice and 30-Day Re-sampling.

If sampling performed by an Industrial User indicates a violation of these Rules and Regulations or Control Mechanism, the Industrial User shall notify the POTW within twenty-four (24) hours of becoming aware of the violation. The Industrial User shall also repeat the sampling and analysis and submit the results of the repeat analysis to The District within thirty (30) days after becoming aware of the violation. The Industrial User is not required to resample if The District performs sampling at the Industrial User's facility between the time when the Industrial User performs its initial sampling and the time when the Industrial User receives the results of this sampling. It is the sole responsibility of the Industrial User to verify if The District has performed this sampling.

4.11.3 Slug and Spill Discharges- Notification and Plan Development.

4.11.3.1 Each Industrial User shall provide protection from spills and slug discharges of pollutants regulated under these Rules and Regulations. Facilities and equipment to prevent the discharge of spills or slug discharges shall be provided and maintained at the Industrial User's expense.

4.11.3.2 The District may require any Industrial User to develop, submit for approval, and implement a Slug/Spill Control Plan or take such other action that may be necessary to control spills and slug discharges.



4.11.3.3 A Slug/Spill Control Plan shall address, at a minimum, the following:

- 1) Detailed plans (schematics) showing facility layout and plumbing representative of operating procedures.
- 2) Description of contents and volumes of any process tanks.
- 3) Description of discharge practices, including non-routine batch discharges.
- 4) Listing of stored chemicals, including location and volumes.
- 5) Procedures for immediately notifying The District of any spill or Slug Discharge.
- 6) Procedures to prevent adverse impact from any accidental spill or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling, and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response; and
- 7) Any other information as required by The District.

4.11.3.4 The Industrial User shall immediately contact The District when a change occurs at its facility affecting the potential for a Slug Discharge. The Industrial User shall follow-up on this immediate notification with a written, detailed report outlining the changes that were identified and how the Industrial User will prevent Slug Discharges to the POTW.

4.11.3.5 Notice to employees. A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees who to call in the event of a spill or slug discharge. Employers shall ensure that all employees who work in any area where a spill or slug discharge may occur or originate are advised of the emergency notification procedures.

4.11.4 Reports of Spill or Slug Discharges.

4.11.4.1 In the case of any spill or Slug Load, the Industrial User shall immediately telephone and notify The District of the incident. The Industrial User shall be deemed to have notified The District "immediately" if such notice is received by The District within thirty (30) minutes after the accidental discharge was first discovered. This notification shall include:

- 1) Name of the facility.



- 2) Location of the facility.
- 3) Name of the caller.
- 4) Date and time of discharge.
- 5) Date and time discharge was halted.
- 6) Location of the discharge.
- 7) Estimated volume of discharge.
- 8) Estimated concentration of pollutants in discharge.
- 9) Corrective actions taken to halt the discharge; and
- 10) Method of disposal if applicable.

4.11.4.2 Within five (5) working days following such discharge, the Industrial User shall, unless expressly waived by The District, submit a detailed written report that includes all the information contained in 4.11.4.1, above, and any other information describing the cause(s) of the discharge and the measures to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which might be incurred because of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the Industrial User of any fines, penalties, or other liability which may be imposed pursuant to these Rules and Regulations.

4.11.5 Reports for Other Industrial Users.

If The District deems it necessary to assure compliance with provisions of these Rules and Regulations, any Industrial User of the POTW may be required to submit an application, survey, questionnaire, report, BMP implementation activities, or other reports and notifications in a format and timeframe as specified by The District.

4.11.6 Signatory Certification.

All reports and other submittals required to be submitted to The District shall include the following statement and signatory requirements.

- 4.11.6.1 The Authorized Representative of the Industrial User signing any application, survey, questionnaire, any report, or other information required to be submitted to The District must sign and attach the following certification statement with each such report or information submitted to The District.

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

- 4.11.6.2 If the Authorized Representative is no longer accurate, a new authorization satisfying the requirements of this Section and meeting the definition in 1.4.4 must be submitted to The District prior to or together with any reports to be signed by an Authorized Representative.

4.11.7 Notification of Change in Discharge or Operations.

- 4.11.7.1 Every Industrial User that is regulated by a Control Mechanism issued by The District shall file a written notification with The District a minimum of thirty (30) days prior to any significant change either in the volume or character of pollutants in its discharge, or a change in any manufacturing process or pretreatment modifications that may alter the volume or character of pollutants in its wastewater discharge. A significant change shall be a change equal to or greater than twenty percent (20%) in the mass of a pollutant or volume of flow discharged to the POTW. For purposes of this subsection, an Industrial User becomes aware when it knows, or reasonably should have known, of the facts giving rise to a reporting obligation.
- 4.11.7.2 The District may require an Industrial User to submit information needed to evaluate the changed discharge. The District may issue, reissue, or modify a Control Mechanism in response to the required notice pursuant to this Section.
- 4.11.7.3 Known or anticipated facility closure. An Industrial User shall notify The District at least thirty (30) days prior to facility shutdown or closure which might alter the character, nature, quality, or volume of its wastewater.



4.11.8 Notification of the Discharge of Hazardous Waste.

4.11.8.1 The discharge of hazardous waste to The District sewer system or THE PINERY POTW is prohibited. An Industrial User shall notify The District, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261 or Colorado Department of Public Health and Environment Rules and Standards for Hazardous Wastes. Such notification to The District shall be made immediately of becoming aware of the discharge.

Such notification must include:

- 1) The name of the hazardous waste as set forth at 40 CFR Part 261 and 6 CCR 1007-3.
- 2) The EPA hazardous waste number.
- 3) The type of discharge (continuous, batch, or other).
- 4) An identification of the hazardous constituents contained in the wastes.
- 5) An estimation of the mass and concentration of such constituents in the discharged.
- 6) Certification that the Industrial User halted all discharge and instituted measures to prevent any future discharge; and
- 7) Signatory certification as required by 4.11.6 herein.

4.11.8.2 The Industrial User shall provide notifications to EPA and the CDPHE as required in 40 CFR Section 403.12(p).

4.11.8.3 This provision does not create a right to discharge any pollutant or pollutant property not otherwise allowed to be discharged pursuant to these Rules and Regulations.

4.11.9 Requests for Information.

An Industrial User shall furnish The District, within the timeframe set by the District Manager, any information which The District may request to determine whether cause exists for issuing, modifying, revoking, and reissuing, or terminating a Control Mechanism; or to determine compliance with these Rules and Regulations.

4.12 Significant Industrial User (SIU) Permitting Requirements

4.12.1 The District will issue a permit to an Industrial User that meets the definition of a Significant Industrial User (SIU). A new SIU shall apply for a permit at least ninety (90) days prior to discharge and existing SIUs shall reapply for a permit at least ninety (90) days prior to expiration of the current Industrial Wastewater Discharge Permit. An existing SIU that has filed a timely and complete Industrial Wastewater Discharge Permit application in accordance with these Rules and Regulations may continue to discharge if authorized by The District. An Industrial Wastewater Discharge Permit shall be issued for a specified time not to exceed five (5) years.

4.12.2 Industrial Wastewater Discharge Permit application forms are provided by The District and contain the information specified in 4.12.3 below. An Industrial Wastewater Discharge Permit application containing incomplete or inaccurate information will not be processed and will be returned to the Industrial User. The District may issue an Industrial Wastewater Discharge Permit at any time after receipt of the completed Industrial Wastewater Discharge Permit application.

4.12.3 Industrial Wastewater Discharge Permit Application Contents:

- 1) Name of business, address of the facility, location of the discharge if different from the facility address, and contact information for the owner, operator, and the Authorized Representative of the Industrial User.
- 2) Description of Operations.
- 3) The Standard Industrial Classification(s) (SIC Rules and Regulations) and/or NAICS Rules and Regulations of the operation(s) carried out by such Industrial User.
- 4) A schematic process diagram showing each process step, wastestream, treatment step, internal recycling process, facility drains and points of discharge to the POTW. A listing of all non-domestic process streams and the type(s) of wastes generated from each process.
- 5) A list of all raw materials and chemicals used or stored at the facility.
- 6) Number of employees and hours of operation.
- 7) Information showing the total average daily and maximum daily flow, in gallons per day, to the POTW from all wastestreams.
- 8) SIUs shall measure the effluent for all pollutants specified by The District. The sample shall be representative of daily operations and shall be collected and analyzed in accordance with procedures set forth in 40 CFR 136.
- 9) A list of hazardous waste(s) generated.

10) Slug Discharge Control Plan where required by The District.

11) Signatory Certification. All Industrial Wastewater Discharge Permit applications, certification statements, and other reports submitted to The District must be signed by the Authorized Representative of the Industrial User and contain the applicable certification statement in 4.11.6 herein.

12) Any other information as may be deemed by the District Manager to be necessary to evaluate the permit application.

4.12.4 Administrative Industrial Wastewater Discharge Permit Appeals.

4.12.4.1 Any Industrial User may file an appeal to reconsider the terms of an Industrial Wastewater Discharge Permit or appeal an Industrial Wastewater Discharge Permit denial by The District. An administrative appeal not submitted within the time period discussed in 4.12.4.2 shall not be considered and will be denied for lack of timeliness. The effectiveness of the wastewater discharge permit shall not be stayed pending an appeal.

4.12.4.2 An Industrial User must file a written appeal request to the District Manager to reconsider a permitting action or decision by The District within ten (10) days of such action by The District. The Industrial User shall set forth in detail the facts that support the Industrial User's request for reconsideration. Such facts must include a statement that sets forth any newly discovered relevant fact that was not known or was unavailable to the Industrial User at the time of The District action. Further information on the appeal procedure laid out in Part 1, Article 12 of these Rules and Regulations.

4.12.5 Transferability.

An Industrial Wastewater Discharge Permit is issued to a specific Industrial User for a specific operation. An Industrial Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new Industrial User, different premises, or a new or changed operation.

4.12.6 Industrial Wastewater Discharge Permits may contain the following:

- 1) A statement that indicates the Industrial Wastewater Discharge Permit's issuance date, expiration date and effective date and permit reapplication requirements.
- 2) The legal name and trade name, if any, of the user and the address of its corporate offices and a requirement to notify The District at least 30 days prior to a change of the legal name of the permittee.



- 3) The name and contact information of the Duly Authorized Representative of the Industrial User, the mailing address at which such representative may receive notice(s) from The District, and the name and contact information for the facility manager, if different than the Duly Authorized Representative.
- 4) A statement on Industrial Wastewater Discharge Permit transferability.
- 5) Effluent limits and Best Management Practices as necessary to implement these Rules and Regulations.
- 6) Self-monitoring, sampling, reporting, notification, and record-keeping requirements including, but not limited to, identification of the pollutants or BMPs to be monitored, sampling location, sampling frequency and sample type, 24-hour notice of non-compliance and other applicable Pretreatment requirements based on federal, state, and local law. Statements of applicable enforcement remedies and administrative, civil, and criminal penalties for the violation of a permit or authorization, these Rules and Regulations, and any applicable compliance schedule.
- 7) Requirements to immediately notify The District of any changes at its facility affecting potential for a Slug Discharge and for the Industrial User to immediately report any slug discharges, spills, or accidental discharges, including any discharges that may cause problems at the POTW.
- 8) Applicable schedule of user charges and fees for the wastewater to be discharged into a public sewer.
- 9) Limits on average and maximum rate and time of discharge or requirements for flow equalization.
- 10) Requirements for installation of and maintenance of inspection and sampling facilities and equipment.
- 11) Compliance Schedules.
- 12) Requirements to develop and implement waste minimization plans to reduce the mass of pollutants discharged to the POTW.
- 13) Closure requirements for permitted facilities undergoing partial or complete closure activities to ensure closure activities are completed and wastes have been properly disposed of and remaining access to sanitary and storm sewers are protected.
- 14) Other conditions as deemed appropriate by the District Manager to ensure compliance with all applicable local, state, and federal rules and regulations.

4.12.7 The District may modify an Industrial Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

- 1) To incorporate any new or revised federal, state, or local Pretreatment standards or requirements or to reflect changes in applicable State or federal Standards.
- 2) To address significant alterations or additions to the Industrial User's operation, processes, or wastewater volume or character since the time of the Industrial Wastewater Discharge Permit issuance.
- 3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- 4) Information indicating that the permitted discharge poses a threat to the POTW, District personnel, or the receiving waters.
- 5) Violation of any terms or conditions of the Industrial Wastewater Discharge Permit.
- 6) Misrepresentations or failure to fully disclose all relevant facts in the Industrial Wastewater Discharge Permit application or in any required reporting.
- 7) To correct typographical or other errors in the Industrial Wastewater Discharge Permit; or
- 8) Upon request of the Permittee, provided such request does not result in a violation of any applicable Pretreatment standards or requirements, or these Rules and Regulations.

4.12.8 The District may revoke an Industrial Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

- 1) Failure of an Industrial User to accurately disclose or report the wastewater constituents and characteristics of any discharge.
- 2) Failure of the Industrial User to report significant changes in operations or wastewater constituents and characteristics as required.
- 3) Refusal of access to the Industrial User's premises for the purpose of inspection or monitoring.
- 4) Falsification of records, reports or monitoring results.
- 5) Tampering with monitoring methods or equipment.
- 6) Failure to submit, misrepresentation, or failure to fully disclose all relevant facts in the Industrial Wastewater Discharge Permit application.

- 7) Failure to pay fines or penalties.
- 8) Failure to pay sewer charges, surcharges, or pretreatment programs fees.
- 9) Failure to meet compliance schedules.
- 10) Failure to provide required reports, including but not limited to a questionnaire, survey, information request, permit application, self-monitoring report or other required reports or notifications within the timeframe required by The District.
- 11) Invoking of THE PINERY emergency authority as cited in 4.15.4.9, herein.
- 12) Closure of the facility or failure of the Industrial User to commence discharge within one hundred and eighty (180) days after the effective date of the Industrial Wastewater Discharge Permit; or
- 13) Violation of any terms of the Industrial Wastewater Discharge Permit or these Rules and Regulations.

4.13 Other Industrial Users.

The District may require other Industrial Users to apply for and obtain an Industrial Wastewater Discharge Permit or other Control Mechanism to carry out the purposes of these Rules and Regulations.

4.14 Enforceability.

Failure to apply for or obtain a Control Mechanism prior to discharge is a violation of these Rules and Regulations and subject the Industrial User to enforcement by The District. Obtaining a Control Mechanism from The District does not relieve a discharger of its obligation to comply with all local, State, and federal pretreatment standards or requirements.

4.15 Compliance and Enforcement.

4.15.1 Enforcement Response Plan.

The District may adopt enforcement policies and procedures set forth in The District Pretreatment Enforcement Response Plan for carrying out the provisions of these Regulations.

4.15.2 Publication by EPA or State of Industrial Users in Significant Noncompliance.

If EPA or the State publishes any Industrial User as meeting the definition of Significant Noncompliance (SNC), the Industrial User shall provide a copy of the determination or publication to The District within thirty (30) days of such publication or determination.

4.15.3 The District may deem an industry to be in Significant Noncompliance under one or more of the following conditions:

- a) Any other violation(s) of a Pretreatment Standard or Requirement, including daily maximum, long-term average, instantaneous limit, or narrative standard, that The District determines to have caused, alone or in combination with other Discharges, Pass Through and/or Interference including endangering the health of the general public or the health of POTW personnel;
- b) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in The District exercising its emergency authority to halt or prevent such discharge;
- c) Failure to accurately report non-compliance; or
- d) Any other violation or group of violations, which may include a violation of Best Management Practices, which The District determines will adversely affect the operation or implementation of The District Rules and Regulations.

4.15.4 Administrative Enforcement.

The District may take one or more of the following actions. Nothing herein shall be construed to limit the ability of The District to exercise its emergency authority to halt or prevent discharge as to protect the public health and welfare. Furthermore, nothing herein shall be construed to require the District to proceed with any of the following administrative enforcement actions in any certain order. The District may take any, all, or a combination of the enforcement actions. The enforcement actions and responses are typically implemented according to an escalating enforcement approach. However, a higher level of response may be the first response if warranted by the violation. Assessing the response level and associated penalties, if applicable, will be based on the guidance provided in the Enforcement Response Plan and the best professional judgment of the IPP.

4.15.4.1 Verbal Notification (VN).

When the District finds a User has committed a minor isolated violation, The District may notify the User informally through a phone call, in person or by email. Verbal notifications related to enforcement, or the investigation of suspected violations are documented in writing and placed in the respective Industrial User file.

4.15.4.2 Warning Letter (WL).

When The District finds a User has committed a minor isolated violation of any provision of this Chapter or an Industrial Wastewater Permit, the District may serve upon the User a written warning letter. Warning letters may be issued as follow-up correspondence to verbal notifications or in lieu of verbal notifications.

4.15.4.3 Notice of Non-Compliance (NON).

When The District finds a User has violated requirements of a Sector Control Program, The District may serve upon the User a written notice of non-compliance containing corrective actions and a schedule for completing the corrective action in accordance with the Sector Control Program Policy.

4.15.4.4 Notice of Violation (NOV).

Whenever the District Manager finds that an Industrial User has violated or continues to violate, any provision of these Rules and Regulations, a Control Mechanism, or any other Pretreatment Standard or Requirement, the District Manager may serve upon such Industrial User a written Notice of Violation. Any notification required herein shall be served either personally, by email or certified mail. Within five (5) working days of the receipt of such notice, an explanation of the violation and a plan for satisfactory correction and prevention of further violations shall be submitted to the District Manager. Submission of such a plan in no way relieves the Industrial User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the District Manager to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

4.15.4.5 Administrative Order.

When The District finds that an Industrial User has violated, or continues to violate, any provision of these Rules and Regulations, a Control Mechanism or any other Pretreatment Standard or Requirement, The District may issue an Administrative Order to the Industrial User responsible for the discharge directing that the Industrial User come into compliance within a specific time. If the Industrial User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Administrative orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the mass of pollutants discharged to the POTW. An Administrative Order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the Industrial User of liability for any violation, including any continuing violation.

Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the industrial user.

4.15.4.6 Consent Order.

The District may enter into a Consent Order, assurances of voluntary compliance, or other similar documents establishing an agreement with any Industrial User responsible for noncompliance. Such documents shall include specific actions to be taken by the Industrial user to correct the noncompliance within a time period specified by the document. A Consent Order may include penalties, supplemental environmental projects, or other conditions and requirements as agreed to by The District and the Industrial User. A Consent Order shall have the same force and effect as an Administrative Order and shall be judicially enforceable.

4.15.4.7 Appeal process

An Industrial User must file a written appeal request to the District Manager to reconsider a permitting action or decision by The District within ten (10) days of such action by The District. The Industrial User shall set forth in detail the facts that support the Industrial User's request for reconsideration. Such facts must include a statement that sets forth any newly discovered relevant fact that was not known or was unavailable to the Industrial User at the time of The District action. Further information on the appeal procedure laid out in Part 1, Article 12 of these Rules and Regulations.

4.15.4.8 Administrative Fines.

- 1) When the District Manager finds that an Industrial User has violated, or continues to violate, any provision of these Rules and Regulations, a Control Mechanism, order issued hereunder, or any other Pretreatment Standard or Requirement, the District Manager may fine such Industrial User in the amount set forth in the District Rates and Fees Schedule as the base, and may assess additional fines using the formula found in the Enforcement Response Plan. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. The District may add the actual costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- 2) Unpaid charges, fines, and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of twenty-five percent (25%) of the unpaid balance. Interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the Industrial User's property will be sought for unpaid charges, fines, and penalties. The failure to pay a penalty may be the basis for revocation of a Control Mechanism issued by The District.

- 3) Industrial Users that dispute such fines must file a written request for The District to reconsider the fine along with full payment of the fine amount within ten (10) days of being notified of the fine, as required by the procedure laid out in Part 1, Article 12 of these Rules and Regulations. Where a request has merit, The District may convene a hearing on the matter. In the event the Industrial User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the Industrial User.
- 4) Issuance of an administrative fine shall not be a bar against, limitation, or a prerequisite for taking any other action against the Industrial User.

4.15.4.9 Emergency Suspension of Service.

- 1) Endangerment to POTW, Environment, Health or Welfare of the Community: In accordance with the individual agreements between the connecting municipalities water service and/or wastewater service may be suspended when such suspension is necessary, in the opinion of the District Manager or the Connecting Municipality in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW, or causes the POTW to violate any condition of its CDPS permit.
- 2) Any person notified of a suspension of the water and/or wastewater treatment service or a Control Mechanism issued by The District shall immediately stop or eliminate the discharge of wastewater to the POTW. In the event of a failure of the person to comply voluntarily with the suspension order, The District and/or Connector shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to individuals or the environment. The Connector in which the non-complying user is located shall give full support and as requested by The District. The District may reinstate a Control Mechanism, water service and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge.
- 3) A detailed written statement submitted by the Industrial User describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be provided to The District and The Special Connector, if applicable, within five (5) days of the date of occurrence.



- 4) The Industrial User shall pay all POTW costs and expenses for any such suspension and restoration of service and other costs associated with The District or The District's actions.
- 5) Suspension of Service shall not be a bar against, or a prerequisite for, taking any other action against the Industrial User.

4.15.4.10 Revocation of a Control Mechanism Authorizing Discharge.

- 1) A violation of the conditions of these Rules and Regulations, a Control Mechanism, or order shall be reason for revocation of a Control Mechanism authorizing discharge. Upon revocation of the Control Mechanism, any wastewater discharge from the affected Industrial User shall be considered prohibited and discharge of such wastewater in violation of these Rules and Regulations.
- 2) Any Industrial User whose Control Mechanism to discharge is revoked or who is served with a notice of an intended order for the revocation of the Industrial User's authorization to discharge may file with the District Manager a request for a hearing with respect thereto. The filing of a request for a hearing shall not stay the existing or proposed suspension.
- 3) If a hearing is requested with respect to an existing or proposed suspension or revocation, other than the suspension of service because of an action taken by The District under 4.15.4.9. herein, the District Manager shall hold a hearing following the process in 4.15.4.7., herein.

4.15.5 Judicial Enforcement Remedies.

4.15.5.1 Injunctive Relief.

- 1) When The District finds that an Industrial User has violated, or continues to violate, any provision of these Rules and Regulations, a Control Mechanism, or any other Pretreatment Standard or Requirement, The District may petition a court of competent jurisdiction for the issuance of a temporary or permanent injunction, as appropriate.
- 2) The District may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the Industrial User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against an Industrial User.

4.15.5.2 Civil Penalties.

- 1) An Industrial User who has violated, or continues to violate, any provision of these Rules and Regulations, a Control Mechanism, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to The District for a maximum civil penalty not to exceed one thousand dollars (\$1,000) per day per violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation(s).
- 2) The District may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling, and monitoring expenses, and the cost of any actual damages incurred by The District.
- 3) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against an Industrial User.

4.15.5.3 Civil/Administrative Fine Pass Through.

If an Industrial User discharges such pollutants which causes The District to violate any condition of its CDPS Permit and The District is fined by the EPA or the State for such violation, then such Industrial User shall be fully liable for the total amount of the fine assessed against The District by the EPA and/or the State.

4.15.5.4 Civil Liability for Expenses.

Any Industrial User violating the provisions herein shall be liable for any expense, loss or damage caused to The District by reason of such violation, including the increased costs, if any, for managing effluent and/or sludge, when such increases are the result of the user's discharge of toxic pollutants. The District shall add such charge to the discharger's treatment charge. The District shall have all statutory lien and assessment rights as conferred by law.

4.15.5.5 Criminal Penalties.

The District may refer violations that may warrant criminal prosecution to the U.S. Attorney General's Office, State Attorney General, EPA Criminal Investigation Division, or other appropriate agency. This referral shall not preclude The District from taking a parallel administrative or civil enforcement action.



4.15.6 Affirmative Defenses to Discharge Violations.

4.15.6.1 Prohibited Discharge Standards.

A User shall have an affirmative defense to an enforcement action brought against it for non-compliance with the general and specific prohibitions in 4.3 if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause interference or pass-through and that either:

- 1) A local limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the interference or pass-through; or
- 2) No local limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when The District was regularly in compliance with its CDPS permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements; or
- 3) The User disclosed the pollutants causing the violation in the wastewater permit application.

4.15.6.2 Bypass.

- 1) For the purposes of this Section, Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- 2) A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4).
- 3) Bypass Notifications.
 - a) If a User knows in advance of the need for a bypass, it shall submit prior notice to The District, at least ten (10) days before the date of the bypass, if possible.

- b) A User shall submit oral notice to The District of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The District may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- 4) Bypass is prohibited, and The District may take an enforcement action against a User for a bypass, unless:
 - a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c) The User submitted notices as required under paragraph (3).
- 5) The District may approve an anticipated bypass, after considering its adverse effects, if The District determines that it will meet the three conditions listed in paragraph (4).

4.16 Severability.

In the case that any part, provision, or representation of these Rules and Regulations is held invalid, illegal, unconstitutional, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not be in any way affected or impaired thereby and such part, provision, or representation shall be ineffective only to the extent of such invalidity, illegality, or unenforceability.

4.17 Non-Exclusive Remedies.

The remedies provided for in these Rules and Regulations are not exclusive of any other remedies that The District may have under Federal, State, or local law. The District may take any, all, or any combination of actions described in these Rules and Regulations against an Industrial User who violates these Rules and Regulations. The District may seek damages from any Industrial User who discharges or causes to be discharged to the POTW, any pollutant that causes damage or detrimental effects on the POTW or otherwise causes The District to expend resources to respond to such discharge. Furthermore, The District may pursue any other available remedies that exist in law or equity against an Industrial User that violates these Rules and Regulations.

4.18 No Damages for Failure to Enforce:

The purposes and provisions of these Rules and Regulations are for the exclusive benefit of The District. Nothing herein shall create any right to damages against The District, its directors, officers, agents, or employees for The District's failure to enforce these Rules and Regulations.

5 Sector Control Programs

5.1 General Requirements.

5.1.1 Authority.

- 5.1.1.1 The District may establish specific Sector Control programs for industrial users to control pollutants as necessary to meet the objectives of these Rules and Regulations. Pollutants subject to these Sector Control programs shall generally be controlled using Best Management Practices (BMPs) and specific pollutant limits where appropriate.
- 5.1.1.2 The District may implement these Sector Control programs through a Control Mechanism or by directly enforcing these Rules and Regulations. The Industrial User shall apply for and obtain all required tap authorizations and control mechanisms as required. All industrial users that are covered by these Sector Control programs shall comply with this Part and the Rules and Regulations, whether individually notified by The District to do so.
- 5.1.1.3 No Industrial User shall discharge or cause to be discharged any wastewater that violates any General or Specific Prohibitions listed in 4.3

5.1.2 Notification to The District by the Industrial User and Management Review.

The District shall review new construction and existing facilities undergoing any physical change, change in ownership, change in operations, or other changes that could change the nature, properties, or volume of wastewater discharge, to ensure that current Sector Control Program requirements are incorporated and implemented.

The Industrial User shall inform The District prior to:

- 1) Sale or transfer of ownership of the business.
- 2) Change in the trade name under which the business is operated.
- 3) Change in the nature of the services provided that affect the potential to discharge Sector Control Program pollutants.
- 4) Construction of a new building; or
- 5) Remodeling of the facility that may result in an increase in flow, pollutant loading, requires the facility to submit plans or specifications for approval through a building or zoning department, or any other formal approval process of a city, county, or other jurisdiction.

5.1.3 Inspections.

5.1.3.1 The District may conduct inspections of any Industrial User with or without notice for determining applicability and/or compliance with Sector Control programs and these Rules and Regulations. Inspection results will be provided in writing to the facility.

5.1.3.2 If any inspection reveals non-compliance with any provision of a Sector Control Program requirement, corrective action shall be required.

5.1.4 Closure.

The District may require closure of plumbing, treatment devices, storage components, containments, or other such physical structures that are no longer required for their intended purpose. Closure may include the removal of equipment, the filling in and/or cementing, capping, plugging, etc.

5.1.5 Enforcement and Compliance.

5.1.5.1 These Sector Control Program requirements form a part of these Rules and Regulations and enforcement for violations are outlined in 4.15.

5.1.5.2 Any costs incurred by The District due to Interference, damage, Pass Through, or additional maintenance necessary to treat regulated wastes shall be paid by the Industrial User to The District. The direct costs of all labor, equipment and materials incurred in rectifying the Interference or damage, including reasonable attorney's fees, shall be billed directly to the owner or the Industrial User by The District, and such costs shall become part of the total charges due and owing to The District and shall constitute a lien on the Industrial User until paid in full.

5.1.6 Biological or enzyme treatment.

Biological treatment or enzyme treatment shall not be a substitute for the servicing of a lift station and/or GGI. Use of enzymes or other chemical or biological treatment or product that emulsifies or acts to emulsify FOG is prohibited.

5.2 Best Management Practices (BMPs) for Food Service Establishment (FSEs).

5.2.1 Applicability.

These BMPs apply to FSEs that have a sewer connection to THE PINERY POTW.

5.2.2 Responsibility of the User.

It shall be the responsibility of the FSE and/or owner of the property to contact The District for obtaining necessary permits for the installation of a grease removal device or any modifications to the facility's plumbing. Written approval from The District must be obtained prior to installation of the GGI as required. The time of review and approval of such permits shall in no way relieve the FSE from the responsibility of producing a discharge acceptable to The District under the provisions of these Rules and Regulations.

5.2.3 Registration Permit:

As a part of the Tap Authorization process, a Food Service Establishment shall be required to adhere to a Best Management Practices (BMPs) from The District. These BMPs establish requirements for all Food Service Establishments (FSEs) The District determines that has the potential to discharge floatable or settleable material.

5.2.4 When to Reapply for a Registration Permit:

A FSE shall submit a Tap Authorization as required in 1.8.

5.2.5 Changes to be reported:

The FSE shall notify The District and the Special Connector, if applicable, to reflect changes at the facility as required in 5.1.2.

5.2.6 Plan Reviews:

The District will process all plan reviews in the order received and will issue findings as soon as practicable, based on time and staff available. Submittals with omissions and deficiencies will be returned for correction, and resubmittals will be processed the same as new submittals. Staff can usually provide an approximate review time expectation at the time of submittal.

5.2.7 Installation Inspections:

It is the FSE's responsibility to schedule inspections with The District. The inspections are separate from any plumbing inspections required by The District or the County. All GGIs will be inspected by The District as follows:

- 1) Upon delivery to the FSE address prior to burial and installation; and
- 2) After all plumbing hookups completed prior to burial.

5.2.8 Trucks containing mobile kitchens shall discharge their grease containing wastewater to a discharge point that is upstream of a properly sized Gravity Grease Interceptor (GGI) installed such as a commissary or as otherwise required by The District. If a GGI is not installed, these facilities shall install and maintain a Gravity Grease Interceptor (GGI) within ninety (90) days of being notified of such requirement.

5.2.9 Installation Required.

Unless otherwise approved in writing by The District, the FSE shall install and properly operate and maintain an external Gravity Grease Interceptor (GGI) of at least 750 gallons and meet the requirements outlined in 5.6 of this Part and implement all required BMPs.

5.3 Variance for Existing Buildings.

- 5.3.1 A variance from these FSE requirements may be granted by The District using a cost/benefit analysis. New buildings are not eligible for a variance.
- 5.3.2 A cost-benefit analysis will be conducted for every variance request and will be reviewed by The District Director of Operations prior to the decision whether to issue a variance. The requesting party will bear the cost of preparing the data and information for the cost-benefit analysis.
- 5.3.3 Variances shall be renewed annually in the form of an annual BMP Inspection. An additional cost-benefit analysis will not be required prior to the annual renewal unless a change has occurred that may increase the organic strength or loading of the effluent discharged to the POTW. The variance is not transferrable. The variance will be terminated if the business violates these Rules and Regulations or causes Interference with the collection system or treatment plant.



- 5.3.4 The FSE has the burden of proof of demonstrating, through data and other information, why a variance should be granted after submittal of the Tap Authorization Application. The FSE shall submit a complete Variance Application to The District in support of its request for a variance.
- 5.3.5 The request shall include the following:
- 5.3.5.1 Written letter of request on company letterhead describing why a GGI installation is not feasible and signed by the Authorized Representative of the FSE. This must include a description of kitchen preparation and clean up processes in place and a revenue/expense report that justifies the number of drinks/meals expected to be served.
 - 5.3.5.2 Dated copy of the menu or new menu.
 - 5.3.5.3 Stamped plumbing plans, specifications, and drawings from a licensed engineer unless Cost-Benefit Analysis is approved regardless of costs. Plans and specifications shall meet applicable plumbing codes and THE PINERY Rules and Regulations. If applicable, the engineer shall provide a statement as to why the installation of a GGI is not feasible.
- 5.3.6 If a variance is granted, the facility shall institute Best Management Practices (BMPs) and other mitigation measures as specified by The District. If an FSE is granted a variance, the variance may be revoked for non-compliance with these Rules and Regulations. These BMPs may include, but not be limited to:
- 5.3.6.1 Installation of a Hydromechanical Grease Interceptor (HMGI) or continue to allow the use of an HMGI in lieu of installing a GGI. The HMGI shall be cleaned once per week or as otherwise specified by the manufacturer or as needed, whichever is more stringent.
 - 5.3.6.2 All kitchen and food or drink preparation sinks and drains which are connected to the sanitary sewer shall be equipped with a fixed or removable mesh or screen which shall catch garbage and food debris and prevent it from entering the sewer system.
 - 5.3.6.3 Food grinders are prohibited.
 - 5.3.6.4 Use of enzymes or other chemical or biological treatment or product that emulsifies or acts to emulsify FOG is prohibited.
 - 5.3.6.5 An employee training program shall be instituted on a periodic basis and for all new employees on FOG waste management. Such training shall be documented in writing.
 - 5.3.6.6 Pay the costs incurred by The District for accelerated sewer line cleaning as required by The District.

5.4 General Control Requirements.

- 5.4.1 A Gravity Grease Interceptor (GGI) shall be required for the proper handling of liquid wastes which may be harmful to, or cause obstruction in the wastewater collection system or cause or contribute to Pass Through or Interference or otherwise violate a General or Specific Prohibition.
- 5.4.2 GGIs shall be located outside the building served on private property and shall be installed and connected as to be always easily accessible for inspection and cleaning. All new commercial buildings including multi-tenant building are required to provide stub-outs for separate waste lines for future GGI installation with 4" sample port riser.
- 5.4.3 The design and sizing of GGIs shall be in accordance with applicable District building codes and as specified in 5.6 of this Part and shall not include any restroom fixture discharges. By default, all non-restroom related Drainage Fixture Units (DFUs) should be tied to the GGI. Plans must show all plumbing and GGI specifications. The GGI shall be designed, sized, installed, maintained, and operated to accomplish the intended purpose of intercepting pollutants from the FSE's wastewater and preventing the discharge of such pollutants to the POTW, including pollutants that result in toxic, noxious, or malodorous conditions that create a public nuisance or unsafe working conditions, which endanger life or the environment.
- 5.4.4 Upon change of ownership of any existing facility which would be required to have an interceptor under these Rules and Regulations, the applicant for sanitary sewer service shall have the burden to demonstrate that a properly sized and functioning GGI is installed.
- 5.4.5 All sinks which are connected to a GGI shall be equipped with a fixed or removable mesh or screen which shall catch garbage and food debris and prevent it from entering the GGI. Food grinders are prohibited unless the FSE installs and properly operates a solids separator prior to the GGI. Signs shall be posted above all sinks prohibiting the discharge of oil, grease, and food waste down the drains.
- 5.4.6 The FSE must ensure interceptors are easily accessible for inspection, cleaning, and removal of FOG and the FSE shall maintain interceptors at their expense and always keep in efficient operating condition by the regular removal of accumulated FOG.

5.5 Required Maintenance.

- 5.5.1 GGIs shall be maintained by regularly scheduled cleaning so that they will properly operate as intended to efficiently intercept the fats, oils, and grease from the FSE's wastewater and minimize the discharge of said materials into a sanitary sewer owned by THE PINERY. A GGI shall be serviced every ninety (90) days or whenever the combined thickness of the floating greases and settled solids is greater than 25% of the hydraulic working capacity of the GGI, or if toxic, noxious, malodorous conditions create a public nuisance or unsafe working conditions which endanger health whichever is more frequent.
- 5.5.2 The District may require more frequent or less frequent cleaning based upon data provided by the FSE.
- 5.5.3 Maintenance of grease interceptors shall be done in a workman-like manner only by a business/professional normally engaged in the servicing of such plumbing fixtures.
- 5.5.4 All waste cooking oil and grease from deep fryers shall be collected, segregated, and stored properly in waste grease bins or similar devices. Waste grease bins shall have a cover or lid and shall be weather tight and not leak. Waste grease bins shall be pumped before they are 90% full by a licensed waste hauler or an approved recycler to dispose of waste cooking oil. Records of pumping shall be maintained for at least three (3) years.
 - 5.5.4.1 The FSE must document each pump-out with a waste manifest or trip ticket and be kept by the FSE on site for at least three (3) years. This record shall include the date, the name of the company that pumped or cleaned the GGI and the amount of waste that was removed. Such records shall be made available to The District upon request. The removed contents from any GGI shall be handled by a person licensed to haul such waste and shall be disposed of in accordance with federal, State, and local regulations. If any repairs are made to the GGI, the FSE must document repairs and maintain those records.
 - 5.5.4.2 The FSE must take reasonable steps to assure that all waste is properly disposed of in accordance with federal, state, and local regulations (i.e., through a statement certifying proper disposal by the hauler included on the waste manifest or trip ticket for each load).

5.6 General Specifications and Sizing for Gravity Grease Interceptors (GGIs)

- 5.6.1 Pre-cast Concrete GGIs: Pre-cast GGIs shall conform to the size, shape, form, and details shown on Diagram 1. Concrete for pre-cast units shall be defined in the following specifications:

- 5.6.1.1 All units shall be adequate to withstand AASHTO H-20 (44.30% impact, soil weight = 130 pcf, equivalent fluid pressure = 55 pcf) loading and shall be designed in accordance with ACI 301 and ASTM C-858.
- 5.6.1.2 All structures not specified in the standard detail shall be submitted to The District for approval as a shop drawing at least three (3) weeks prior to installation.
- 5.6.1.3 A flexible plastic joint sealing compound shall be used for any tongue and groove joints to provide a watertight joint. The performing flexible plastic joint sealing compound shall meet Federal Specifications SS-S-210 and AASHTO M198 75 1, Type B.
- 5.6.1.4 The sealing compound shall show no visible deterioration when immersed separately in a solution of acid, alkali, and saturated hydrogen sulfide for a period of 30 days.
- 5.6.1.5 All piping within these GGIs shall be solvent weld PVC — SCH 40 DWV.
- 5.6.1.6 Vertical influent and effluent piping shall be secured to the GGI walls with non-corroding support brackets.
- 5.6.1.7 GGIs installed in a parking lot or a roadway shall have manhole rings and covers raised to grade by using pre-cast concrete riser rings that are a minimum of 6" wide.
- 5.6.1.8 Manhole Rings and Covers: Manhole rings and covers shall be cast iron in accordance with ASTM A-48, Class 35 B. Twenty-four (24) inch diameter assemblies shall be Neenah- 1706, or approved equal, style with a combined weight of not less than 400 pounds (approx. distribution: Frame 235 lbs., Lid 165lbs.) Covers shall be checkered with letters designating "sewer". All bearing surfaces shall be machined. Manhole lids shall be manufactured with a 1" wide elongated oval lifting hole. Manhole lids with more than one lifting hole shall not be accepted. Rim elevation shall be 2" to 4" above grade in open space and shall be 0" to 1/2" below grade of any finished surface.
- 5.6.1.9 Concrete: Class A concrete shall be used for all pre-cast concrete GGIs. The concrete shall have a minimum 28-day compressive strength of 4,000 psi for pre-cast structures. Class B concrete shall be used for all thrust blocks, protective pads, and encasements. Class B concrete shall have a minimum 28-day compressive strength of 2000 psi.
- 5.6.1.10 The sizing of the GGI shall be determined using Tables 1-3 (2009 UPC)

Table 1. Drainage Fixture Units (DFUs)

Fixture Type	Drain Size	Drainage Fixture Units (DFUs)	Quantity	TOTAL
Floor Drain	2.0-3.0"	2.0		
Floor Sink	2.0"	4.0		
	3.0"	6.0		
	4.0"	8.0		
Mop Sink	2.0-3.0"	3.0		
Hand/Bar Sink	1.5-2.0"	2.0		
Additional Fixture(s) (direct connection)	1.5"	3.0		
	2.0"	4.0		
	3.0"	6.0		
	4.0"	8.0		
TOTAL DFUs				

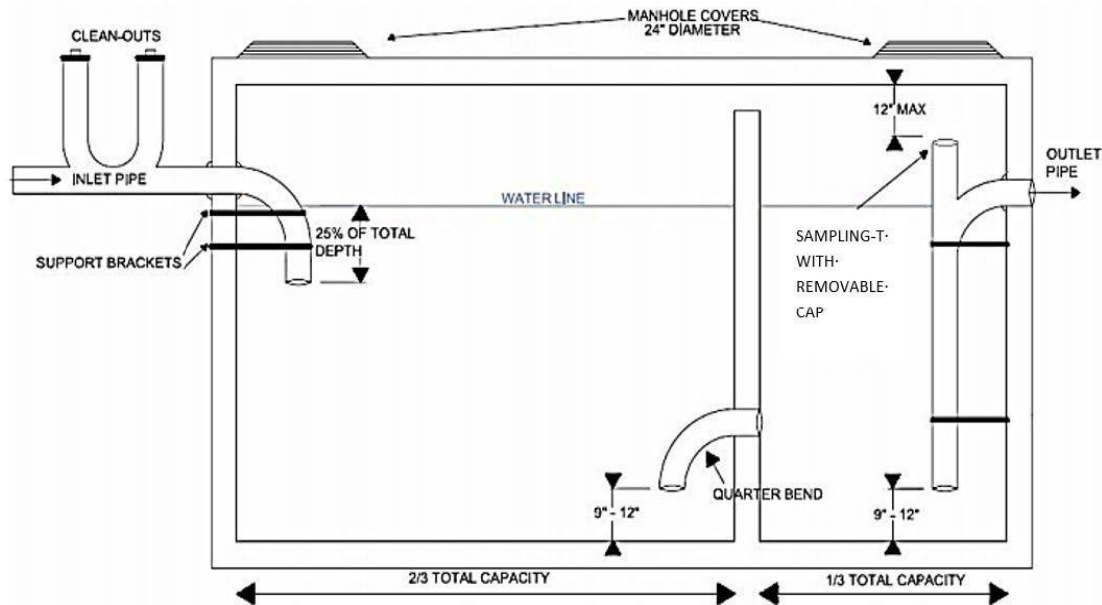
Table 2. Gravity Grease Interceptor (GGI) Sizing

Total DFU's (from Table 1)	GGI Volume (gallons)
2-21	750
22-35	1000
36-90	1250
91-172	1500
173-216	2000
217-307	2500
308-342	3000
343-428	4000
429-576	5000
577-720	7500
721-2112	10000
2113-2640	15000

Table 3. Core and Shell GGI Sizing

GCI Inlet Pipe Size (inches)	Interceptor Size (gallons)
2	750
3	1000
4	2000
5	4000
6	7500

Diagram 1: Diagram Of An Approved Gravity Grease Interceptor (GGI)



5.6.2 GGI Design Requirements

- 5.6.2.1 Concrete lid and base of GGI shall be a minimum of 8" thick. Sidewalls shall be a minimum of 5" thick. Baffle wall shall be a minimum of 3" thick.
- 5.6.2.2 Baffle wall shall extend a minimum of 10" above water level.
- 5.6.2.3 PVC screw plug clean outs shall be taken to grade and protected by a cast iron lamp hole cover with a locking lid marked "sewer". Lamp hole covers shall be secured in a square concrete pad. The concrete pad shall extend 12" beyond the center of each cleanout and have a depth equal to the lamp hole cover. Concrete pad to be poured at time of final grade.
- 5.6.2.4 Inlet invert shall be a minimum of 2" higher than outlet invert.
- 5.6.2.5 Vent must be PVC, schedule 40, taken to 6" above roof line or grade depending on location.
- 5.6.2.6 GGI shall be bedded in a minimum of 6" of 3/4" crushed rock.
- 5.6.2.7 Solids/Grease capacity rated for large compartment only. Secondary compartment has volume equal to 1/3 of total capacity.
- 5.6.2.8 No bolt down covers allowed without permission from The District.
- 5.6.2.9 Within trap, all pipe and fittings shall be solvent welded schedule 40 PVC min. 3" diameters.
- 5.6.2.10 Grey water use only; black water shall be carried by separate sewer.

5.6.2.11 Recommendation for clean out(s) on outlet.

5.7 Best Management Practices (BMPs) for Petroleum, Oil, Grease, and Sand Facilities (POGS).

5.7.1 Applicability.

These BMPs establish requirements for any facility that has the potential to discharge petroleum oil, mineral oil, cutting oils, non-food grease, sand, and solids. All facilities subject to these BMPs must comply with the requirements which include both the requirement for installation and proper operation and maintenance of a separator and other reporting requirements.

5.7.2 Prohibited Discharge.

No POGS facility shall discharge petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin that will cause or contribute to Pass Through or Interference.

5.7.3 Responsibility of the User.

It shall be the responsibility of the POGS facility and/or owner of the property to contact The District for obtaining necessary permits for the installation of a POGS separator or any modifications to the facility's plumbing. Written approval from The District must be obtained prior to installation of the POGS separator as required. The time of review and approval of such permits shall in no way relieve the POGS facility from the responsibility of producing a discharge acceptable to The District under the provisions of these Rules and Regulations.

5.7.4 Changes to be reported:

The POGS facility shall notify The District and The District to reflect changes at the facility as required in Section 5.1.2.

5.7.5 Plan Reviews:

The District will process all plan reviews in the order received and will issue findings as soon as practicable, based on time and staff available. Submittals with omissions and deficiencies will be returned for correction, and resubmittals will be processed the same as new submittals. Staff can usually provide an approximate review time expectation at the time of submittal.

5.7.6 Installation Inspections:

It is the POGS facility's responsibility to schedule inspections with The District. The inspections are separate from any plumbing inspections required by The District or the County. All POGS separators will be inspected by The District as follows:

5.7.6.1 Upon delivery to the POGS facility address prior to plumbing connections; and

5.7.6.2 After all plumbing hookups are completed and before the separator is buried.

5.7.7 Installation Required.

Unless otherwise approved in writing by The District, a POGS facility shall install and properly operate and maintain a POGS separator and implement all required BMPs. A POGS separator that was legally and properly installed at an Industrial User's facility prior to the effective date of these Rules and Regulations shall be acceptable as an alternative if such device is effective in removing floatable and settleable material and is designed and installed in such a manner that it can be inspected and properly maintained. If The District determines at any time that such POGS separator is incapable of adequately retaining the floatable and settleable material or if it was installed in such a manner that it cannot be inspected and properly maintained, the Industrial User shall install a separator that complies with all The District requirements within ninety (90) days after being notified of such requirement.

5.7.8 Variance:

The District does not allow variances to these requirements for Petroleum, Oil, Grease, and Sand separator installations.

5.7.9 General Control Requirements.

5.7.9.1 A separator shall be required for the proper handling of liquid wastewater that may contain petroleum, oil, grease, and sand.

5.7.9.2 Upon change of ownership of any existing facility which would be required to have a separator under this Section, the applicant for sanitary sewer service shall have the burden to demonstrate that a properly sized and functioning separator is installed.

5.7.9.3 Toilets, urinals, and similar restroom fixtures shall not waste through a separator. Such fixtures shall be plumbed directly into the building sewer and waste system. By default, all non-restroom related DFUs should be tied to the POGS interceptor. Plans must show all DFU routes and Interceptor specs as applicable.

5.7.9.4 The Industrial User shall ensure the separator are easily accessible for inspection, cleaning, and removal of accumulated wastes.

5.7.9.5 The Industrial User shall always maintain separators at their expense and keep in efficient operating condition by the regular removal of waste materials.

- 5.7.9.6 Mesh screens or a similar device shall be installed for facilities with the potential to discharge debris greater than ½" in any dimension.
- 5.7.9.7 POGS separators shall not be used as a means for disposal of unused, spent, or spilled chemicals, automotive waste fluids, hazardous wastes or sludges. Such wastes shall be stored in appropriate containers in volumes consistent with local and state environmental regulations until collected for recycling and/or disposal.
- 5.7.9.8 Employee training on proper handling of material and implementation of procedures to prevent and minimize unnecessary discharges to the sewer.
- 5.7.9.9 Signs shall be posted above all sinks, drains and similar devices located in process areas prohibiting the discharge of oil and other chemical waste down the drains and who to contact at The District in the event of a spill to the POGS separator.

5.8 Required Maintenance.

- 5.8.1 Petroleum, Oil, Grease, and Sand separators shall be maintained by regularly scheduled cleaning so that they will properly operate as intended to efficiently intercept the sand and oil from the industrial user's wastewater and prevent the discharge of said materials into THE PINERY POTW through THE PINERY sanitary sewer system. A separator shall be serviced once per six (6) months unless sand and oil accumulation (25% of depth) requires more frequent evacuation or, subject to approval by The District, it is determined that less frequent pumping is sufficient. The Industrial User should periodically check the separator for the accumulation of pollutants or solids to avoid exceeding the capacity of the separator.
- 5.8.2 Maintenance of separators shall be done in a workman-like manner only by a business/professional normally engaged in the servicing of such plumbing fixtures. Contents shall be hauled and disposed of properly, and legally, off-site and in accordance with all Federal and Local laws and ordinances.
- 5.8.3 Each Industrial User that is required to use and maintain a separator shall keep a record of every time the separator is pumped or cleaned or repaired. This record shall include the date, the name of the company that pumped or cleaned the separator and the amount of waste that was removed. Such records shall be made available to the Manager upon request. The removed contents from any separator shall be handled by a person licensed to haul such waste and shall be disposed of in accordance with federal, state, and local regulations. These records must be made available to The District upon request. Records shall contain the following information:
 - 1) Date of maintenance.
 - 2) Person performing maintenance.

- 3) Size of Tanks and estimated volume removed.
- 4) Final destination/disposal location; and
- 5) Signature of person performing maintenance.

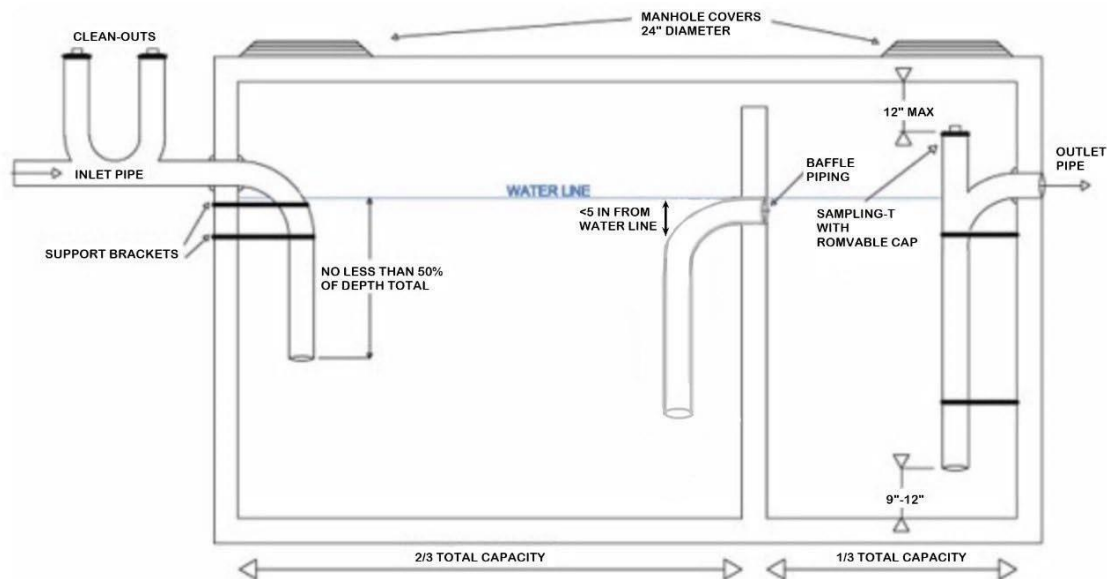
5.8.4 The Industrial User must document all service receipts, cleaning logs, and maintenance records with a waste manifest or trip ticket and keep on site for at least three (3) years.

5.8.5 The Industrial User must take reasonable steps to assure that all waste is properly disposed of in accordance with federal, State, and local regulations (i.e., through a statement certifying proper disposal by the hauler included on the waste manifest or trip ticket for each load).

5.9 General Specifications and Sizing for Petroleum, Oil, Grease and Sand (POGS) Separators

5.9.1 Petroleum, Oil, Grease and Sand (POGS) separators shall be required for all POGS facilities. Sizing and installation shall follow applicable building codes and as shown below. Those POGS separators not able to achieve compliance with The District's Rules and Regulations shall be subject to modification and/or replacement.

Diagram 2: Diagram Of An Approved POGS Separator



5.9.2 POGS Separator Design Requirement

- 1) Concrete lid and base of POGS separator shall be a minimum of 8" thick. Sidewalls shall be a minimum of 5" thick. Baffle wall shall be a minimum of 3" thick.
- 2) Baffle wall shall extend a minimum of 10" above water level.

- 3) PVC screw plug clean outs shall be taken to grade and protected by a cast iron lamp hole cover with a locking lid marked "sewer". Lamp hole covers shall be secured in a square concrete pad. The concrete pad shall extend 12" beyond the center of each cleanout and have a depth equal to the lamp hole cover. Concrete pad to be poured at time of final grade.
- 4) Inlet invert shall be a minimum of 2" higher than outlet invert.
- 5) Vent must be PVC, schedule 40, taken to 6" above roof line or grade depending on location.
- 6) POGS separator shall be bedded in a minimum of 6" of 3/4" crushed rock.
- 7) Solids/oil capacity rated for large compartment only. Secondary compartment has volume equal to 1/3 of total capacity.
- 8) No bolt down covers allowed without permission from The District.
- 9) Within trap, all pipe and fittings shall be solvent welded schedule 40 PVC min. 3" diameters;
- 10) Grey water use only; black water shall be carried by separate sewer; and
- 11) Recommendation for cleanout(s) on outlet.

Table 4. Drainage Fixture Units (DFUs)

Fixture Type	Drain Size	Drainage Fixture Units (DFUs)	Quantity	TOTAL
Floor Drain	2.0-3.0"	2.0		
Floor Sink	2.0"	4.0		
	3.0"	6.0		
	4.0"	8.0		
Mop Sink	2.0-3.0"	3.0		
Hand Sink	1.5-2.0"	2.0		
Additional Fixture(s) (direct connection)	1.5"	3.0		
	2.0"	4.0		
	3.0"	6.0		
	4.0"	8.0		
TOTAL DFUs				

Table 5. Sand/Oil Interceptor Sizing

Total DFU's (from Table 4)	Interceptor Volume (gallons)
2-21	750
22-35	1000
36-90	1250
91-172	1500
173-216	2000
217-307	2500
308-342	3000
343-428	4000
429-576	5000
577-720	7500
721-2112	10000
2113-2640	15000

Table 6. Core and Shell POGS separator Sizing

GCI Inlet Pipe Size (inches)	Interceptor Size (gallons)
2	750
3	1000
4	2000
5	4000
6	7500



Industrial Pretreatment Program

Enforcement Response Plan

The Pinery Water and Wastewater District
The Pinery
5242 Old School House Road
Parker, CO 80134



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1. Background

The District's Enforcement Response Plan (ERP), referenced in Section 4.15 of THE PINERY Rules and Regulations establishes a clear framework for implementing an effective enforcement program and addresses Industrial User noncompliance with applicable Pretreatment Standards and Requirements and is based upon the authorities granted to the District that governs discharges by industrial users to the Publicly-Owned Treatment Works (POTW). This ERP provides The District an outline, in a step-by-step fashion, of the procedures to be followed in order to identify, document, and respond to pretreatment violations. These procedures are developed with four primary objectives in mind:

- Ensuring consistency when responding to violations.
- Ensuring that violators return to compliance as quickly as possible.
- Penalizing noncompliant Industrial Users for pretreatment violations.
- Deterring future noncompliance.
- Recovering expenses incurred by The District due to noncompliance
- Recovering damages caused by noncompliance

The District's enforcement program operates around the following general concepts:

- All violations are responded to by an informal and/or formal enforcement response.
- As violations continue, the enforcement response will generally escalate; and
- All enforcement responses will be timely and appropriate.

This ERP has been developed pursuant to the requirements set forth in 40 CFR 403.8(f)(5) and in accordance with the Rules and Regulations for THE PINERY (Title 3, Part II, Section 4.15).

This ERP is based on the Industrial Pretreatment Program's (IPP's) authority established by The District's Rules and Regulations and does not create new legal authorities. The District's Rules and Regulations provides the authority to seek administrative and judicial enforcement remedies and the authority to petition the courts for the issuance of a preliminary or permanent injunction. This ERP may be revised as needed to clarify or define possible responses to user violations.



The District's Industrial Pretreatment Program is implemented to enforce all applicable pretreatment requirements and standards and to protect the POTW, protect worker health and safety, prevent pollutant pass-through to the Cherry Creek, prevent pollutants from entering the environment, prevent operational interference, and improve the opportunity to recycle and reclaim biosolids from the system.

2. Definitions and Acronyms

2.1. Definitions

Authority- The Pinery Water and Wastewater District

Authority Monitoring – Sampling and analyses performed at an Industrial User (IU) facility or other location that is performed by the control authority.

Best Management Practices – Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 4.3, Wastewater Discharge Prohibitions and Limitations. BMPs also 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. BMPs shall be considered local limits and Pretreatment Standards for the purposes of these Regulations and Section 307(d) of the Act, as specified at 40 CFR 403.5(c)(4).

Board- THE PINERY Board of Directors

Dental Discharger – A facility where the practice of dentistry is performed, including, but not limited to institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by Federal, state, or local governments, that discharge wastewater to the POTW. New source means a dental discharger whose first discharge to the POTW occurs after July 14, 2017. Existing source means a dental discharger that is not a new source.

Fees – A schedule of charges imposed to recover treatment costs or costs associated with operating the Industrial Pretreatment Program (not punitive in nature).

Fines – A punitive monetary charge for a violation of the law. Often used synonymously with “penalty,” although the term “fine” generally implies the use of administrative rather than civil (judicial) procedures.



Indirect Discharge –The discharge or introduction of pollutants into the POTW from any Industrial User as defined in these Regulations and all other industrial users regulated under Section 307(b), (c) or (d) of the Act (33 U.S.C. 1317), including holding tank waste from a non-domestic user discharged into the POTW.

Industrial User (IU) – A source of Indirect Discharge or any other industrial or commercial facility or business that has a sewer connection to the POTW, whether the user discharges non-domestic wastewater.

IPP- The Industrial Pretreatment Program of The District shall be referred to as the IPP in this document.

Penalty – A monetary or other punitive measure usually associated with a court action. For purposes of this ERP, the term is used synonymously with fine.

THE PINERY- Denver Southeast Suburban Water and Sanitation District d/b/a Pinery Water and Wastewater District (The District) is a quasi-municipal entity which has users that discharge to THE PINERY sewerage system. The term “Connector” shall include both Members of THE PINERY and Special Connectors

Publicly Owned Treatment Works (POTW) – A treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by THE PINERY. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature and any sewers, pipes or other conveyances which convey wastewater to the treatment plant. The term also means the municipality having jurisdiction over the Indirect Discharges to the treatment works and the treatment works discharge to the receiving body.

Sector Control Program (SC) – A program designed to control specific pollutants from Industrial Users with similar operations, waste generation or treatment through the implementation of Pretreatment Standards and Requirements, including Best Management Practices. The Sector Control Program requirements may be found in Part II, Section 5 of THE PINERY Rules and Regulations.

Self-Monitoring – Sampling and analyses performed by the IU as required by a permit, sector control program, or as otherwise established by The District.

Significant Industrial User –

(1) A Categorical Industrial User; These users are regulated under the authority of the EPA within THE PINERY’s jurisdiction.



(2) An Industrial User that:

- (a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding domestic, noncontact cooling and boiler blowdown wastewater); or
- (b) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
- (c) Is designated as a SIU by The District on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation (in accordance with 40 CFR 403.8(f)(6)); or for violating any Pretreatment Standard or Requirement

(3) Upon finding that an Industrial User that meets the criteria in Subsection (b), above, has no reasonable potential for adversely affecting the POTW's operation 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 an Industrial User, and in accordance with 40 CFR 403.8(f)(6), determine that such Industrial User is not a Significant Industrial User.

Significant Noncompliance – An elevated noncompliance status of either an SIU or IU as defined in 40 CFR 403.8 (f)(2)(viii) that requires public notification of that status.

User – Any person who contributes, causes, or permits the contribution of wastewater to THE PINERY POTW.

2.2. Acronyms

AO	Administrative Order
AF	Administrative Fines
BMP	Best Management Practices
CFR	Code of Federal Regulations
CO	Consent Order
COC	Chain of Custody
CDO	Cease and Desist Order
CIVIL	Civil Penalties
CRIM	Criminal Penalties
CP	Judicial Civil Penalty
DM	District Manager
ERG	Enforcement Response Guide
ERP	Enforcement Response Plan
INJ	Injunctive Relief



IPP	Industrial Pretreatment Program
IR	Judicial Injunctive Relief
IU	Industrial User
LO	Lead Operator
NON	Notice of Non-Compliance
NOV	Notice of Violation
PC	Phone Call
RP	Revocation of Permit
PM	Pretreatment Meeting
POTW	Publicly Owned Treatment Works
SC	Sector Control Program
SIU	Significant Industrial User
SNC	Significant Noncompliance
SUS	Suspension of Service
SW	Search Warrant
UM	Utilities Manager
UO	Utilities Operator
WL	Warning Letter

3. Roles and Responsibilities

The following list identifies key individuals by title and general areas of responsibilities as related to enforcement.

3.1. District Management including The District Manager

As provided in the Rules and Regulations, the District Manager shall administer, implement and enforce the provisions of the Pretreatment Program Regulations for Industrial Users. Any powers granted to or imposed upon the District Manager may be delegated to other District personnel. Sections 3.2- 3.7 provides District personnel by title who have been delegated with authority to administer the Pretreatment Program including enforcement actions.

- Coordinates changes to the Pretreatment Program requiring Board approval
- Oversees administrative penalties and judicial enforcement actions

3.2. Utilities Manager (Utilities Manager)

- Implements delegations
- Provides overall program direction
- Acts as liaison with The District management
- Reviews Administrative Enforcement Actions



3.3. Wastewater Treatment Plant Lead Operator (Lead Operator)

- Oversees the Industrial Pretreatment Program
- Implements program elements and manages enforcement actions
- Develops and implements enforcement policy, strategy and guidance
- Manages pretreatment personnel
- Evaluates impacts of violations to POTW permit compliance
- Acts as primary contact for EPA/State on pretreatment issues
- Reviews and Signs Administrative Enforcement Actions
- Issues/manages SIU permits
- Acts as a primary contact with permitted SIUs
- Performs sampling and inspections as needed
- Evaluates IU compliance
- Manages compliance data
- Initiates/issues enforcement actions
- Manages the IU Identification and Characterization Program
- Manages the sampling data and sampling program

3.4. Wastewater Treatment Plant Utilities Operator (Utilities Operator)

- Oversees/organizes sector control programs
- Performs sector control inspections
- Evaluates IU Compliance
- Initiates/issues enforcement actions against non-SIUs
- Performs sampling and non-SIU inspections
- Enters compliance data into IU database

3.5. Industrial Pretreatment Miscellaneous Staff

- May include Contractors, Technicians, Interns, Part Time Employees, and other employees performing pretreatment functions as directed by the Administrator.

3.6. The District and Plant Attorneys

- The District Attorneys are utilized by THE PINERY for consultation on legal aspects of the Pretreatment Program and for legal support relating to the enforcement of THE PINERY Rules and Regulations and Pretreatment Standards and Requirements.

3.7. Contract Laboratory Services

- Contract laboratory services from a State-certified laboratory are utilized for Authority sample analyses.



The administration and enforcement of the Pretreatment Program involves several basic activities and program lead(s), including:

Table 1: Pretreatment Program Activities and Responsibilities

Type of Program Activity	Program Lead(s)	Other Program Team Members
Budgeting	Lead Operator	Utilities Manager, District Manager
Identifying Industrial Users	Lead Operator	Utilities Operator
Managing Data (includes data entry)	Lead Operator	Utilities Operator
Permitting IUs	Lead Operator	Utilities Operator, Utilities Manager
Inspecting IUs	Lead Operator	Utilities Operator
Reviewing Reports	Lead Operator	Utilities Operator
Sampling IU Dischargers	Lead Operator	Utilities Operator
Enforcement	Lead Operator	Utilities Operator, Utilities Manager, District Manager

4. Compliance and Enforcement Responsibilities

4.1. Authority to Implement Enforcement Response Plan

The District, pursuant to their authority in local rules and regulations, and adopted in Part II of THE PINERY Rules and Regulations, establishes this ERP. The District has various oversight responsibilities and authorities that allow the identification and response to violations, including but not limited to:

1. Exercising right of entry for the purposes of inspection, sampling, records review and oversight (Section 4.7).
2. Establishing prohibitions and limits that industrial users must comply with to protect the POTW, receiving water and worker health and safety (Section 4.3).
3. Requiring that an industrial user submit permit applications and obtain a Wastewater discharge permit (Section 4.12).



4. Requiring that the industrial user install monitoring structures and equipment (Section 4.5)
5. Requiring that the industrial user monitor, analyze, and report as necessary (Section 4.5.3)
6. Recovering program costs from the industrial user (Section 4.12.6 (8)).
7. Taking enforcement against industrial users for violations of The District's Rules and Regulations (Section 4.15).

4.2. Compliance Inspections

Inspections are critical elements in evaluating the compliance status of industrial users and in supporting an appropriate enforcement response. This section describes The District's inspection strategy. The Lead Operator is the lead for inspection duties.

All SIUs are inspected at least annually. Sector control program inspections occur on a frequency defined by the IPP. These frequencies may be increased in response to instances of noncompliance, unusual discharge, operational activities, lack of complete information, or understanding of the processes or activities of the industrial user, on-going evaluation of pollutant loading, evaluation of BMPs or other factors. Inspections are used to identify changes in wastewater or processes, evaluate compliance with construction schedules and the industrial user permit, follow-up on violations, verify records retention, verify production, characterize discharge practices, facilities and equipment, generally update information in the IUs file, and identify potential problem areas, including spill and slug loading potential. The IPP performs inspections as outlined in Table 2.

Table 2: Inspections

Type of Inspection	Scheduling	Comment
Compliance Inspections	Announced	These are the routine inspections for SIU's and the sector control programs. The user may be pre- notified to assure that proper staff is present.
Compliance Inspections	Unannounced	These are the routine inspections for SIU's and the sector control programs that are unannounced to see "real time" operations, follow-up on compliance issues or inspection requirements, perform sampling, or evaluate the user for permit issuance or sector control program applicability.
On- Demand Inspection	Unannounced	On-Demand inspections are typically conducted in response to known or suspected violations discovered through self-monitoring reports, routine inspections or sampling events, public complaints, unusual influent conditions at the POTW, or emergency situations including plant upsets, sewer line blockages, fires, and explosions. These inspections may be interdepartmental or interagency inspections.

4.3. Compliance Sampling and Reporting

All discharging SIUs are sampled at least annually. Sampling is used to determine compliance with applicable Pretreatment Standards and to independently confirm data submitted by SIUs in self-monitoring reports has been representative. The IPP performs sampling and reviews submitted sampling reports as outlined in Table 3.

All samples are collected and analyzed in accordance with EPA approved procedures published in 40 CFR Part 136. The analytical laboratory is required to maintain a quality assurance/quality control program and QA/QC data provided with each laboratory report including, blanks and duplicates, as appropriate, are sent to the laboratory to be analyzed. If any of the required QA/QC criteria are not met, the proper corrective measures are taken, and the samples are recollected and/or reanalyzed as appropriate. All compliance data, whether collected by The District or generated through IU self-monitoring reports, are systematically reviewed to identify violations and evaluate sample collection, holding time, method sensitivity, method detection limits (MDL) and



reporting limits (RL), and chain-of-custody problems. District compliance monitoring reports are generally reviewed within five (5) days of receipt.

Table 3: Sampling

Type of Sampling	Scheduling	Comment
IPP Authority Monitoring	Announced or Unannounced	These are generally part of the routine sampling for SIU's and sector control programs. Sampling is utilized for: - independently verifying information reported by the user - determining compliance with pretreatment requirements and standards - for use in surcharging for excess strength ⁽¹⁾ waste. When a sample indicates a violation, The District may resample the IU's discharge or require the IU to do additional sampling, in addition to responding to the violation. Alternatively, the District may order the IU to accelerate its monitoring frequency for the violating pollutant through an informal or formal enforcement action.
Industrial User Self-Monitoring	Permit/Sector Specific Requirements	Monitoring and reporting frequencies are SIU specific. Pollutants that are sampled are specific to the SIU's operations. In addition, other industrial users may have reporting requirements as required in their Authorization to Discharge or a Best Management Practice (BMP). The frequency with which an IU is required to self-monitor for a pollutant or report compliance with a specific BMP is set by The District and at the sole discretion of The District. If sampling performed by an IU indicates a violation of these Regulations, the Industrial User shall notify the District within 24 hours of becoming aware of the violation. In the case of any Slug Load, the IU shall immediately telephone and notify the District of the incident. Reports are reviewed by the IPP for: - Report due and report submitted date. - compliance with permit and Pretreatment Standards and Requirements - sector control program requirements - proper signatory and other certifications - chain-of-custody (where applicable) - proper analytical methods used - identification and notification by the SIU of noncompliance.



		The IPP may choose to split compliance samples taken by the IU to ensure compliance by the IU with all applicable pretreatment standards and requirements.
Surveillance Monitoring	Unannounced	Where the IPP believes a discharge is occurring, or may occur, which violates a permit requirement, order, or Pretreatment Standard or Requirement, sampling may be conducted to allow the IPP to independently assess compliance for an enforcement action. This sampling may or may not occur at the same monitoring point used by the industry but will be designed to ensure representative samples are collected.

- (1) *Normal Domestic Strength Wastewater: Wastewater, when analyzed in accordance with procedures established by the EPA pursuant to 40 CFR Part 136, as amended, contains no more than the concentrations of TSS, BOD, or COD as provided in the Rules and Regulations. Normal Domestic Strength Wastewater concentrations and surcharge calculation formulas are established in THE PINERY Rules and Regulations Part II, Section 1.4.43 & Section 3.1.1*

4.4. Compliance Review and Evaluation

The compliance review process includes a review of all relevant data, information, and observations to screen out non-compliant industrial users for appropriate enforcement action. Relevant data may include items such as sampling results versus limitations, information may include required reporting elements or notification requirements, observations may include items witnessed or discussed during an inspection.

The initial review shall include identifying potential violations per the listing of anticipated industrial user violation types as provided in section 6.0. Additional violations or non-compliance may be identified by referencing policies or procedures. The initial review may be performed by a Utilities Operators, the Lead Operator, or miscellaneous pretreatment staff.

A secondary review of potential violations found during the initial review shall be performed by the Lead Operator or Utilities Manager. The Lead Operator shall review the range of appropriate enforcement responses for the violation as provided in Section 6.0. When the appropriate enforcement response has been determined, the Superintendent shall determine the level of authority (job title) allowed to initiate or to bring about enforcement action per Table 4.



5. Enforcement Strategy

5.1. Discovery of Violations

The enforcement process is typically initiated when:

- The user notifies IPP of a violation
- IPP identifies a violation through an inspection
- IPP identifies a violation through compliance monitoring or sampling
- IPP identifies a violation through reporting
- IPP identifies a violation through other means

5.2. Enforcement Authorities

Levels of Authority listed from the lowest level to the highest level:

- Wastewater Treatment Utilities Operator (Utilities Operator)
- Wastewater Treatment Lead Operator (Lead Operator)
- Wastewater Treatment Utilities Manager (Utilities Manager)
- The District including The District Manager and any Legal Staff

5.3. Descriptions of Enforcement Actions

The IPP has the enforcement authorities outlined in Table 4 for violations of any Pretreatment Standard or Requirement. Table 4 describes the types of enforcement responses The District may take and the time frame objectives within which responses should be initiated. Table 4 is generally listed in order of lesser response to greatest response. The IPP may contact for the purpose of investigation and enforcement, any Federal, State, or Local governmental agency. The IPP may furnish upon request all information including reports, compliance history, photographic documentation etc. to any Federal, State, or Local governmental agency.



Table 4 Enforcement Response Actions

Enforcement Response⁽¹⁾	Description of Response	Response Timeframe Objective⁽²⁾	Level of Authority⁽³⁾	Code Reference
Verbal Notification	Informal notification by Phone Call (PC) or in person. Verbal notifications are used for minor isolated violations or as an initial step leading to an escalated enforcement response. All verbal notifications related to enforcement or the investigation of suspected violations are documented in writing and placed in the respective Industrial User file.	Within 10 working days of becoming aware of the violation or non- compliance.	Utilities Operator	4.15.4.1
Warning Letter (WL)	Informal notification by written correspondence. Warning letters are issued for minor isolated violations including minor isolated permit violations. Warning letters may be issued as follow-up correspondence to verbal notifications or in lieu of verbal notifications.	Within 10 working days of becoming aware of the violation or non- compliance.	Utilities Operator	4.15.4.2
Notice of Non-Compliance (NON)	Primarily issued in response to sector control program violations. 1 st and 2 nd Notices of Non-Compliance will contain corrective actions and a schedule for completing the corrective action. Failure to make corrective actions may result in a Notice of Violation and Re-inspection fee.	Issued at time of inspection or within 10 working days of becoming aware of the non-compliance. Corrective measures and timeframes per Sector Control Policies.	Utilities Operator	4.15.4.3



Notice of Violation (NOV)	Written NOV's may contain conditions and requirements to address the noncompliance, including, but not limited to, written responses, corrective actions, compliance schedules, additional self-monitoring, and management practices designed to prevent future similar instances of noncompliance.	Initiated within 15 working days of becoming aware of the violation. Written response and corrective action schedule shall be determined by the IPP.	Lead Operator	4.15.4.4
Pretreatment Meeting (PM)	The IPP may hold a meeting with the industry. The meeting may include any Wastewater Treatment or The District personnel as appropriate. The objective of the meeting is to generally gather information or explanations from the user and to inform the user of Montrose pretreatment program requirements and enforcement options. The meeting will be summarized in writing and included in the industrial user's file.	Held within 30 working days of becoming aware of the violation or non-compliance or as scheduling allows.	Lead Operator	
Administrative: Compliance Order (AO)	Specifies the violation(s) and directs the user to come into compliance within a specific time. AO's also may contain administrative fines and other requirements to address the non-compliance, including, but not limited to, corrective actions, compliance schedules, additional self-monitoring, and management practices designed to prevent future similar instances of noncompliance. Failure to comply with the conditions of the Administrative order may result in severance of sewer services.	Initiated within 15 working days of becoming aware of the violation. Specific compliance timeframe shall be determined by the Lead Operator.	District Manager	4.15.4.5



Administrative Consent Orders (CO)	The District may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific actions to be taken by the user to correct the noncompliance within a time period specified by the document. A consent order may include penalties, supplemental environmental projects, compliance schedules, or other conditions and requirements as agreed to by the District and the user.	Initiated within 60 working days of becoming aware of the violation or as the administrative process allows.	THE DISTRICT	4.15.4.6
Administrative Fines	The District may issue an administrative fine as listed in the District Rates and Fees Schedule for violations of Pretreatment Standards or Requirements. Administrative fines will be assessed within administrative process time frames. The factors that may be considered when calculating a penalty or fine are discussed in Section 7. Unpaid charges, fines, and penalties shall, after 60 calendar days, be assessed an additional penalty of 25% of the unpaid balance. Interest shall accrue thereafter at a rate of 1% per month. A lien against the User's property shall be sought for unpaid charges, fees, fines, and penalties.	Initiated within 60 working days of the violation or as the administrative process allows.	Utilities Manager	4.15.4.8



Emergency Suspension of Service	The District may immediately and effectively halt or prevent any discharge of pollutants into any natural waterway, surface drainage within The District, any area under jurisdiction of The District, the POTW of The District or any wastewater system tributary thereto, by any means available to them, including physical disconnection from the wastewater system, whenever it reasonably appears that such discharge presents an endangerment to the environment, POTW, or health or welfare of the community.	Immediately or after additional investigation or hearing.	Utilities Operator	4.15.4.9
Revocation of Control Mechanism	A violation of the conditions of a permit, Wastewater Utility Ordinance, or of applicable State and Federal regulations shall be reason for revocation of such permit by The District.	Immediately or after additional investigation or hearing.	Lead Operator	4.15.4.10
Judicial Injunctive Relief (IR)	The District may seek an injunction against the user. The injunction may be a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the industrial wastewater permit, order, clean up, or any other requirement imposed by the applicable The District Municipal Code.	Judicial Injunctive Relief will be assessed within judicial process time frames.	THE DISTRICT	4.15.5.1
Judicial Civil Penalties (CP)	The District may seek civil penalties up to \$10,000 per day, per violation of Pretreatment Standards or Requirements. The District may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities and the cost of actual damages incurred by The District.	Judicial Civil Penalties will be assessed within judicial process time frames.	THE DISTRICT	4.15.5.2



Judicial Criminal Prosecution	The District may file a judicial criminal action. A user who willfully or negligently violates any provision or willfully or negligently introduces any substance into the POTW which causes personal injury or property damage or knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed or required to be maintained by an industrial wastewater permit or order issued hereunder, or any other Pretreatment Standard or Requirement, shall upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000 per day per violation and be subject to imprisonment for not more than one (1) year, or both.	Judicial Criminal Prosecution will be assessed within judicial process time frames.	THE DISTRICT	4.15.5.5
(1) The remedies specified are not exclusive of any other remedies that The District may have under the provisions of Federal, State or Local Colorado law. The District may take any, all, or any combination of these actions against a non-compliant user or take other action against any user when the circumstances warrant and may take more than one enforcement action against any non-compliant user. (2) All enforcement actions will be initiated as soon as possible after identification of a violation, combination of violations, or history of non-compliance. Response Timeframe Objectives provides guidance for when enforcement actions should be initiated after detection of violation(s). (3) The lowest level of authority allowed to initiate or to bring about enforcement action.				



Enforcement Action	Initiating Personnel	Concurrence Required	Signature Authority
Informal Action: Phone call, email or warning letter to notify IU of violations (all responses are documented and put in IU file)	Utilities Operator	None. Briefing to Lead Operator	Utilities Operator
Informal Action: Industrial User Meeting (always held at POTW).	Utilities Operator, Lead Operator	For SNC violations: Lead Operator	For SNC violations: Pre-notify Utilities Manager
Notice of Violation (NOV)	Utilities Operator	Lead Operator	Lead Operator
Administrative Order	Utilities Operator, Lead Operator	N/A	Utilities Manager
Consent Order	Utilities Operator, Lead Operator	Utilities Manager	The District Manager
Emergency Suspension of Service	Utilities Operator, Lead Operator	The District Attorney	Utilities Manager
Administrative Penalty Order	Utilities Operator, Lead Operator	The District Attorney, District Manager	Utilities Manager
Revocation of Control Mechanism	Utilities Operator, Lead Operator	Utilities Manager, The District Attorney, The District Manager	The District Manager
Injunctions/Search Warrants	Utilities Operator, Lead Operator	Utilities Manager, The District Attorney, The District Manager	The District Attorney (Lead)
Judicial Action	Utilities Operator, Lead Operator	Utilities Manager, The District Attorney, District Manager	The District Attorney (Lead)



5.4. Selecting the Appropriate Response

The enforcement actions and responses specified in Section 5.3, Table 4, and Section 6.0 are typically implemented according to an escalating enforcement approach. However, a higher level of response may be the first response if warranted by the violation. The following factors are considered in determining the appropriate response:

- Magnitude of the violation
- Duration of the violation
- Effect of the violation on the receiving stream
- Effect of the violation on the POTW (including worker health and safety) or environment
- Compliance history of the industrial user
- Good faith of the industrial user

The District may take any, all, or a combination of the enforcement actions. Assessing the response level and associated penalties, if applicable, will be based on the guidance provided in this document and the best professional judgment of the IPP.

Enforcement Responses generally escalate for recurring violations.

Criminal Enforcement and referrals to EPA/State for suspected criminal violations may be made. This option is not reflected in all of the violations in the following table, but may be an option exercised by The District.



6. Enforcement Response Guide

The following enforcement response guide (ERG) provides, in table format, anticipated types of user violations and the range of appropriate enforcement actions.

User Classification	Nature of Violation	Range of Enforcement Responses ⁽¹⁾
Violations to Municipal Code or Violation of Pretreatment Standard or Requirement		
ALL IUs	Violation of Rules and Regulations or Violation of Pretreatment Standard or Requirement not specifically listed in table.	Enforcement action to be determined by the IPP per Section 5.4
	Denial of Entry	NON or NOV, AO, and/or Warrant
	Any violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass- Through (including endangering the health of POTW personnel or the general public)	NOV + Remedy Requirements, AO + Remedy Requirements; AND SNC publication plus payment of associated cost of publication
	Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.	Emergency Suspension of Service; Revocation of Control Mechanism; AND SNC publication plus payment of associated cost of publication
	Failure to accurately report noncompliance	NOV + Remedy Requirements, AO + Remedy Requirements; AND SNC publication plus payment of associated cost of publication



User Classification	Nature of Violation	Range of Enforcement Responses ⁽¹⁾
ALL IUs (cont.)	Any violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment Program	NOV + Remedy Requirements, AO + Remedy Requirements; AND SNC publication plus payment of associated cost of publication
	Illicit Discharge to Sewer or Environment	NON or NOV, AO, Penalties, and/or Judicial Enforcement Remedies as determined by the District
	Operating without a required Industrial Wastewater Discharge Permit	NON or NOV or AO with Industrial Wastewater Permit Application, Penalties, and/or Judicial Enforcement Remedies as determined by the District
	Failure to submit Industrial Wastewater Permit Application or other requirement within IPP established deadline	NOV, AO, Penalties
	Failure to provide notification or written report of a "Bypass" per 40 CFR Part 403.17	NOV, AO, SCH, Penalties, and/or Judicial Enforcement Remedies as determined by the City
	Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency	NOV + Remedy Requirements, AO + Remedy Requirements; AND SNC publication plus payment of associated cost of publication (SNC)
	Any violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment Program	NOV + Remedy Requirements, AO + Remedy Requirements; AND SNC publication plus payment of associated cost of publication (SNC)
Sector Control Programs⁽³⁾		
SC	Violation of Sector Control Policy – Initial Violation	NON (1 st) – Response Days Per Sector Control Policy



User Classification	Nature of Violation	Range of Enforcement Responses ⁽¹⁾
	Failure to Correct Violation after Issuance of Initial NON	NON (2 nd) – 48-hour Corrective Action Required, Re-Inspection Fee may be assessed.
	Failure to Correct Violation after 2 nd NON	NOV, an additional Re-Inspection Fee may be assessed. Re- Inspection Fee may be assessed for each inspection required until completion of violation remedy.
	Failure to Complete Terms of NOV	AO + Penalties
	Failure to Comply With Terms of AO	Remedy by The District, penalties, and/or Judicial Enforcement Remedies as determined by The District
Permitted Industries⁽⁵⁾		
Permittee	Violation of a Pretreatment Standard or Requirement	Enforcement action to be determined by the IPP per Section 5.4
	Failure to Maintain Treatment, Control, or Monitoring Equipment	WL, NOV + Remedy Requirements, AO + Remedy Requirements
	Failure to Comply with a Pretreatment Requirement (including requirement as a result of an inspection)	WL, NOV + Remedy Requirements, AO + Remedy Requirements
	Failure to Develop, Submit, or Implement a Control Plan	NOV + Remedy Requirements, AO + Remedy Requirements
	Failure to Comply With Terms of AO	Remedy by The District, penalties, and/or Judicial Enforcement Remedies as determined by The District
	Dilution in lieu of Treatment	AO, Remedy by The District, penalties, and/or Judicial Enforcement Remedies as determined by The District



User Classification	Nature of Violation	Range of Enforcement Responses ⁽¹⁾
Permittee (cont.)	Failure to Submit Required Documentation	PC, WL, NOV + Remedy Requirements, AO + Remedy Requirements
	Failure to Submit a Closure Plan	NOV + Remedy Requirements, AO + Remedy Requirements
Discharge Limit Violation		
Permittee (cont.)	Monitoring Parameter Violation	WL, NOV + Remedy Requirements, AO + Remedy Requirements, and/or Judicial Enforcement Remedies as determined by The District
	Failure to Report Self-Monitoring Parameter Violation within 24 hours of Becoming Aware	NOV + Remedy Requirements, AO + Remedy Requirements
	Failure to Re-sample and Submit Report within 30 days	NOV + Remedy Requirements, AO + Remedy Requirements
Reporting Violation		
Permittee (cont.)	Incomplete, Late, or Inaccurate (minor) Report	PC, WL, NOV + Remedy Requirements, AO + Remedy Requirements
	Failure to Immediately Report Spill, Accidental Discharge, Discharge of a Non-Routine, Episodic Nature, Non-Customary Batch Discharge, Slug Discharge, or a Discharge that May Cause Potential Problems to the POTW	NOV or AO + Remedy Requirements, SCH, Judicial Enforcement Remedies as determined by The District
	Failure to Submit Required Documentation within five (5) working days	NOV + Remedy Requirements, AO + Remedy Requirements
	Failure to Report a Change in Operation	NOV + Remedy Requirements, AO + Remedy Requirements
	Failure to Provide Required Notice of Changes in Operation	NOV + Remedy Requirements, AO + Remedy Requirements



User Classification	Nature of Violation	Range of Enforcement Responses ⁽¹⁾
Permittee (cont.)	Failure to Report Discharge of Hazardous Wastes	NOV + Remedy Requirements, AO + Remedy Requirements
	Falsification of Report (intentionally, knowingly or willingly)	Revocation of Control Mechanism; Judicial Enforcement Remedies as determined by The District
Discharge Monitoring		
Permittee (cont.)	Failure to Monitor	NOV + Remedy Requirements, AO + Remedy Requirements
	Improper Monitoring	PC, WL, NOV + Remedy Requirements, AO + Remedy Requirements
	Tampering With Monitoring Equipment and/or Results	AO, Revocation of Control Mechanism, Judicial Enforcement Remedies as determined by The District
Compliance Schedule		
Permittee (cont.)	Failure to Comply with Compliance Schedule Requirements	NOV + Remedy Requirements, AO + Remedy Requirements
(1) The remedies specified are not exclusive of any other remedies that The District may have under the provisions of Federal, State, or Local regulations. The District may take any, all, or any combination of responses, as provided in Table 6.0, against a noncompliant user or take other action against any user when the circumstances warrant and may take more than one enforcement response against any noncompliant user. Enforcement responses shown define the range of appropriate enforcement actions based on the nature and severity of the violation and other relevant factors as shown in Section 5.5. (2) In the event an interceptor is not properly maintained by the User, owner, lessee, or other authorized representative of the facility, The District may authorize such maintenance work be performed on behalf of the User. The costs of such maintenance shall be billed directly to the User and shall become part of the charges due and owing to The District and shall constitute a lien against the property until paid in full. (3) A violation of the conditions of a permit (Industrial Wastewater Permit) or of applicable State and Federal regulations shall be reason for revocation of such permit. Upon revocation of the permit, any wastewater discharge from the affected User shall be considered prohibited and illegal.		



7. Calculation of Fines and Penalties

Administrative fines and penalties may be assessed as enforcement actions. Administrative fines may be assessed in an amount found in the District Rates and Fees Schedule. [4.15.4.8 (1)]

Administrative fines and penalties will generally be prepared by IPP personnel for review by the Utilities Manager. Based on the severity of the violation and fine amount, the IPP may seek input and direction from The District Manager and/or The District Attorney.

A lien against the user's property may be sought for unpaid charges, fines, and penalties.

In addition to Administrative fines and penalties, The District may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities including sampling and monitoring expenses.

Any extraordinary costs incurred by The District due to interference, damage, pass-through, repair or maintenance necessary in the treatment and/or collection system shall be paid by the User to The District. The direct costs of all labor, equipment and materials incurred in rectifying the interference or damage, shall be billed directly to the owner or the User by The District, and such costs shall become part of the total charges due and owing to The District.

Users desiring to appeal fines must follow procedures outlined in The District's municipal codes.

Issuance of an administrative fine shall not be a bar against, limitation, or prerequisite for taking any other action against the Industrial User.

The IPP shall consider the following factors when determining penalties for a violation of the Rules and Regulations:

- a. The impact upon or the threat to the POTW, worker and public health, or the environment as a result of the violation
- b. Compliance History
- c. Good Faith of the User
- d. Other aggravating or mitigating circumstances
- e. Duration of violation
- f. The economic benefit realized by the violator as a result of the violation.



The purposes of this policy are to ensure:

- Penalties are assessed in a uniform and consistent manner, while allowing for a reasonable amount of flexibility and discretion;
- Penalties are appropriate for the gravity of the violation committed;
- Economic incentives for non-compliance are eliminated;
- Penalties are sufficient to deter persons from committing violations; and
- Compliance is expeditiously achieved and maintained.

This section focuses on determining the proper penalty amount the IPP should seek once a decision has been made to pursue a penalty.

To determine the amount of the penalty to be assessed against a violator, all the factors listed (a) through (g) above, shall be considered. This shall be done by first considering factor (a); based on this factor; the IPP shall choose an amount (deemed the base penalty) from the appropriate cell on the Base Penalty Table (shown below).

The base penalty amount may then be adjusted upwards or downwards based on factors (b) through (e). After the base penalty has been calculated and adjusted, if applicable; the duration of the violation (factor f) will be considered as a factor in final penalty determination. If it has been determined that the violation has continued for more than one day, the IPP shall determine the length of time each violation continued. In the case of monthly or other long-term average discharge limits, penalties shall be assessed for each day during the reporting period of the violation. The IPP will apply the Duration of Violation Table (shown below). Factor (g), the economic benefit realized by the violator as a result of the violation, can be added to the adjusted penalty to reach the final penalty amount. The economic benefit portion of the total penalty is calculated separately and is not adjusted by aggravating or mitigating factors. Even in the case where the presence of mitigating factors results in no base penalty adjustment, a penalty sufficient to offset any economic benefit gained by the violation can be imposed.

7.1. Determination of Base Penalty:

Factor (a): The Impact Upon or threat to the POTW, Worker and Public Health, or the Environment

The IPP will evaluate the impacts of the violation including the actual harm and potential for harm posed by the violation to the operations of the POTW including the collection system; public health including worker safety; and the environment including discharges that may cause pollutants to reach Waters of the State.



In order to evaluate the impact upon or threat to the POTW, public health, or the environment as a result of a violation, the IPP will determine whether the impact or threat in a particular situation is major, moderate, or minor.

- A “major” potential for harm means that the violation poses or may pose a substantial risk to the POTW, public health, or the environment.
- A “Moderate” potential for harm means that the violation poses or may pose a moderate risk to the POTW, public health, or the environment.
- A “Minor” potential for harm means that the violation poses or may pose a low or minimal risk to the POTW, public health, or the environment.

BASE PENALTY TABLE

Impact Upon or threat to the POTW, Worker and Public Health, or the Environment			
	MAJOR	MODERATE	MINOR
Base Penalty Amount	\$5000	\$1000	\$250

7.2. Adjustments to Base Penalty:

Factor (b): Compliance History

The IPP will assess the degree, if any, of the violator’s habitual or repeated violations by examining the user’s Industrial Pretreatment compliance history.

If the IPP determines that the user has a history of noncompliance, the base penalty may be increased by up to 50%. If the IPP determines that the user has a good history of compliance, the base penalty may be decreased by up to 50%.

The IPP may seek compliance history from other local, State, or Federal sources as it relates to Industrial Pretreatment.

Factor (c): Good Faith of the User:

The IPP may decrease the base penalty based on the following “Good Faith” actions:

- Voluntary and Complete Disclosure detailing the violation
- Immediate Action to remedy the violation and minimize the impacts of such violation
- Full and Prompt Cooperation by the Violator to resolve all issues surrounding the violation(s) and any related remedial activities
- Comprehensive Compliance Plan to minimize the potential for future violations



If the user acts in good faith, the IPP may reduce the base penalty by up to 50%.

Factor (d): Other Aggravating or Mitigating Circumstances

Any other aggravating or mitigating circumstance the IPP deems relevant, but not specifically stated in this document, shall be considered. The amount of increase or reduction to the base penalty amount shall be determined by the IPP on a case-by-case basis.

Factor (e): Duration of Violation

The duration of the violation is separated into intervals shown on the table below. For each time interval the per-day adjusted base penalty is multiplied by the number of days in that interval, and then multiplied by the percentage for that interval from the table. The results of this calculation for each time interval are then summed for the final penalty determination prior to the evaluation of economic benefits gained.

DURATION OF VIOLATION TABLE

Duration of Violation (Days)					
1-10	11-30	31-60	61-120	121-365	366+
100.00%	50.00%	25.00%	10.00%	5.00%	2.00%

Factor (f): Economic Benefit Realized by the Violator

Economic Benefit focuses on the violator's economic gain from noncompliance, which may occur in three basic ways. It can: 1) delay necessary pollution control/compliance expenditures, 2) avoid necessary pollution control/compliance expenditures, or 3) gain a competitive advantage during the period of noncompliance. Economic benefit can be recovered in penalty actions.

By delaying compliance costs, the violator can earn a return on funds that should have been committed to either capital investments or compliance costs. Capital investments, which are often a one-time expenditure, would include any type of treatment equipment, for example. And compliance costs would include sampling and reporting costs, treatment costs, and operating and maintenance costs for example, that occur on a regular basis. Thus, the violator's economic benefit from avoided compliance costs is the sum of the total avoided annual costs plus the return that could be expected on the funds that were used for projects other than pollution control compliance.



Competitive advantage gains could include lower prices due to lower costs from having avoided compliance costs or even the production of a product that might not otherwise be possible or earlier than competitors due to compliance avoidance. Economic benefits realized by the violator can be added in full to the final adjusted and duration based penalty.