

AMENDED AND RESTATED  
RULES AND REGULATIONS

OF

BERKELEY WATER AND SANITATION DISTRICT

ADAMS AND JEFFERSON COUNTIES, COLORADO

EFFECTIVE

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#### Exhibit A – Map of Current Service Area

## ARTICLE I

### GENERAL PROVISIONS

These Rules should be read in conjunction with the District's Engineering Standards.

#### 1. GENERAL

1.1. Authority: Berkeley Water and Sanitation District ("the District") is a pre-1965 special district and political subdivision of the State of Colorado, acting pursuant to its pre-1965 standing and those powers set forth in Colorado laws, including but not limited to certain provisions of the Colorado Special District Act, C.R.S. § 32-1-101, et seq. These Rules and Regulations ("Rules") are adopted, in accordance with the authority conferred in the Colorado Revised Statutes, by the Board of Directors of the District. As a political subdivision of the State of Colorado and a quasi-municipal corporation, the District has all the powers thereof that are specifically granted to the District, or are necessary, incidental to, or implied from powers specifically granted by statute, constitution or other law, for carrying out the objectives and purposes of the District.

1.1.1. The District is empowered by Colorado law, including C.R.S. §32-1-1001(1)(m), to adopt, amend and enforce Rules that are not in conflict with the Constitution and laws of the State of Colorado for carrying on the business and affairs of the District.

1.1.2. The District is empowered by Colorado law, including C.R.S. § 32-1-1001(1)(d), to enter into contracts and agreements affecting the affairs of the District.

1.1.3. The District has the authority to implement these Rules by policies and resolutions.

1.1.4. In addition to the powers of the District pursuant to statute and under Colorado law referenced above, the District was formed prior to the enactment of the Special District Control Act of 1965, originally codified at Article 18 of Chapter 89, C.R.S. (1965 Perm. Cum. Supp.), and therefore retains and exercises other powers as a pre-1965 Special District.

1.2. Policy: It is hereby declared that the following Rules will serve the public purpose of promoting the health, safety, and general welfare of the inhabitants and visitors of the District. It is the District's policy that growth and development within the District's service area must pay for itself. The provision of public wastewater service by the District to property within the District's service area or to property to be included within the District's service area is contingent upon the District having sufficient wastewater treatment capacity. Because of these limitations, the District cannot guarantee that it will be able to provide wastewater service to properties within the District's boundaries or to properties within the District's service area. Inclusion of lands within the District's service area does not guarantee the provision of wastewater service by the District.

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

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

- 1.6. Applicability: These Rules shall be applicable to all customers receiving or applying to receive water or wastewater service from the District, including properties within the boundaries of the District or received extraterritorial service upon agreement of the District. Customers agree to comply with and be subject to these Rules as a condition of receipt of services.
- 1.7. Effective Date: These Rules shall be effective immediately upon adoption by a majority of the Board at a public meeting and shall supersede any prior version of the Rules.
- 1.8. Interpretation: It is the intent of the Board that these Rules and Regulations shall be liberally construed to affect the general purposes and policies set forth herein. Nothing set forth herein shall be construed as an alteration, waiver or deviation from any grant of power, or any limitation or restriction thereof, conferred or imposed upon the District by the statutes, constitutional provisions or other laws of the State of Colorado as they currently exist and as they may exist in the future. In the event of any ambiguity, inconsistency or conflict between provisions within the Rules, between these Rules and the rules of any other governmental entity, or another document adopted by the District,

including, without limitation, the Engineering Standards, Master Plans, or resolutions, the provision that is most protective of health, safety, the environment and the District's facilities will control. The District Manager is authorized to interpret these Rules in the event of any ambiguity or inconsistency and make a final determination as to the applicable requirements.

- 1.9. Amendments: These Rules may be amended from time to time by the Board by Resolution in any regular or special Board meeting. Any appendices to these Rules may be amended from time to time by a majority vote of the Board at any regular or special Board meeting without the need to amend the Rules.
- 1.10. Saving Provision: The enactment of these Rules, any amendment thereof, or the repeal of any prior Rules or resolutions shall not deny or limit any right, action, cause of action, penalty or fee that arose under a prior version of these Rules.
- 1.11. Repeal of Conflicting Resolutions: All resolutions or parts of resolutions adopted prior to adoption of these Rules and in conflict herewith are hereby repealed, except as may be expressly provided herein.
- 1.12. Severability: The invalidity of any section, clause, sentence or provision of these Rules shall not affect the validity of any other part of these Rules that can be given effect without such invalid part or parts. To that end the provisions of these Rules are hereby declared to be severable.
- 1.13. Variances: The Board reserves the right to waive or modify the provisions of these Rules at its sole discretion by resolution. Any person seeking a variance from a provision of the Rules shall have the burden of proving that the operation of such a provision would cause undue hardship, or should not be applied for another justifiable reason, and shall have the burden of proving that the granting of such variance by the District will not endanger the health, safety and welfare of the residents and inhabitants of the District. The owner or customer shall submit a request for a variance in writing to the District Manager, setting forth a detailed explanation of the variance request and the reasons for the request.

The Board will consider all written variance requests within sixty (60) days and the Board's decision to grant or to deny the variance shall be in writing and is final and conclusive. If the Board fails to act on a variance request within sixty (60) days, it shall be deemed denied, unless the applicant agrees to allow for consideration at a later Board meeting. The applicant may present its variance request at a Board meeting, provided the application and supporting documentation has been delivered for Board review a minimum of (3) three business days prior to the Board meeting. The Board may require that the applicant enter into a variance agreement with the District as a condition of granting a variance.

Minor exceptions to these Rules and Regulations or District Engineering Standards may be administratively granted by the District Manager, upon written application and written determination within sixty (60) days of submittal.

- 1.14. Delegation to District Management or Staff: The Board may delegate decision-making authority under these Rules to District management or staff.
- 1.15. Water Service: The District has entered into a Water Service Agreement (Total Service – Improvement) with Denver Water, pursuant to which the District serves as a total service distributor and Denver Water is responsible for delivery of treated water, for the ownership, operation, maintenance, and replacement of the water distribution system and for billing customers within the District’s water service area. All water service will be subject to the Water Service Agreement and the Rules, Regulations and Standards of Denver Water.

## 2. DEFINITIONS

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

- 2.1. Accessory Building: An accessory building is a detached building or other structure with a subordinate use that is clearly incidental to the use of the principal building, is customary in connection with the primary building, and is located on the same lot with the primary building.
- 2.2. Accessory Dwelling Unit or ADU: An accessory dwelling unit is an additional residential building or unit, whether detached or attached, that occupies the same lot as a primary residence, such as over-the-garage apartments, basement apartments, guest houses, etc.
- 2.3. Applicant: The party applying to or entering into a contract with the District for an extension, connection, new, additional, or changed service or an increase in tap size.
- 2.4. As Built Drawings: Final construction record that reflects changes made during construction, recording differences between the original design and completed structure.
- 2.5. Board: The duly elected or appointed Board of Directors of the District, which acts as the governing body of the District; provided, a quorum consisting of at least three (3) Directors shall be required to vote on District business at any regular or special meeting of the Board.
- 2.6. BOD: (5-Day Biochemical Oxygen Demand): BOD means 5-day biochemical oxygen demand. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).



- 2.7. Building: Any structure used or intended to be used for supporting or sheltering any use or occupancy.
- 2.8. Commercial User: Any customer or owner other than a residential or industrial customer.
- 2.9. Connection: The connection of wastewater service lines to District lines for permanent or temporary purposes.
- 2.10. Connection Fee(s): The fee associated with obtaining wastewater connection from the District to enable a customer to receive service, consisting of the Berkeley Connection Fee and the Metro Water Recovery Connection Fee.
- 2.11. Contract Service Area: The Water Service Area of the District, as described in Exhibit A to the Water Service Agreement, as may be amended or expanded from time to time per the Water Service Agreement.
- 2.12. Contractor: Any person acting as an independent contractor or other agent that is(a) hired by the District or another person to perform work on the District's facilities, on facilities to be connected to the District's facilities, or on facilities to be dedicated to the District or to furnish materials within the District for use in connection with the District's facilities; or (b) from whom the District will accept completed facilities so long as such facilities are constructed in accordance with these Rules and the District's Engineering Standards. All contractors, whether hired by the District, a developer or other persons, shall be required to comply with all District requirements and shall possess a current contractor's license issued by the District and adequate insurance and bond coverage. Depending on the specific circumstances, a contractor may also be a developer.
- 2.13. Cost Recovery: Any time a developer funds an extension of a wastewater main line that will benefit additional property not currently receiving service from the District, the developer may be eligible for reimbursement from property owners who may benefit from such extension. The District may facilitate a Cost Recovery Agreement for a developer within the District's boundaries and charge a cost recovery charge as a condition to providing service to the benefitted Property.
- 2.14. Cost(s): All costs associated with the construction, reconstruction, enlargement or dedication of any wastewater system facilities, including, but not limited to, costs associated with planning, engineering, inspection, administration, acquisition of facilities, acquisition of rights-of-way, attorney fees, and all other fees and/or costs necessary to provide new, different, or additional service.
- 2.15. Crossing Agreement: An agreement between the District and another person allowing a utility to cross District wastewater lines or easements in accordance with these Rules.

- 2.16. Customer: Any person, including without limitation, any developer, owner, lessee, tenant or occupant of such owner, who is supplied with service by the District or is authorized by the District to use water or to connect to the public water or wastewater facilities.
- 2.17. Deleterious Wastes: Any wastes contained in wastewater that would be harmful to any public wastewater mains, wastewater facilities, wastewater system, or which, without pretreatment, would violate federal, state or local pretreatment standards.
- 2.18. Denver Water: The City and County of Denver, acting by and through its Board of Water Commissioners.
- 2.19. Developer: Any person who may own or may be developing land or individual lots within the District who seeks to have land or lots served by the District. A developer shall be held directly responsible by the District for ensuring that all work performed by the developer or its Contractor(s) is completed in accordance with all District requirements. Depending on the specific circumstances, a Developer may also be a Contractor.
- 2.20. District: The Berkeley Water and Sanitation District.
- 2.21. District's Boundaries: The land that has been formally included within the District pursuant to a court order.
- 2.22. District Engineer: A person selected by the Board and employed or contracted to do engineering work for the District.
- 2.23. District Manager: The person retained by the Board to administer and supervise the affairs of the District and its employees, including, but not limited to, enforcement of the District's Rules, who may, among other things, provide for the operation, inspection and approval of all connections, excavations, extensions, installations, systems and facilities owned or controlled by the District.
- 2.24. District Representative: Any District manager, superintendent or other person authorized to conduct and carry out the business of the District.
- 2.25. Dwelling: Any building or portion thereof that contains living facilities, including provisions for sleeping, cooking and sanitation.
- 2.26. Engineering Standards: The Engineering and Construction Standards adopted by the District, as amended from time to time, which establish the minimum standards for the design and construction of wastewater collection facilities within the District.
- 2.27. Exclusions: A request by a property owner to exclude their property from the boundaries of the District in accordance with C.R.S. § 32-1-401 et seq. The owner shall file a formal Petition for Exclusion with the Board of Directors of the District. Such

Petition shall be made on the standard petition form provided by the District or in a form as is acceptable to the District.

- 2.28. Extension: An extension of or new main line required in order to provide service to properties according to the terms and conditions set forth herein.
- 2.29. Extension Agreement: An agreement between the District and an applicant providing for the installation of a main line extension and for the payment of the cost therefore by the applicant.
- 2.30. Facilities: All components of the District's wastewater system, including without limitation main lines, treatment units, storage and pumping units.
- 2.31. Garbage: Solid waste from the preparation, cooking and dispensing of food.
- 2.32. Inactive Connection: A wastewater connection through which no flow has been discharged for more than ten years. A wastewater connection shall be considered to have been inactive when records of the water supply agency serving the building or premises show that no measurable water was supplied to the building or premises during that time, regardless of whether any payment for water was made during or after the ten years. The date of reactivation shall be the date the water supply agency resumes water service.
- 2.33. Inclusion into the District: The process by which parcels may be added to the District's boundaries in accordance with C.R.S. § 32-1-401, et seq., and these Rules.
- 2.34. Industrial User: Any non-domestic source discharging or with a potential to discharge Pollutants into a Publicly Owned Treatment Works under Section 307(b), (c), or (d) of the Clean Water Act, as amended, 33 U.S.C. 1251, et seq. or which is classified as an Industrial User by the District because of its large flow volume or rate or high loadings of BOD, suspended solids, Total Kjeldahl Nitrogen (TKN), or other constituents. The District shall determine each customer's flow and loadings by metering, sampling, and/or estimating.
- 2.35. Independent Connections: The plumbing system of each house, duplex, dwelling, ADU, building, store, premises and other structure connected to the sanitary sewer shall be separate and independent from that of every other house, duplex, dwelling, ADU, building, store, premise and other structure and each shall have an independent, direct connection with the District's sanitary sewer facilities, except as authorized per Article II, Section 2.4.2 of these Rules.
- 2.36. Industrial Wastes: The liquid wastes from industrial processes, trade or business, as distinct from domestic sanitary wastewater.

- 2.37. Inspector: The person or persons duly authorized by the District, Denver Water or Metro to inspect, monitor and approve the installation and operation of water or wastewater facilities and connections to the District's facilities or other public water or wastewater systems.
- 2.38. Interference: A discharge which, alone or in conjunction with a discharge or discharges from other sources, both: (a) Inhibits or disrupts Metro's treatment processes or operations, or its sludge processes, use, or disposal; and (b) Therefore is a cause of a violation of any requirement of Metro's NPDES/CDPS Permit(s) (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.
- 2.39. Master Plans: Capital improvement plans or studies prepared for and approved by the Board that identify the necessary infrastructure and resources required for the ultimate development of the District's wastewater system.
- 2.40. May: "May" is permissive.
- 2.41. Metro: Metro Water Recovery, formerly known as Metro Wastewater Reclamation District.
- 2.42. Owner: The person or persons who hold fee title to a parcel of land as shown on the property tax assessment roll in the office of the Adams or Jefferson County Assessor.
- 2.43. Parcel: An area of land, notwithstanding intervening easements and rights-of-way, with a contiguous boundary, the description of which has been recorded in the office of the Adams or Jefferson County Clerk and Recorder or is referenced in a Subdivision Plat recorded in the office of the Adams or Jefferson County Clerk and Recorder.
- 2.44. Pass Through: A discharge which exits Metro facilities into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of Metro's NPDES/CDPS Permit(s) (including an increase in the magnitude or duration of a violation).
- 2.45. Permit: Written permission of the Board, a District representative, or a representative of Denver Water or Metro given pursuant to these Rules, subject to the specific terms and conditions contained therein.

- 2.46. Person: An individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns.
- 2.47. pH: The negative logarithm of the concentration of hydrogen ions in grams per liter of solution.
- 2.48. Pollution: The man-made, man-induced, or natural alteration of the physical, chemical, biological and radiological integrity of water or soil.
- 2.49. Pretreatment Standards: Means the pretreatment standards adopted by Metro, which are applicable to all industrial users receiving wastewater service from the District.
- 2.50. Private: The term “Private,” when used in these Rules, means ownership by any person (public or private) other than the District, Metro, North Lincoln Water and Sanitation District or the City of Arvada.
- 2.51. Private Line: means any wastewater pipeline within the District’s service area, which has not been either (a) expressly accepted by the District at the time of the formation of said District; or (b) conveyed to and accepted in writing by the District, Metro, North Lincoln Water and Sanitation District or the City of Arvada subsequent to the formation of the District.
- 2.52. Professional Office Building: A facility characterized by activities conducted in an office environment generally focusing on business, government, legal or financial professions may be classified by the District as a professional office building. Examples include, but are not limited to, lawyers, accountants, engineers, banking, and real estate professionals. Specifically excluded from this definition are restaurants, cooking and any other professions or facilities that may pose special consideration for wastewater streams. The purpose of this designation is to permit common sanitary sewer taps to occupants of a multi-office/multi-story facility, as though it were a single business. Professional office building designation will be approved by the District on a case-by-case basis and may be documented in a recorded document.
- 2.53. Publicly Owned Treatment Works (“POTW”): A treatment works as defined by Section 212 of the Clean Water that is owned by a state or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal wastewater or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term includes the District’s wastewater facilities, Metro’s wastewater conveyance and treatment systems, and any wastewater mains owned by other public wastewater providers and used to carry or treat wastewater from the District’s customers.

- 2.54. POTW Treatment Plant: That portion of the POTW designed to provide treatment (including recycling and reclamation) to wastewater.
- 2.55. Rates, Fees and Charges: The cost of receiving services from the District as periodically established by the Board.
- 2.56. Rules: These Rules and Regulations as they may be amended by the Board from time to time.
- 2.57. Sampling: The periodic collection of wastewater samples or water samples for testing.
- 2.58. Service Area: A planning term that refers to all areas currently being served or proposed or planned to be served by the District; however, any reference to the District's service area does not mean that the District is capable of serving the property or that the property is entitled to service. The District's current service area is depicted in Exhibit A, attached hereto and incorporated herein, and such service area includes all property within the boundaries of the District and property which is currently receiving extraterritorial service from the District.
- 2.59. SFRE (Single-family Residential Equivalent): An approximate measure of the level of service necessary to serve a single-family dwelling, which is used to calculate the cost of connection fees and service charges.
- 2.60. Shall, Will: "Shall" and "will" are mandatory.
- 2.61. Stub-In: In the context of wastewater service lines, shall mean the point where 4-inch PVC lines are brought to within 100 feet of the property line.
- 2.62. Subdivision Plat: A map of a platted subdivision recorded with the proper land use authority for the purpose of creating land parcels that can be identified uniquely by reference to such map.
- 2.63. Suspended Solids (or SS): The total suspended matter or solids, expressed in parts per million by weight, that either float on the surface of, or are in suspension in, the water, wastewater or other liquids, which are removable by filtration.
- 2.64. Testing: The analysis of water or wastewater samples for composition, and other characteristics; or the inspection and trial operation of water or wastewater system facilities or as otherwise required herein.
- 2.65. Variance: An exception to the application of the District's Rules and Regulation or Engineering Standards, granted in the District's sole discretion, based upon hardship or District determination that a Rule should not be applied for another justifiable reason.

- 2.66. Water Service Agreement: The Water Service Agreement (Total Service – Improvement) between the District and Denver Water, as amended from time to time.
- 2.67. Wastewater (Sewage or Sanitary Sewage): A combination of liquid wastes originating from any residential, commercial, or industrial building or other establishment, including household waste, human excreta, animal or vegetable matter, organic or inorganic material in suspension or solution, and other solids in suspension or solution that enter the POTW.
- 2.68. Wastewater Main Line: Any pipe, system of piping, and appurtenances used as a conduit for wastewater in the District’s wastewater system that is owned by the District or owned by another public wastewater provider with whom the District has an agreement for sharing and/or splitting conveyance for the purposes set forth in the agreement(s).
- 2.69. Wastewater Service Line or Service Line: Any pipe, system of piping, tap, line, or appurtenance owned and maintained by the owner that is used as a conduit for wastewater from a customer’s building to the wastewater main line or wastewater facilities.
- 2.70. Wastewater System: All structures, facilities, equipment, and processes used for collecting, pumping, treating, and disposing of wastewater.
- 2.71. Any term not set forth herein shall be as defined in the latest editions of “Glossary - Water and Wastewater Control Engineering,” A.P.H.A., A.W.W.A., A.S.C.E., and F.W.S.A., if listed therein.

### 3. OPERATING PRINCIPLES AND LIMITATIONS

- 3.1. Policy: The District provides wastewater services to properties within the District’s service area in an economical manner, subject to any capacity limitations, and provides for the operation, maintenance, repair and replacement of all facilities owned by the District, in accordance with these Rules. The use of the District’s wastewater system is only by permission of the District. The District reserves the full right to determine all matters related to the control and use of its wastewater system, and use of the District’s wastewater system is subject to suspension or revocation by the District, in accordance with these Rules.
- 3.2. New Development Pays its Own Costs: Notwithstanding any other provision of these Rules to the contrary, all costs of new construction, reconstruction or enlargement of any wastewater facilities, (including but not limited to, service lines, main lines and wastewater treatment facilities), including all associated planning, engineering, administration and attorney fees, which are necessary to provide new, different or additional wastewater service within the District’s service area, shall be paid by the

owner(s) of the property or building to be provided service. The provisions of these Rules apply regardless of whether the District or some other person contracts for, or initially pays for, such construction, reconstruction or enlargement, or whether such service is compelled by the District. The District's Board may act other than as set forth in this section when, in its sole discretion, it determines that such action is in the best interests of the District or is necessary to provide for the health, safety, and welfare of the inhabitants and visitors of the District.

3.3. Compliance with Engineering Standards: All wastewater facility construction, repair, maintenance or modification work within the District shall comply with the District's Engineering Standards, as they currently exist and may be amended, and these Rules.

3.4. Limitations on District Liability:

3.4.1. Liability of District: The District and its officials and employees shall not be liable or responsible for damages to or failure of wastewater service lines, private lines, plumbing facilities, lift stations or other facilities not owned by the District. Each owner of wastewater improvements connected to the District's system shall assume all responsibility therefore, including responsibility for maintaining such improvements. The District shall not be liable for damages caused by or related to wastewater service lines, private lines, plumbing facilities, lift stations or other facilities now owned by the District.

The District and its officials and employees shall not be liable for or responsible for damage resulting from breaking or failure of any sewer main or other District facilities through no fault of the District, interruption of service brought about by the request of claimant, by circumstances beyond the District's control (including without limitation, acts by a third party, acts of nature or acts of terrorism), or from any failure or interruption of water supply, and no claim for such damage shall be made against the District. Nor shall the District and its officials and employees be liable for the making of connections or extensions; burst service pipes or other improvements not owned by the District; blockage in the system causing the backup of sewage; failure of wastewater facilities to be located where the District's map indicates they should be; shutting off of a sewer lift station and possible backflow resulting there from; or failure or for taking certain actions with respect to the wastewater system of the District deemed necessary by the Board of Directors or its agents. This paragraph shall not relieve the District from liability for negligence of its employees, if such liability would otherwise have existed.

3.4.2. District Not Responsible for Damages: These Rules shall not be construed to hold the District in any manner responsible for any damages to persons or property resulting from any inspections as herein authorized or resulting from failure to inspect or resulting from the issuance or denial of any permit as herein provided, or resulting from the institution of court action as allowed by law, or the forbearance by the District to so proceed.



- 3.4.3. **Officials Not Liable:** Any District official or employee, who is charged with the enforcement of these Rules and is acting in good faith and without malice on behalf of the District in the discharge of their official duties, shall not thereby render themselves personally liable for damages that may accrue to persons or property resulting from any such act or omission committed in the discharge of their duties. Any suit or proceeding instituted against such official or employee, stemming from any act or omission performed by them in the enforcement or attempted enforcement of any provision of these Rules, shall be defended by the District until final termination of the proceedings, in such a manner as to be consistent with the District's resolution indemnifying such officials and employees. Nothing herein shall be deemed to repeal or supersede the District's indemnification resolution.
- 3.4.4. **Non-Liability for Work of Others:** The District does not assume any liability for any work performed by others. No claim shall be made against the District or any of its officers or employees, due to errors of omission or commission by the District's licensees or independent contractors.
- 3.4.5. **Indemnity:** The owner(s) shall indemnify the District from any loss or damage that may directly or indirectly be caused by or result from the installation of a main or service line to serve the property, and the District may require the property owner to obtain some security before proceeding.
- 3.4.6. **Non-Waiver:** Nothing in these Rules shall constitute a waiver by the District of the defense of sovereign immunity or any protections under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., or any other defenses it may have to an action against the District, its officials or employees, nor a waiver of its insurance coverage.
- 3.5. **Ownership and Maintenance of Wastewater Facilities:** Except as otherwise provided in these Rules, all existing and future wastewater facilities connected with and forming an integral part of the District's wastewater system shall become and are the property of the District following acceptance in writing by the District. The District shall be responsible for maintenance, repair and reconstruction of such wastewater facilities, including wastewater main lines, at its own cost, unless the facility is under warranty or unless the situation necessitating such repair or reconstruction is the result of a change or enlargement of use, abnormal use or damage to such facilities, in which case such repair or reconstruction will be done at the expense of the person responsible for such change or enlargement of use, abnormal use or damage. The District's ownership will remain valid regardless of whether such property was constructed, financed, paid for, or otherwise acquired by the District or by other persons. No other persons, except those authorized by the District, shall have any right to enter upon, inspect, operate, adjust, change, alter, move or relocate any portion of the foregoing or any of the District's facilities.
- 3.6. **Ownership and Maintenance of Wastewater Service Lines:**

- 3.6.1. Wastewater service lines including the tap, tapping saddle, tee, wye or manhole bore extending from the District owned main to each building or unit are the property and maintenance responsibility of the owner of said building or unit. All appurtenances associated with wastewater service lines, including clean outs, grease traps/interceptors and sand/oil interceptors, shall be maintained by the owner of the building or unit being serviced.
- 3.6.2. Leaks, stoppages or breaks in service lines shall be repaired by the owner within a reasonable period of time after discovery or notification of such condition by the District. If satisfactory progress toward repairing the leak, stoppage, or break has not been made within such time period, the District may shut off the water or wastewater service until the leak, stoppage or break has been repaired or may take actions necessary to make the required repairs at the full expense of the owner. The District reserves the right to make the repairs without prior notice to the owner, at the expense of the owner, when, in the opinion of the District, immediate repair is necessary to protect the health, safety and welfare of the inhabitants and visitors of the District or the public water or wastewater system. Responsibility for maintenance shall remain with the owner whether the service lines are constructed, financed, or paid for by the District or by other persons.
- 3.7. Encroachment of the District's Easements: No person shall construct any permanent building or similar structure or place any fill material on one of the District's easements, although such persons may install temporary or removable and replaceable objects, such as yard lights, mailboxes, signs, fences, shrubs, flowers or plants within the easement, if permitted by the District easement. If in the process of exercising one or more of the rights to the use of an easement, the District finds it necessary to remove any of the permitted items placed or planted within the easement, the District shall not be responsible for replacing those items after it has exercised its rights. If an owner or other person seeks to construct a permanent building or other structure on one of the District's easements, the owner or other person shall apply to the District for approval prior to the construction of the encroaching building or structure. The District's approval, if granted, shall be in the form of an encroachment agreement. Alternatively, the District may agree, in its sole discretion, that the owner may move the District's facilities at the owner's sole cost and expense to accommodate future construction. In that case, the owner shall dedicate a new easement to the District, in a form acceptable to the District.
- 3.8. Use of the District's Easements: An owner may request permission from the District to share or use the District's easements for the installation of drains, pipelines or other improvements. The District's determination to allow an owner to share or use one of the District's easements shall be made in the sole discretion of the District. Any such approval shall be in the form of a written agreement, setting forth the terms of the agreement, specifically including, but not limited to, the terms set forth below:
- 3.8.1. Any person wishing to install or construct a utility, railroad or other improvement that will cross a District easement or District wastewater line may be required to

enter into a Crossing Agreement and pay a Crossing Permit Fee, in accordance with Article I, Section 3.9 of these Rules.

- 3.8.2. The owner shall, at all times, have the obligation, enforceable at the demand of the District, to operate, maintain, repair and replace the non-District owned drains, pipelines or other facilities as may be desirable from time to time.
  - 3.8.3. If maintenance or replacement of non-District owned drains, pipelines or other facilities results in damage to the District's wastewater facilities, the owner shall immediately notify the District of the damage, and shall be liable for such damages, and will compensate the District for repair costs.
  - 3.8.4. The District shall not own or have any obligation to operate, manage or control the drains, pipelines or other facilities installed by an owner within the District's easements, except for facilities explicitly accepted in writing by the District for ownership. However, if the physical condition or operation of the District's wastewater facilities is interfered with or endangered, or if there is a risk to the health and safety of the public as a result of the owner's, drain, pipeline or other improvements, the District shall have the right, at the property owner's or utility's expense, to do whatever is reasonable and necessary under the circumstances so that the District's wastewater facilities are no longer endangered, or interfered with, and it may mitigate any risk to the health and safety of the public.
  - 3.8.5. As-built construction drawings for the drains, pipelines or other improvements installed within the District's easements by an owner shall be furnished to the District as required by the District's Engineering Standards.
  - 3.8.6. The owner shall indemnify and save the District, its officers, directors, agents and employees harmless from and against every claim, demand, liability, cost, charge, suit, judgment and expense of whatsoever kind or nature, including, but not limited to, interest, court costs and attorney fees that the District, its officers, directors, agents or employees may pay or incur as a result of, or in any way arising out of, the sharing or using of the District's easements. Said indemnification shall extend to claims, demands and liability for injury to persons and property, and for financial losses that occur off the job site as well as on, and for injury and damage to person and property, as well as financial losses occurring after construction and installation of the drains, pipelines or other facilities within the District's easements by the owner, or the owner's contractor.
- 3.9. Review of Crossing and Adjacent Utilities: Utility companies and other persons who would like to install utilities, which would: (a) cross District facilities or (b) be adjacent to District facilities and located within ten (10) feet from the District's existing facilities, shall submit a copy of the plans for the utility installation to the District for review and approval, in advance of construction / installation. The District shall review the plans and may request any changes deemed necessary, in the reasonable discretion of the

District, to protect the integrity and safety of existing or planned District facilities and for compliance with the general requirements set forth in section 3.9.2 below.

3.9.1. For the purpose of this Article I, section 3.9, utilities are defined as including without limitation water or wastewater lines, storm sewer improvements, gas or oil lines, television, telecommunication, cable or internet lines, water conveyance structures, electrical lines, or railroad improvements.

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

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

3.9.2.2. Utilities which cross the District's existing wastewater pipelines shall cross District facilities at or near a perpendicular angle.

3.9.2.3. Utilities shall take reasonable measures required by the District to protect in place any existing District facilities in the area of the crossing that may be reasonably affected by construction or replacement of the utility, at the cost of the utility.

3.9.2.4. The District Manager, in their reasonable discretion, may impose a crossing fee, in order to cover the District's costs of reviewing a crossing. The District may require a Crossing Agreement for projects require an unusual amount of review, due to the nature or complexity of the project, the number of crossings, or for any other reason, or when deemed necessary by the District Manager.

3.10. Service Outside the District's Service Area: No future service is available outside the District's service area except as specifically authorized by the Board, at its sole discretion. Any service outside the District's service area would be dependent on, among other issues, discussions with other service providers, inclusion into the District boundaries or payment of extraterritorial fees, extension of District wastewater facilities, consideration of urban growth boundaries, and any other factors deemed relevant by the District.

#### 4. EXPANSION OF DISTRICT BOUNDARIES

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

sufficient to compensate the District for the provision of service to the property. Any inclusions will be subject to agreement by Denver Water to add the property to the Contract Service Area and subject to agreement by Metro to add the property into the District's service area.

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

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

- 4.2. Petition for Inclusion: The owner of parcels capable of being served by facilities of the District shall file a written petition on forms provided by the District, requesting that such parcels be included in the boundaries of the District in accordance with C.R.S. § 32-1-401. A petition for inclusion shall include all the land that the person owns that is contiguous to and adjoining the parcel upon which service from the District is desired, unless the District permits otherwise. The petition for inclusion shall be submitted to the District, along with the inclusion fee. The owner must first meet and consult with the District's Engineer before submitting a Petition for Inclusion to the District. The property owner of a single un-platted parcel of real estate shall be required to petition the entire parcel for inclusion in the District in one petition for inclusion.

All petitions for inclusion shall contain a legal description of the property to be included, setting forth the total acreage, together with proof of ownership, and a description of the proposed use of the property.

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

- 4.2.1. A survey of the property showing its location with respect to the District's existing boundaries.
- 4.2.2. The existing zoning for the property to be included together with any proposed zoning changes, including all documents submitted to Adams and/or Jefferson County pertaining to such re-zoning request.
- 4.2.3. A description of the proposed uses of the property to be included, together with:
  - 4.2.3.1. The proposed total population for the property, including a breakdown into types of uses such as single-family residences, condominiums, commercial development, recreational uses, etc.

- 4.2.3.2. The proposed maximum population density for each area of the property, including the number of acres to be used for various types of uses, together with an indication of lot sizes, irrigated acreage, water and wastewater requirements, and any limitations proposed on water usage.
- 4.2.3.3. The number of acres to be dedicated to open space, green belts and parks, and the anticipated location of each such area, a description of the proposed ground cover and the irrigation water requirements for each such area.
- 4.2.3.4. Detailed engineering plans on how the petitioners propose that water and wastewater services be provided, including cost estimates of all facilities.
- 4.2.3.5. Any other pertinent facts that will assist the District in considering the petition for inclusion.
- 4.2.4. The proposed development schedule.
- 4.2.5. Any additional information as requested by the District.
- 4.3. Conditions for Inclusion: In addition to the requirements for inclusion set forth above, the District may require that an owner seeking to include property into the District's boundaries satisfy certain conditions including, but not limited to, those set forth below.
  - 4.3.1. Inclusion Agreement: As a condition of inclusion, the owner shall enter into an Inclusion Agreement with the District, in a form acceptable to the District.
  - 4.3.2. Property Dedication: As a condition of inclusion of property within the District's boundaries, or as a condition of receiving service from the District, owners may be required to dedicate easement(s) at no cost to the District, in order to facilitate the provision of wastewater service to the property.
  - 4.3.3. Denver Water Dedications: As a condition of inclusion, the owners may be required to dedicate groundwater and easement(s) to Denver Water and to provide other information required by Denver Water.
- 4.4. Inclusion Fee: The petitioner for inclusion shall pay a fee to the District that is intended to cover the costs incurred by the District in evaluating the petition for inclusion. The inclusion petition fee shall be assessed regardless of whether the petition for inclusion of the property into the District's boundaries is finally granted by the Board. The petitioner shall be required to pay the inclusion petition fee at the time of filing its petition for inclusion. Upon completion of the Board's granting or denying the petition for inclusion, the District may determine the actual costs expended by it in considering the petition for inclusion. If the inclusion petition fee paid by the owner to the District is less than the actual cost expended by the District in considering and completing processing of the petition for inclusion, an additional charge will be levied on the owner by the District for

the difference. Additional charges shall be paid by the property owner within 15 days of being invoiced, or the inclusion may be postponed until payment is made.

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

4.6. Mill Levies: Applicable mill levies of the District shall be assessed following inclusion of the property into the District's boundaries.

4.7. Service to Included Property: Inclusion of property within the District's boundaries does not obligate the District to provide service to such property nor does it guarantee the ability of the District to provide service to such property. Owners of included property seeking to acquire wastewater service from the District shall comply with all provisions of these Rules and shall apply for service in accordance with Article II. Owners seeking water service shall comply with all requirements of Denver Water and Article III.

## 5. USE OF PUBLIC WASTEWATER SYSTEMS REQUIRED

5.1. Unlawful To Deposit Waste in Unsanitary Manner: It is unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner, on public or private property within the District, any human excrement or other objectionable waste. This also includes unlawful dumping by any person(s) or entities pulling open District manhole covers to dispose of any liquid waste and or materials.

5.2. Wastewater Must Be Treated by the District: It is unlawful to discharge any wastewater or other polluted waters to any natural outlet, or surface or subsurface system within the District, unless authorized in writing by the District in accordance with these Rules and the limitations of the NPDES Facility Permit of Metro.

5.3. Use of District Wastewater Systems Required: No wastewater disposal system shall be constructed within the District unless such system is connected with the District's wastewater systems and approved by the District. The owner(s) of any parcel of land within the boundaries of the District that is subdivided subsequent to the effective date

hereof, shall apply to the District for extension of its wastewater facilities to serve said subdivision. The District shall require said owner(s) to construct or pay for the construction of the extension or enlargement of all facilities necessary to serve said subdivision. If the District elects to extend such service, the District and the owner(s) shall enter into an extension agreement as more fully set forth in Article II of these Rules.

#### 5.4. District's Power to Compel Connection:

5.4.1. Unless otherwise agreed to by the Board, the owners of all dwellings, units or other buildings within the boundaries of the District where domestic or industrial wastes or wastewater are generated, stored or treated, shall be required, at their expense, (1) to install suitable wastewater facilities therein; and (2) to apply for and to connect such facilities directly to the District's public wastewater system within 20 days after written notice from the District, by registered mail, compelling connection in accordance with C.R.S. § 32-1-1006(1)(a) so long as the public wastewater main is within 400 feet of the owner's property line. The purpose of this requirement is to protect the health, safety and welfare of the inhabitants and visitors of the District in accordance with the provisions of these Rules.

5.4.2. If connection is not commenced within such period and completed with reasonable diligence by the owner, the District may make such connection, and the owner shall be liable for all expenses incurred by the District for the completion of the connection, including any unpaid connection fees. The District shall also have a first and prior lien on the premises for such costs and fees, and such lien shall be enforceable in accordance with the provisions of C.R.S. § 32-1-1006 (1)(a)(I).

5.4.3. If an owner's service line must cross another person's property in order to connect to the District's wastewater facilities at the point designated by the District, and the owner is unable to obtain the easement(s) required for such service line, the District may, in its sole discretion, initiate proceedings to acquire such easement(s). All costs incurred by the District in the prosecution of such proceedings, including, without limitation, the amount determined to be payable as just compensation, attorney fees, engineering and survey fees, appraisal fees and expert witness fees, shall be paid by the owner of the premises to be connected. The amount required to be deposited with the court in order for the District to obtain possession of the property included within the easement(s) shall be paid at that time by the owner of the premises to be connected. The District shall have a first and prior lien on the premises to be connected and the land on which they are located for all such costs, and the lien shall be enforceable in accordance with the provisions of C.R.S. § 32-1-1006(1)(a).

## 6. INSPECTIONS

6.1. Powers and Authority of Inspectors: The District Manager, or an Inspector bearing proper credentials and identification, shall be permitted to enter all private property



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

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

## 7. PROTECTION OF DISTRICT FACILITIES

- 7.1. Compliance with Statutes and Regulations: For all projects that require digging, boring, directional drilling or excavation around District facilities, the person, contractor or excavator wishing to dig or excavate around said facilities shall comply with all applicable statutes and regulations of the State of Colorado, including, but not limited to, C.R.S. § 9-1.5-101, et seq.
- 7.2. Locate Information: For projects that require digging, boring, directional drilling or excavation around District facilities, a contractor or excavator must provide locate information to the District and must call Colorado 811, at least two business days prior to commencing any digging, boring, directional drilling or excavation, in addition to any other legal requirements. The locate request must include the name and telephone number of the person submitting the request and of the excavator, the starting date, a description of the proposed excavation, and the location of the work. No activity shall take place until the District physically marks the facilities. If the original locate is considered an extended job, all locates shall be done on a day-to-day basis. It is the responsibility of the contractor or excavator to perform the work safely without damaging District facilities.
- 7.3. Hand Digging Near Underground Facilities: Contractors and excavators are required to hand dig and expose all facilities before using mechanical devices near underground facilities of the District.
- 7.4. Marking the Area: The contractor or excavator must mark the project vicinity and indicate to the District whether the area is marked by paint, flags or nylon whiskers.
- 7.5. Standby: The contractor or excavator must indicate whether a standby is required at the site, in which case, the contractor or excavator shall reimburse the District for the costs of the standby representative of the District.
- 7.6. Diagram of Dig Area: The contractor or excavator must provide a diagram of the dig area.

7.7. Contact Information: The contractor or excavator must indicate the locator's name and must provide a signature of the person on the job site. The contractor's or excavator's name and mobile phone number shall also be provided to the District.

7.8. District Not Liable: The District is not responsible for locating water or wastewater service lines of any owner other than the District, which locating shall be done by a locating service at that owner's expense. Private locators and contractors accessing District facilities shall notify the District in writing of such locating prior to proceeding with their work.

## 8. ENFORCEMENT

8.1. Prohibitions: No unauthorized person shall turn on service from, uncover, make any connection, reconnection or disconnection with, open, extend, use, alter or disturb any public wastewater main facility or appurtenance, or fail to comply with these Rules.

8.2. Violations: In case of a violation of these Rules, the District may revoke a permit, revoke or suspend water or wastewater service, or require the responsible person to return the District's system to its original condition. In addition, the District shall require payment of all current applicable fees and charges provided by these Rules and all costs associated with the violation, including any expenses, loss, damage or attorney fees caused by the violation prior to the District providing service to any property or facilities owned, leased or occupied by the responsible party, whether or not such property or facilities are directly involved in the violation of this section. This section shall not be construed to limit the right of the District to pursue other fees, charges, remedies or forms of relief provided in these Rules and by other applicable law.

8.3. Temporary Shut off of Water Service:

8.3.1. Water Service may be shut off by the District for non-payment of fees and charges owed to the District, for failure to comply with these Rules, or when the District Manager or District Engineer determines that an emergency exists and such shut off is necessary to protect the health, safety and welfare of the inhabitants and visitors of the District or the District's water or wastewater system.

8.3.2. Except as specifically provided otherwise herein, or except in those circumstances involving an imminent hazard to the health, safety or welfare of the owners, residents and visitors of the District, or to the water or wastewater systems of the District, Metro, Denver Water, North Lincoln Water and Sanitation District or the City of Arvada, or the environment, as determined in the discretion of the District, the customer shall be given notice prior to shut off, via mail, hand delivery or posting on the property served. If an owner wishes to challenge or contest a temporary shut off of water, they may contact the District Manager at (303) 477-1914 to discuss and/or dispute the fees, rates, tolls and charges and present objections to the bill and the suspension of services. The determination of the

District Manager regarding shut off of water shall be final; however, the owner can request a hearing before the Board of Directors.

8.3.3. Any request for such a hearing shall be in writing and submitted to the District Manager within fifteen (15) days the determination by the District Manager. Said hearing shall be held by the District at a regular or special meeting of the Board, at which time the customer or owner shall have an opportunity to present testimony and evidence. Following said hearing, the Board's decision shall be made. If it is the decision of the Board to suspend water service to the property, service shall be discontinued until all fees and costs due and owing to the District, Denver Water and/or Metro, including without limitation shut-off and turn-on/activation fees, have been paid and any violations of these Rules have been remedied.

8.4. Penalties and Fines. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any of the District facilities without first obtaining written approval from the District. No unauthorized person shall remove or tamper with any plug, lock, or manhole cover installed by the District. No person shall make any discharge into the wastewater facilities of storm water or other substances in violation of these Rules or in violation of any Industrial Permit. The District will impose a penalty assessment for such unauthorized acts in an amount sufficient to cover any damages suffered by the District as a result of such unauthorized act plus an appropriate fine not to exceed \$5,000 per occurrence. For any other violation of these Rules, the District may impose a penalty of up to \$500 per occurrence.

8.5. Criminal Offenses: The District will notify law enforcement of any person who maliciously, willfully, negligently, or criminally breaks, damages, destroys, uncovers, defaces or tampers with any part of the District's wastewater system or facilities, without written authorization by the District. Such persons may be subject to fines or imprisonment, if convicted of a criminal violation, which shall be in addition to whatever penalties and charges are imposed by the District.

## ARTICLE II

### REQUIREMENTS FOR ACQUIRING WASTEWATER SERVICE FROM BERKELEY WATER AND SANITATION DISTRICT

#### 1. WASTEWATER SERVICE

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

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

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

1.1.2.1. Whether adequate wastewater collection, delivery, and treatment and related facilities are available for the proposed volume and composition of the wastewater flow;

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

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

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

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

1.1.3. Limitations on the District's Ability to Provide Service: The District's ability to provide wastewater service to property included within the District's service area, may be limited by factors including, but not by way of limitation: capacity

limitations related to wastewater treatment; capacity limitations related to main lines, wastewater facilities and service lines; or availability of water supply, including restrictions that may be imposed under the District's contracts with Denver Water, Metro, the City of Arvada, North Lincoln Water and Sanitation District and other governmental entities. The District may require that certain conditions be met by the owner in order for the District to provide wastewater service to the property.

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

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

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

1.1.5. Responsibility for the Costs of Providing Service: An owner or developer seeking to acquire wastewater service from the District shall be responsible for the design, installation, construction, and any other costs or fees and charges associated with provision of wastewater service to the property and the extension or enlargement of public facilities, including without limitation, costs associated with planning, engineering, inspection, administration, acquisition of facilities, acquisition of rights-of-way, attorney fees, and all other fees and/or costs necessary to provide new, different, or additional service.

## 1.2. General Requirements for Acquiring Wastewater Service:

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

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

1.3. Procedural Requirements for Acquiring Water and Wastewater Service:

1.3.1. Application for Development Plan Review: A person seeking to acquire wastewater service from the District shall submit an application for development plan review, which is the District's review process designed to ensure that all wastewater work and facilities proposed within the District comply with the District's Engineering Standards and these Rules. The District's development plan review will determine the scope of additional wastewater facilities required to serve the property for which service is requested. The application for development plan review shall be submitted in accordance with these Rules and the District's Engineering Standards. An application for the development plan review will be accepted only when filed by the owner or their authorized agent prior to any application for service or extension of facilities. The application for development plan review shall be submitted on the District's standard forms, which are found on the District's website, <http://www.berkeleywatersanitation.com>, or can be obtained from the District. The application will not be accepted by the District until all the information required on the forms is supplied. Applications with plans that require professional engineer or attorney review will be charged those professional services fees as a pass through. The District may require the applicant to enter into a Project Review Fee Agreement with the District, regarding applicant's obligation to reimburse the District for its costs relating to the Project, including, but not limited to, all applicable engineering, legal, District employee, administrative and other costs incurred by the District and which contains a requirement to deposit estimated funds for such costs.

1.3.1.1. Approval Prior to Construction: Wastewater improvement plans and specifications must be approved by the District prior to the commencement of any construction activities for improvements to be dedicated to the District or connected to the District's wastewater facilities. Wastewater improvement plans and specifications shall be submitted in accordance with the procedures set forth in these Rules and in the Engineering Standards.

1.3.1.2. Compliance with Specifications Required for Plan Approval: Construction of wastewater facilities within the District shall comply with the District's Engineering Standards as they currently exist and as may be amended. In the event that materials and installation procedures for the wastewater facilities are not explicitly addressed in the Engineering Standards, supplemental specifications shall be submitted to the District for review.

- 1.3.2. Application for Service: Any owner seeking to acquire wastewater service from the District shall submit an application for service. An application for service requires the acceptance of both water from Denver Water and wastewater service from the District, unless the District expressly approves otherwise in writing. Applications for service will be accepted only when filed by the owner, or their authorized agent and shall include the legal description and street address of the property to be served. The application for service shall be made at the District's office on forms provided by the District and will not be accepted for review by the District until all the information requested on the forms is supplied.
- 1.3.2.1. Conditions on Applications for Service: The District may accept an application for service for property included within the District's boundaries or service area, subject to the following: (1) there are existing wastewater main lines fronting the property to be served; (2) there is an extension contract with an accompanying deposit for wastewater main line extensions to provide frontage main lines; or (3) the owner of the property to be served has acquired an easement for connection of the property to the wastewater main line. However, wastewater service by the District is subject to availability of service based on adequate wastewater treatment capacity and wastewater facilities.
- 1.3.2.2. Determination of Required Service: The District will determine the number of wastewater SFREs necessary to serve each property by analyzing the potable water demands associated with the planned development of the property.
- 1.3.2.3. Approval at Discretion of the District: Approval of any application for service shall be at the sole discretion of the District. If, in its sole discretion, the District determines, that there are not adequate or available wastewater facilities sufficient to serve the property, the District shall deny the application for service or require the applicant to pay the costs of construction or upsizing of facilities needed to serve the property and properties expected to use the facilities in the future.
- 1.3.2.4. Cancellation of an Application for Service: An application for service may be canceled by the applicant if the connection fees have not been paid.
- 1.3.3. Commercial and Industrial Users: All applicants for a new connection, expanded use or a change of use for a non-residential property will be required to complete a Wastewater Discharge Questionnaire of Metro before receiving a Connection Permit. The questionnaire will be used to determine if there is sufficient capacity in the wastewater system for the proposed discharge and for Metro to determine whether an Industrial User Permit or pretreatment is required prior to discharge. In addition, the questionnaire will be used to determine, in the District's discretion, whether the property will be classified as a commercial or an industrial user for billing purposes.

#### 1.3.4. Conditions for Connection Permits:

- 1.3.4.1. Requirements for Construction: All service line construction and connections to main lines shall be in accordance with the requirements provided in these Rules and the District's Engineering Standards.
- 1.3.4.2. Building Permits: Before an owner can acquire wastewater service from the District, they must obtain a valid building permit from the appropriate land use authority for the property for which service is requested.
- 1.3.4.3. Connection Permits Do Not Authorize Road Cuts: Issuance of any connection permit by the District does not authorize the holder thereof to make any cuts in a public road or street or to do anything for which separate permission is required of another governmental entity.
- 1.3.4.4. Revocation: Any connection permit or grant of service may be revoked at any time by the District Manager or the Board if the planned installation or use of wastewater service lines is changed or is not made in accordance with these Rules.
- 1.3.4.5. Subject to Rules: All connection permits, grants of service and any other agreements issued or entered into by the District shall be subject to each of the provisions of these Rules as they may be amended from time to time.
- 1.3.4.6. Amended Connection Permits: If new dwelling units are added, an additional water meter is installed or the water meter size is increased, or use of the property is changed from residential to commercial/industrial or vice versa, the owner shall apply for an amended connection permit and pay the difference between the connection fees for the number of SFREs under the amended permit minus the number of SFREs under the current/prior use.
- 1.3.4.7. Limitations on Connection Permits: Each connection permit shall allow only one service line connection. Connection permits issued to an owner are applicable only to the real property and building(s) or portion thereof specified in the connection permit, and all rights under the connection permit shall be deemed to be automatically conveyed with title to such property. The connection permit shall not be transferrable for use on other property or for other buildings on the same property, with one exception. Upon written application, the transfer of the connection permit may be approved by the District, in its sole discretion, upon payment of a connection permit transfer fee, as set forth from time to time by the Board and a District determination that such transfer will not impair the health, safety or welfare of the residents and visitors of the District.
- 1.3.4.8. Deadline for Use of Connection Permit: If connection to the District's wastewater facilities does not occur within one year from the date of issuance



of the connection permit, the owner will be required to pay a supplemental fee to Metro based on the difference between the payment for the Metro Wastewater Connection Fee and the Metro Wastewater Connection Fee which would be due on the day a replacement permit is issued or, if no replacement permit is issued, on the date construction is initiated. If a connection permit is not used, there is no refund of fees.

1.3.4.9. Cancellation: The District reserves the right, in its sole discretion, for cost-related, lack of capacity or other reasons, to cancel any connection permit or grant of service issued by the District, including grants of wastewater service or approvals of main line extensions at any time prior to connection to the District's wastewater system. If the District exercises its right to cancel, it shall refund all fees previously paid that have not been expended for evaluation of the respective application for service.

1.4. General Conditions on Service: In addition to the other requirements for wastewater service set forth in these Rules, the District may require that an owner seeking to acquire wastewater service from the District or seeking inclusion of property within the District's Boundaries satisfy certain conditions, as outlined in these Rules. Those requirements include:

1.4.1. Adequate Wastewater Facilities: As a condition of service, the District may require advance payment of fees or capital to build the necessary wastewater facilities and may provide for payment of such fees or capital as set forth in an agreement with the owner. The District also may require payment of additional fees to meet costs of expanding wastewater facilities. Those fees are to be determined by the Board from time to time.

1.4.2. Adequate Main Lines and Service Lines: An owner seeking to acquire wastewater service from the District may be required to pay the construction costs of all main lines, service lines, and other facility extensions necessary to provide wastewater service to the subject property. The owner may not be reimbursed by the District for such costs, except as set forth in Article II, Section 2.0 of these Rules.

1.4.3. "Will Serve" Letters: An owner may be required to provide the Jefferson County, Adams County or other land use authority, with a "will serve" letter from the District to confirm that there are sufficient wastewater capacity and facilities available to serve a proposed development. After the completed application has been submitted to the District, the District may provide the "will serve" letter identifying the level of service commitment subject to appropriate conditions.

1.4.4. Property Dedication: As a condition of receiving service from the District, an owner may be required to dedicate access easements or wastewater easements at no cost to the District.

1.5. Private Lines and Acceptances:

- 1.5.1. Ownership: No new Private Sewer Line may be connected to the District system which serves multiple properties, unless a variance is granted under these Rules. If an existing Private Sewer Line connects to more than one building to the public wastewater main, such Private Sewer Line shall be jointly and severably owned by the property owners whose buildings connect into such line, unless the property owners agree otherwise in writing. Such owners shall be responsible for securing any easements needed for the Private Sewer Line.
- 1.5.2. Limitation: No water or wastewater line shall become the property or responsibility of the District merely by reason of the construction or existence of said line, within the boundaries of the District. The District shall not be responsible in any way for any Private Sewer Line or private water pipeline existing or constructed within its boundaries unless and until such line is conveyed to and accepted by the said District.
- 1.5.3. Liability of Private Sewer Lines: The District shall not be liable in any way for any damage caused by the inadequacy or malfunction of any Private Sewer Line within the boundaries of the District.
- 1.5.4. Maintenance of Private Sewer Lines: The owner(s) of any property connected to a Private Sewer Line shall maintain the Private Sewer Line in good condition and repair. If the owners fail to make required repairs, the District may make such repairs at the owners' expense or may compel connection directly to the District's system. The District's costs related to making such repairs constitute a perpetual lien against the property connected, directly or indirectly, to the Private Sewer Line, which may be enforced per Colorado law.
- 1.5.5. Connection Fees: No new connections may be made into Private Line without a Connection Permit from the District. Each owner of the connecting property shall pay a connection charge for each connection into the Private Sewer Line in the same amount as if the connection were made directly into the District's main line, in addition to all other applicable fees and charges.

## 2. EXTENSION OF FACILITIES

- 2.1. Policy: If the District's development plan review determines that the construction of main line extensions or extension or enlargement of wastewater facilities is required to provide the requested service to the property, the owner/developer shall be responsible for all costs associated with such extension or expansion.
- 2.2. General Rules Regarding Construction of Main Line Extensions, Service Line Connections and Wastewater Facilities:

- 2.2.1. Design: All wastewater facilities that are included as planned system facilities within the District's most recent Master Plans, or as determined in the development plan review, shall be designed in such a manner as to allow the District to continue a main line extension in accordance with the District's Master Plans and Engineering Standards. Specifically, an owner/developer made be required to extend a wastewater main line to the far boundary of its property or to upsize a wastewater main line, to allow for future connections.
- 2.2.2. Construction Consistent with District Plan: All construction within a development to be served by the District shall be completed in such a manner as to allow the District to continue a main line extension in accordance with the District's Master Plans and Engineering Standards.
- 2.2.3. Construction Consistent with District's Engineering Standards: The District's Engineering Standards establish minimum standards for the design and construction of wastewater collection facilities within the District. All wastewater facility construction, repair or modification work within the District shall comply with these Rules, Engineering Standards and Master Plans, as those documents currently exist or as amended, and shall comply with any additional requirements and modifications that may be adopted by the District as necessary for a particular project. The District reserves the right to impose additional or more stringent requirements on all or part of any development as necessary to address the specific circumstances of a project or to ensure the reliability and quality of the District's wastewater facilities.
- 2.2.4. Required Fees, Charges and Permits: No main line, service line or facilities shall be constructed within the District, nor connected to the District's wastewater system until all fees and charges have been paid, and all applicable permits have been issued by the District.
- 2.2.5. Compliance with District Rules: No service line, main line or wastewater facilities shall be connected to the District's wastewater system until all conditions and contractual obligations set forth in these Rules and any applicable contract or agreement have been fully complied with by the applicant/owner.

### 2.3. Extension of Wastewater Facilities:

- 2.3.1. Policy: When District wastewater facilities are not already located adjacent to a proposed development within the District's Boundaries, it shall be the responsibility of the owner/developer seeking service, to extend existing wastewater facilities to provide service to the property. The owner/developer shall pay all costs associated with the wastewater facility extensions, including without limitation, engineering and construction costs. If the District constructs the wastewater facility extensions, the owner/developer shall provide all funds necessary for such construction. All wastewater facility extensions shall be constructed in accordance with these Rules, Engineering Standards, and Master Plans. Prior to the District's acceptance of the

wastewater facility extensions, reproducible as-built drawings shall be provided, or reasonable provision made therefor. No work on a proposed wastewater facility extension shall commence, and no wastewater facility extension shall be constructed within the District, prior to the payment of all fees and estimated costs and the issuance of a wastewater facility extension permit and entering into an Application and Agreement for Extension of Sewer Main.

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

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

2.3.2. Construction of Wastewater Facility Extensions: The District will determine whether the District or the owner/developer will construct wastewater facility extensions. If the owner/developer will construct the wastewater facility extension, the District and the owner will enter into an agreement for extension of sewer main. If the District constructs the extensions, the District and property owner will enter into a wastewater facility extension cost reimbursement contract consistent with these Rules.

2.3.2.1. Wastewater Facility: All sewer mains shall be constructed with an access road for cleaning/maintenance at manholes. All manholes shall be located in public street rights-of-way or within permanent easements granted to the District. All manholes shall be accessible by maintenance vehicles via all-weather drives. Where manholes are not located in paved streets, a gravel paved roadway surface shall be installed over the sanitary sewer for access to each manhole. All manholes that are not located within paved streets shall have lockable lids. Manholes shall be located outside areas subject to flooding. When flood prone locations cannot be avoided, the District, at its sole discretion, may allow the installation of manholes designed to prevent the entry of surface runoff.

2.3.3. Location, Street Lines, and Grading:  
Wastewater facility extensions will be made in public streets or in easements granted to the District. Wastewater facility extensions may also be made on new streets so long as the streets are constructed to line and grade conforming to the plan and profile accepted by and recorded with the appropriate county or city. No wastewater facility extensions shall be installed until street lines and grades are

established and the street is graded in a manner acceptable to the county or city, and/or until easements required by the District have been conveyed to the District, at no expense to the District. If requested by the District, the applicant shall erect and maintain stakes to indicate the correct street lines and grades to facilitate proper installation of the wastewater facility extensions.

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

properties in the development plus any wastewater facilities required to connect dead ends within the development or subdivision at intersecting streets.

2.3.6.5. The size of the wastewater facilities to be installed will be based on the existing and future needs of the District and in accordance with its Engineering Standards and Master Plans.

2.3.7. Additional Wastewater Facilities: The District shall determine if any additional wastewater facilities, including, but not limited to, treatment facilities and booster pumps, will be required to provide service in conjunction with a wastewater facility extension. The applicant shall be responsible for the installation of such facilities in accordance with the District's Rules, Engineering Standards and Master Plans.

2.3.7.1. Pumping Stations and Force Mains: When pumping stations and force mains are required, the cost of engineering, construction and all other costs of said facilities shall be the responsibility of the owners served thereby. In those instances where more than one tract of land or platted subdivision may be served by the pumping station and/or force main, the District may require installation of a larger capacity pumping station and/or force main than that necessary to serve the initial development.

2.3.8. Costs: All costs associated with wastewater facility extensions and the provision of service by the District shall be the responsibility of the owner or developer seeking to acquire wastewater service, unless otherwise determined by the District. The costs of wastewater facility extensions shall include the actual cost of the extensions, labor, equipment, and overhead at the prevailing District overhead rates. If pavement, excavation, replacement or repairs are required for the wastewater facility extension, those additional costs will be added to the cost of the wastewater facility extension. The costs of extending wastewater facilities that will benefit land for more than one owner may be subject to Cost Recovery Agreement per Section 2.3.9 below.

2.3.9. Cost Recovery: A developer which pays for a wastewater main line extension that will benefit additional property not currently receiving service from the District may request a Cost Recovery Agreement with the District, pursuant to which the developer may be reimbursed through the District by additional customers, as connections are made, for the cost allocation of that portion of the wastewater main line between the existing system and the developer's nearest property line. Such reimbursements shall be made in accordance with the provisions of this Section 2.3.9 and a fully executed Cost Recovery Agreement by and between the developer and the District.

- 2.3.9.1. Computations and Collections: The District shall collect a cost recovery charge from all persons desiring to connect their property to a wastewater main line for which recovery is due to the developer pursuant to Section 2.3.9 above. All such charges shall be due and payable at the time a tap permit is requested, and no tap permit shall be issued to any applicant until the cost recovery charge due from such applicant is paid in full.
- 2.3.9.2. Cost Recovery Calculation: The Cost Recovery Agreement shall identify all properties which may be benefitted by connection to the extended wastewater main line. Computation of all cost recovery charges required by this Section 2.3.9 shall be determined by dividing the cost of installing the sewer main extension among any properties that may benefit from the installation of the sewer main. The District shall, in its discretion, determine the amount to be reimbursed to the developer and the formula for establishing the Cost Recovery Charge. The Cost Recovery Agreement shall set forth the percentage of the total cost of the wastewater main extension to be allocated to each benefitted property based on the acreage of each benefitted properties.
- 2.3.9.3. Cost Recovery Charge: Upon completion and acceptance of any wastewater main for which recovery is due the developer, or as soon thereafter as accurate data is available, the District shall determine the actual construction costs of the wastewater main extension. At that point, actual cost recovery charges will be calculated for each benefitted property and recorded with the Cost Recovery Agreement.
- 2.3.9.4. Recovery, Choice of Lines: In the event it is possible for an applicant for wastewater service to obtain service from more than one sewer main, the applicant shall pay the Cost Recovery Charge set for the main to which the connection is in fact made.
- 2.3.9.5. Reimbursement of Developer: Unless otherwise provided by the Cost Recovery Agreement, the District shall pay to the developer of any sewer main extension, all cost recovery charges collected for connections made to the extended sewer main for a period of 15 years from the date the sewer main extension was accepted by the District. The District, however, shall retain 1% of each cost recovery fee as administrative and processing fees. Upon application by the developer, such initial period of reimbursement shall be extended for a maximum of 2 additional years. Upon the expiration of the additional reimbursement period, or, if no application for renewal is made, then upon the expiration of the initial reimbursement period, the developer's right to reimbursement shall cease, regardless of the amount of reimbursement collected.

2.3.10. Ownership and Control of Extension: Ownership of any District operated wastewater facility extension shall at all times be and remain vested in the District. All facility extensions are under the sole control and jurisdiction of the District after acceptance by the District. This includes the right of the District to connect additional customers, without the consent of the original developer, to make further facility extensions beyond or running laterally from said facility extension, or to connect the facility extension with any other portion of the wastewater systems of the District, without incurring any obligations to the owner/developer receiving services from the facility extension except as hereinafter provided.

2.3.11. Rules Apply: All connections to facility extensions shall be subject to these Rules and the District's Engineering Standards.

2.3.12. Deposit of Funds: Upon execution of an extension agreement, the applicant shall deposit with the District an amount, in immediately available funds, bond or letter of credit, equal to 25% of applicant's anticipated cost. Any additional amount needed as a result of increased costs will be paid per Section 2.3.14 below.

2.3.13. Timing of Construction: Facility extensions will normally be constructed in the order in which all requirements outlined herein have been met; however, the District may vary the timing of construction in order to integrate the construction of the main line extension with other approved projects waiting for construction, and to take due consideration of weather conditions, availability of materials and immediacy of need.

2.3.14. Refund or Payment of Additional Costs Upon Completion: Upon completion of the main line extension and upon District acceptance of the line, applicant's deposit shall be refunded.

#### 2.4. Service Line Installation and Connection to District Main Lines:

2.4.1. Policy: Owners seeking to acquire wastewater service from the District are responsible for installation of the building facilities and service lines to the District's wastewater main lines. All service line installation and connections shall be constructed in accordance with these Rules and the District's Engineering Standards. Payment of all fees and the issuance of a connection permit are required prior to connection to the District's main lines.

2.4.2. Separate Service Lines: A separate and independent wastewater service line shall be provided for every building, business, dwelling, and subdivided lot except accessory buildings approved for connection to the same line per Section 2.4.2.3 or as otherwise approved by the District. Accordingly, separate and independent wastewater service line extensions and connections shall be required for multiple units located on one property. Service lines shall be installed at the expense of the owner.



- 2.4.2.1. Multi-Family Dwellings: Each multi-family dwelling of 5 or fewer units shall have a separate and independent wastewater service line and connection for each residential unit. If not divided into units, then it shall have a separate and independent wastewater service line and connection for each building. At the District's sole discretion, each multi-family dwelling of 6 or more units may be required to have a separate and independent wastewater service line and connection for each residential unit, or may be permitted to have one wastewater service line and connection for each building.
- 2.4.2.2. Commercial/Industrial/Business Buildings: Each commercial, industrial, or business unit within a building shall have a separate and independent wastewater service line and connection, except that units in a building classified as a professional office building may be permitted to have common wastewater taps to occupants of a multi-office/multi-story facility, as though it were a single business, upon consent of the District. If the use of the building is subsequently changed, the District may require installation of additional separate sewer service lines as a condition of continued service of the building.
- 2.4.2.3. Accessory Buildings: A single service line may be allowed to serve an accessory building on a residential property at the sole discretion of the District, upon payment of a tap fee and with an approved variance form and variance agreement. Usage of the accessory building(s) in addition to the principal building must not exceed the current single family equivalency assessment of the property. The sewer service line to the primary building and the accessory building will be considered as one sewer service line, but the District does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection. The property owner must submit building plans for the accessory building to the District for approval and sign a disclaimer and release of liability for the additional connection, to be recorded against the property, before attaching the accessory building to the service line.
- 2.4.3. Design And Construction Specifications for Service Lines: Service lines shall be installed in accordance with the specifications set forth in the District's Engineering Standards and shall meet the requirements of all other regulatory agencies. All contractors, licensed plumbers and others doing work within the District shall comply with these requirements.
- 2.4.3.1.1. Contractor Qualifications: No person, other than a contractor licensed by the District, shall construct a wastewater service line or make a connection to the facilities of the District. All contractors and subcontractors shall be approved by the District Manager prior to commencing work as allowed by a connection permit. Service line connections shall be made by bonded, licensed plumbers or pipe layers, but plumbing contracted by a licensed master plumber may be performed through journeyman plumbers or apprentices under their direction. The

District assumes no responsibility for work performed by general contractors, subcontractors, or their agents.

2.4.3.1.2. Inspections: The applicant shall notify the District when the main line or service lines are ready for inspection and connection to the District's facilities. The connection and testing shall be made under the supervision of the District or a representative of the District. The entire length of the trench containing the service line, from the building to the District's facilities, or a main line extension, shall not be backfilled until inspection by the District.

2.4.3.1.3. Costs: All costs and expenses of the installation and construction of wastewater service lines or connections shall be the responsibility of the owner or developer seeking to acquire wastewater service.

2.4.3.1.4. Damages: The owner shall indemnify and hold the District harmless from any loss or damage that may directly or indirectly be occasioned by the installation of a wastewater service line or connection to the District's service lines.

2.4.3.1.5. Maintenance/Replacement of Service Lines: Each owner shall be responsible for owning, repairing, maintaining and/or replacing their wastewater service lines including the tap.

### 3. FEES, RATES AND SERVICE CHARGES

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

3.2. Modification of Fees, Rates and Service Charges: The fees, rates and service charges of the District may be modified from time to time by Board action at a Regular or Special meeting of the Board without amending these Rules. Some modifications may also implement additional fees, rates and/or service charges and/or expand existing fees, rates and/or service charges.

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

3.4. Wastewater Connection Fees: Wastewater connection fees will be charged to all owners or developers seeking wastewater services from the District by means of a new, additional or increased connection, directly or indirectly, to District main lines. The connection fee rates shall be determined by the Board and set forth in the fee schedule.

- 3.4.1. Residential Connection Fees. Connection fees for all residential property, including single-family homes, duplexes, and multi-family developments will be determined based on the number of dwelling units. A dwelling unit is defined as a living space for 1 single family. For example, if a single-family home is divided and sold as two separate units, it would be reclassified as a duplex, and then each unit must have its own connection line and tap and pay a separate connection fee.
- 3.4.2. Non-Residential Connection Fees. Connection fees for commercial or industrial uses will be charged based on the size of the water tap for the property (excluding water taps used exclusively for irrigation, fire protection or other uses that are not connected to the sewer system.)
- 3.4.3. Components of Wastewater Connection Fees: The wastewater connection fee consists of the Berkeley Connection Fee and the Metro Connection Fee. In addition, the District requires payment of all other applicable fees prior to connection.
- 3.4.4. Payment of Connection Fees: The connection fees will be due and payable when application is made to the District for new, additional or enlarged wastewater service, and prior to the issuance of a permit for a wastewater connection.
- 3.4.5. Additional Connection Fee: If a connection is not completed within one year of issuance of the connection permit, Metro charges an additional fee as set forth in Article II, Section 1.3.4.8 of these Rules.
- 3.4.6. Increase or Change in Type of Service: A request for an additional water tap or increase in water meter size (other than a water tap used exclusively for irrigation, fire protection or other uses that are not connected to the sewer system) will require an application for an amended wastewater connection permit, and payment of a wastewater connection fee equivalent to the difference in wastewater connection fees for the water meter size requested and the water meter size currently installed on the property, at the then-current District rates, provided that sufficient capacity is available in the District's facilities.

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

- 3.4.7. Replacement of Buildings: In the event that an owner has demolished the existing building and is constructing a new building on a lot served by the District, the District will review its records of prior tap fees paid to the District or Metro. The

District will charge the full wastewater connection fees for the new building for any property which did not pay wastewater connection fees at the time of original connection. For properties that have paid wastewater connection fees in the past, the connection fee will be based on the difference between the number of SRFEs for the new building versus the demolished building, as set forth above, at the then current connection fee rate.

- 3.4.8. Decrease or Abandonment of Service: No refund shall be made for a decrease in size of the water meter or abandonment of water or wastewater service. A written request must be submitted and approved by the Board to allow for the voluntary abandonment of a wastewater connection. In the event of abandonment of a wastewater connection, a new connection permit must be purchased, with payment of the then applicable connection fee, prior to resumption of wastewater service.
- 3.5. Reactivation Fee: When a wastewater connection is inactive, as defined in Article I, Section 2.32 of these Rules, for a period of more than 10 years, a Reactivation Fee shall be due when the connection is reactivated. The Reactivation Fee, per SFRE, shall be due for each year, or part thereof, beyond 10 which a connection is inactive. The Reactivation Fee shall consist of two components: 1) the Metro Tap Reactivation Fee in the amount set by Metro and 2) the Berkeley Tap Reactivation Fee in the amount set by the Board of Directors of the District. The Reactivation Fee shall not exceed the Sewer Connection Charges in effect at the time the connection is reactivated.
- 3.6. Inclusion Petition Fee: This fee is charged by the District to cover the costs incurred by the District in evaluating a petition for inclusion.
- 3.7. Miscellaneous Fees: The District may charge fees for various actions including late payment of wastewater service charges, illegal operation of shut-off valves, and the returning of a check for insufficient funds. Other fees may be adopted from time to time by the Board and may include inspection fees and reimbursement to the District of actual costs expended.
- 3.8. Service Charges:
  - 3.8.1. Rate for Service Charges: Service charges shall be paid by all customers in accordance with the rates schedules adopted by the Board. The Board may adopt separate fees and rates for different classes of users, including residential, commercial and industrial users or users located in an area that utilizes a wastewater main owned by another governmental entity, including without limitation North Lincoln Water and Sanitation District or the City of Arvada.
  - 3.8.2. Calculation of SFREs for Wastewater Service Charges: Wastewater service charges will be charged based on the calculation of SFREs, as set forth in this Section. The calculation of SFREs for the purposes of service charges may be different than the calculation as to tap fees for the same property.

- 3.8.2.1. Residential: For Residential customers, single-family residence, ADU, dwelling unit, apartment unit, a motel unit, or a house trailer with housekeeping facilities shall each constitute one SFRE. Any receiving unit for portable sanitary facilities, if approved by the District, shall constitute one half SFRE.
- 3.8.2.2. Commercial and Industrial Customers: Except as set forth in Article II, Sections 3.8.2.3 or 3.8.2.4 below, for institutions, establishments and buildings, other than residential, the SFREs shall be calculated based on fixture-units, where 16 fixture units or a fraction thereof shall constitute one SFRE. An Inspector for the District shall check the fixtures in the premises to be served and the fixture-units shall be determined based on the Colorado State Department of Public Health Uniform Plumbing Code, and current amendments.
- 3.8.2.3. Large Quantity Customers: For commercial or industrial establishments which use large quantities of water, including but not limited to car washes, dairies, laundries, and laundromats of all types, markets with refrigeration and restaurants, each 10,000 gallons, or major fraction thereof, of water average monthly use for a period of one year shall constitute one SFRE. Such average monthly use shall be determined by the Inspector(s) from water records, and where meter records are not available, as in the case of wells or new construction, the Inspector(s) shall make a temporary estimate based on like establishments.
- 3.8.2.4. Adjustment of SFREs: If in the District's sole discretion, the calculated SFREs for service charges do not represent fair, reasonable and equitable charges for the intended use or actual wastewater flow, the District may adjust the calculation of SFREs.
- 3.8.2.5. Change of Use: If an owner changes the use of property served by the District from residential uses to non-residential uses or to a different non-residential use, the owner shall apply to the District for a change of use, and the District will determine whether there is expected to be increased wastewater, requiring an additional connection fee and service charges. If the Customer fails to notify the District of a change of use, the District may recover service charges which should have been charged based on the increased use.

### 3.9. Wastewater Service Billing Procedures:

- 3.9.1. Commencement of Service: Balances on the account associated with a particular property must be current prior to the commencement of service to said property.

- 3.9.2. Service Charges: Upon the securing of a connection permit for service, and upon payment of the connection fees and any other fees that are due and owing, service charges shall commence at the time of tap installation.
- 3.9.3. Owner and Occupant Liable: When requested, accounts will be set up in the name of, and service charges will be addressed to the customer/occupant. However, the owner of the property remains responsible for payment of any and all fees, rates and charges that are not paid when due by the occupant. The District is not responsible for disputes between an owner and occupant regarding the payment of fees, rates, tolls and charges.
- 3.9.4. Multi-family / Professional Office Buildings: When a condominium or building association exists for a number of units receiving service from the District through one wastewater connection, the condominium or building association may receive a bill for all units serviced by the association. In no event shall the District be obligated to separately bill the owners of individual units within a condominium unless service to each unit is connected separately.
- 3.9.5. Billing Cycle: Statements of service charges will be mailed quarterly (or monthly in the case of customers which connect into lines shared with North Lincoln Water and Sanitation District). Other fees due to the District may be added to the statements. Except as specifically provided by written agreement between the District and an owner, all service charges are due upon receipt of a statement. If a customer contests a statement, they may contact the District's Customer Service/Billing Department at 303-477-1914 to discuss or dispute the fees, rates, tolls and charges and present objections to the bill. The determination of the Customer Service/Billing Department regarding the fees, rates, tolls and charges shall be final.
- 3.9.6. Returned Checks: If any check or other negotiable instrument tendered to the District for payment is returned to the District and dishonored for any reason, the District will charge the Owner a Return Check Fee plus any bank fees incurred by the District, which shall be added to the balance on the customer's account.
- 3.10. Delinquent Charges: The District will charge a late charge and interest on delinquent accounts as set forth in the District's fee schedule. The owner or customer is responsible for the payment of all late charges and interest, plus all costs and attorney fees incurred by the District associated with the collection of delinquent charges.
- 3.10.1. Perpetual Lien: Until paid, all billed fees, rates, penalties and charges shall constitute a first and perpetual lien on and against the property served from the time due. Any such lien may be foreclosed in the manner as provided by the laws of the State of Colorado for the foreclosure of mechanics' liens. See C.R.S. § 32-1-1001(1)(j)(I). The District may wish to document its lien by recording a Notice of Lien with the Clerk and Recorder of Adams or Jefferson County, but recordation is

not required for the lien to be effective. The District will charge a fee for filing and recording liens of delinquent accounts, as set forth in the District's fee schedule.

- 3.10.2. Certification to the County Treasurer: In addition to, or as an alternative to, the other remedies provided in these Rules or by law, in the event that any of the District's tolls, rates, charges or fees are not paid when due, the Board may authorize the District's Treasurer to certify such delinquent amounts to the Treasurer of Adams or Jefferson County for collection in accordance with C.R.S. § 32-1-1101(1)(e). Upon certification, the Treasurer of Adams or Jefferson County shall collect and remit such delinquent amounts to the District in the manner provided by law for the collection of general property taxes. The District and the Treasurer of Adams or Jefferson County may impose collection fees and add them to the delinquent amount to defray the costs of certification and collection.
- 3.10.3. Shut Off of Water: In the event of unpaid fees, rates, penalties and charges, the District may shut off water service, as set forth in Article I, Section 8 of these Rules.

## ARTICLE III

### LIMITATIONS ON DISCHARGE

#### 1. GENERAL

- 1.1. Policy: All discharges of wastewater into the District's wastewater facilities shall comply with these Rules, and more specifically the provisions set forth herein, as well as the Rules of Metro.
- 1.2. Prohibited Wastes: Discharge of any water or wastewater into the District's wastewater facilities containing substances prohibited by these Rules or not meeting the requirements set forth in this Article III is prohibited.
- 1.3. Construction Modifications to Limit Harmful Waste: Some customers may be required to install pretreatment facilities, including without limitation grease, sand, or oil interceptors/traps, as set forth in this Article III to prevent the discharge of such materials and other prohibited wastes into the District's wastewater facilities.

#### 2. PROHIBITED DISCHARGES

- 2.1. General Prohibitions: A Customer may not introduce into the District's facility or a POTW any pollutant(s) which cause Pass Through or Interference. These general prohibitions and the specific prohibitions in Article III, Section 2.3 below apply to each Customer introducing pollutants into the District's facilities or any POTW, whether or not the Customer is subject to any national, State, or local Pretreatment Requirements.
- 2.2. Stormwater Prohibition: No person shall discharge, cause to be discharged or introduce into the District's wastewater facilities any storm water, surface water, ground water, artesian well water, roof runoff or subsurface drainage without prior written authorization by the District's Engineer.
- 2.3. Specific prohibitions: No person shall discharge, cause to be discharged or introduce into the District's wastewater facilities cooling water, air conditioning, boiler blow-down or any other commercial or industrial wastewater unless expressly permitted in writing by the District and unless the wastewater complies with the requirements of Metro and meets the following standards:
  - 2.3.1. Must have an instantaneous pH value in the range of five (5.0) to ten (10.0) standard units. Must not contain pollutants that will cause corrosive structural damage to the District's facilities.
  - 2.3.2. Must not contain any solid, viscous or liquid wastes that allow or may cause obstruction to the flow in a main line or otherwise interfere with the proper operation of the District's facilities.



- 2.3.3. Must not contain prohibited materials including, but not limited to, all solid objects, material, refuse, and debris not normally contained in sewage, including as examples of such materials but without limiting the generality of the foregoing, significant proportions of ashes, wax, paraffin, cinders, sand, mud, straw, shavings, metal, glass, rags, wipes, diapers, paper towels, napkins, toilet bowl scrub products, lint, feathers, tars, plastics, wood and sawdust, paunch manure, hair and fleshings, entrails, lime slurries, beer and distillery slops, grain processing wastes, grinding compounds, acetylene generation sludge, chemical residues, acid residues, food processing bulk solids, snow and ice.
- 2.3.4. Must not contain explosive mixtures consisting of liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the operation of the District's facilities. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the District's wastewater system be more than 5%, nor may any single reading be over 10% of the lower explosive limit (L.E.L.) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
- 2.3.5. Must not contain heat in amounts that will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40°C (104°F). Must have a temperature between 32° to 150°F.
- 2.3.6. Must not contain grease, oil or other substances that will solidify or become viscous between 32° to 150° F.
- 2.3.7. Must not contain garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the District's wastewater facilities to which the customer is connected. At all times, no garbage particle discharged into the District's facilities shall be greater than one-half inch (½") in any direction.
- 2.3.8. Must not contain gases or vapors either free or occluded in concentrations toxic or dangerous to humans or animals.
- 2.3.9. Under no condition shall any pollutant, including oxygen demanding pollutants (BOD, etc.) be discharged at a rate or concentration that will cause interference, pass-through of pollutants, sludge contamination, or endangerment of POTW workers.
- 2.3.10. Must not contain any toxic or irritating substance that will create conditions hazardous to public health and safety.

- 2.3.11. Must not contain in excess of 387 ppm, any grease or oil or any oily substance of petroleum, mineral, animal or vegetable origin including, but not limited to: cooking greases, fats and oils; cooling or quenching oils; lubrication oils; cutting oils; and non-saponifiable oils.
- 2.3.12. Must not contain toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, which could injure or interfere with any sewage treatment process or create any hazard in the receiving waters of the wastewater treatment plant, or contaminate the sludge of any wastewater treatment process, in order to protect worker health and safety.
- 2.3.13. Must not contain organic toxic pollutants, introduced by the intentional or accidental dumping of solvents into the District's facilities, used in operations involving degreasing, surface preparation, tank washing, paint thinning, paint equipment cleaning or any other process.
- 2.3.14. Must not contain storm water, surface water, ground water, roof runoff, or subsurface drainage, cooling water, air conditioning wastewater or any other commercial or industrial wastewater without first obtaining a wastewater discharge permit from the control authority for such discharge.
- 2.3.15. Must not contain any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which cause Pass Through or Interference. In no case shall a slug load have a flow rate or contain concentrations or qualities of pollutants that exceed for any time period longer than fifteen minutes more than five times the average twenty-four hour concentration, quantities, or flow during normal operation.
- 2.3.16. Must not contain petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, each in amounts that will cause Interference or Pass Through.
- 2.3.17. Must not contain any water or wastes containing pollutant quantities or concentrations exceeding the limitations in Section 6.18 of the Rules and Regulations of Metro or the limitations in any applicable Categorical Standards or Industrial Discharge Permit.
- 2.3.18. Must not consist of wastewater which alone or in conjunction with other sources causes Metro's effluent to fail toxicity testing.
- 2.3.19. Must not contain detergents, surface-active agents, or other substances which alone or in conjunction with other sources cause excessive foaming in the Metro System or at the treatment plants.
- 2.3.20. Must not contain any hazardous waste pharmaceuticals or solid wastes from hospitals, clinics, offices of medical doctors, medical laboratories, or other medical

facilities, including, but not limited to, hypodermic needles, syringes, instruments, utensils, or other paper and plastic items.

- 2.3.21. Must not contain sewage of such a nature and delivered at such a rate as to impair the hydraulic capacity of the District's facilities or the Metro System, normal and reasonable wear and usage excepted.
- 2.3.22. Must not contain sewage of such a quantity, quality, or other nature as to impair the strength or the durability of the District's facilities or Metro's System including sewer structures, equipment or treatment works, either by chemical or by mechanical action.
- 2.3.23. Must not contain any radioactive substance, the discharge of which does not comply with Section RH 4.35 of the Colorado Rules and Regulations pertaining to Radiation Control (Volume 6 of the Code of Colorado Regulations, 6 CCR 1007-1, Part 4, et seq.).
- 2.3.24. Must not contain any wastes that contain a corrosive, noxious, or malodorous material or substance which, either singly or by reaction with other wastes, is capable of causing damage to the District's facilities or the Metro System or to any part thereof, of creating a public nuisance, or a hazard, or of preventing entry into the Metro Interceptor System for maintenance and repair.
- 2.3.25. Must not contain any substance which may cause Metro's effluent or any other product of Metro such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the Metro System cause Metro to be in non-compliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Federal Water Pollution Control Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
- 2.3.26. Must not contain any substance which may cause Metro Water Recovery to violate its NPDES or CDPS Permits or the receiving water quality standards.
- 2.3.27. Must not contain any waste or wastewater associated with hydraulic fracturing (fracking) and drilling activities.
- 2.3.28. Must not contain any water or wastewater from alkaline hydrolysis or other chemical decomposition processes of human or animal tissues, remains, or bodies.
- 2.3.29. Must not contain any discharge of dry-cleaning process wastes, including new and used tetrachloroethene (perchloroethylene), still bottom oil, and separator water.

2.3.30. Must not contain any waste or Wastewater containing TENORM Radionuclides - Radium-226, Radium-228, Lead-210, and Polonium-210 in excess of 5 Picocuries/gram (pCi/g). In all cases, discharges of TENORM Radionuclides shall be lower than the EXEMPT levels established by Colorado Code of Regulations.

2.4. Origin of Discharge: All wastewater discharged to the District's facilities must originate from within the District's wastewater service area.

2.5. Trucked or Hauled Pollutants: All trucked or hauled wastewater shall be preapproved by the District's Board of Directors prior to discharge to the District's facilities and only at discharge points designated by the District, if any.. Approved trucked or hauled wastewater discharges shall meet all of the Metro's Standards, be treated in a facility located within the District's service area, and only be discharged once an Industrial User has been issued a wastewater discharge permit by Metro.

2.6. Septic System Waste: No sludge, solids or other waste material removed from septic tanks or other similar facilities shall be discharged or otherwise placed in the District's facilities.

2.7. Pretreatment Requirement May Apply: Compliance with numeric or narrative standards set by Metro shall not relieve owners of property or customers of the District's facilities from installation or construction of pretreatment facilities required by the District or Metro.

### 3. GREASE INTERCEPTORS/TRAPS AND SAND/OIL INTERCEPTORS/TRAPS

#### 3.1. General Requirements:

Policy: Property owners may be required to install a grease interceptor/trap and/or a sand/oil interceptor/trap on a wastewater line in order to protect the District's wastewater facilities from the introduction of excessive quantities of grease, sand and/or oil. Grease interceptors shall be required for all food preparation establishments which would contribute or cause to contribute, directly or indirectly, any water or wastewater which contains oil and grease, including but not limited to, restaurants, cafeterias, cafes, and fast-food establishments. Additionally, grease interceptors shall be required for all schools, fraternal organizations, churches, hospitals, and daycare centers which have the capability to engage in food preparation. A determination by the District that a grease interceptor/trap and/or sand/oil interceptor/trap is required to be installed on a wastewater line in order to protect the District's wastewater facilities from the introduction of grease, sand and/or oil shall be final and conclusive.

3.1.1. Oil and Grease Interceptor Specifications: All required oil and grease interceptors or traps shall comply with the specifications set forth in the Engineering Standards, which address design, construction, repair and maintenance, cleaning and inspection.

3.1.2. Property/Facilities Requiring Sand/Oil Interceptor: Where the District determines that a property owner is required to install a sand trap, a District-approved sand trap shall be installed on the waste line in compliance with plans approved by the District's Engineer in advance.

3.1.3. Residential Property: Residential property owners shall not be required to install grease interceptors/traps or sand/oil interceptors/traps for their dwelling units and associated structures, unless there is a high probability of a significant grease, sand or oil discharge into the District's facilities.

3.1.4. Interceptor/Trap Maintenance: Proper maintenance and operation of all grease and sand/oil interceptors/traps shall be the responsibility of the owner and Customer, and the owner and Customer shall ensure that said interceptors/traps are maintained in proper working order. Maintenance of interceptor/trap contents shall be performed by a contractor licensed to perform such work. Maintenance shall entail removal of entire interceptor/trap contents. Partial removal of contents (i.e., removal of grease layer, oil layer or sludge layer) is not allowed. Contents removed from interceptors/traps shall be hauled off site and disposed of in accordance with local, state and federal laws and regulations. Records of maintenance of interceptors/traps and of off-site hauling and removal of interceptor/trap contents shall be kept by the customer and shall remain on-site and accessible for review by District representatives. Records shall contain, at a minimum, the date on which the interceptor/trap was maintained and/or serviced including a description of the specific maintenance or service that was performed, a description of who performed the maintenance or service, the date on which the interceptor/trap contents were removed and hauled off-site including a description of who performed the removal and off-site hauling and where the contents of the interceptor/trap were hauled for disposal. Under no circumstances shall interceptor/trap contents be re-introduced to the District's facilities. Failure to properly maintain an interceptor/trap will result in enforcement action by the District to ensure compliance.

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

3.2.1. All interceptor installations shall meet the requirements of the District and all other local government requirements, including the requirements set forth in the Engineering Standards. The District will not be responsible for violations of these requirements.

3.2.2. Interceptor installation, including equipment, structural design, backfilling, safety provisions, etc., shall be the sole responsibility of the owner and its suppliers, contractors, and other agents.

3.2.3. Maintenance and removal of interceptor contents (i.e., grease, oil, sand, and water) shall be the responsibility of the owner.

3.2.4. All interceptors shall be accessible for inspection by the District.

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

3.3.1. Requirement of Plan Review: If any water or wastewater is discharged, or is proposed to be discharged, to the District's facilities(1) from restaurants or other food preparation establishments described above, or (2) that may contain excessive quantities of grease, sand and/or oil, it shall be the responsibility of the customer and owner of the property, business or industry or an authorized representative to contact the District's Engineer for the purpose of plan review. The plan review shall determine the need, method, and size of pretreatment facilities required to pre-treat or otherwise control the wastewater to make it acceptable for discharge into the District's facilities.

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

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

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

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

3.3.6. Inspection Failure Penalty: The District may impose a Grease Interceptor Inspection Failure Penalty against property owners which do not perform required inspection and against properties fail inspections, as set forth in the District's fee schedule.

3.4. Interceptor/Trap Requirements for Existing Property/Facilities: If it becomes necessary for the District to require an existing property, business or industrial user or owner to install suitable pretreatment facilities after initial connection, a written explanation for the requirement shall be furnished to the customer, owner or an authorized agent. Such a case may arise when it becomes apparent that the existing pretreatment facility is deficient in size, or waste emanating from the property, business or industry violates the District's Rules or may cause harm to the District's facilities or other public wastewater

facilities, to persons entering said facilities to perform maintenance, or to the treatment process and/or environment.

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

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

## ARTICLE IV

### WATER SERVICE

- 1.1 Water Service From Denver Water: Water Service to properties within the District's Contract Service Area is provided by Denver Water pursuant to the Total Services Agreement between the District and Denver Water. Water service is provided subject to the provisions of the Charter of the City and County of Denver which control the operation of the Denver Municipal Water System, specifically Article X; the Operating Rules of Denver Water; and the Engineering Standards of Denver Water, including future amendments and modifications thereto. All water customers are subject to the Denver Water Operating Rules and Engineering Standards.
- 1.2 Application for Connection / Service: New applications for water connections and/or water service or a water service license must be made in writing to the District on forms provided by Denver Water, along with payment of all fees and charges. Notwithstanding the issuance of a license, no connection may be made to any water main carrying water from the Denver Water's water system except as authorized by Denver Water.
- 1.3 Payment of Water Rates, Fees and Charges: Customers receiving or applying to receive water service shall pay to Denver Water all system development charges, participation charges, service charges, upgrade surcharges (if applicable) and other rates, fees, tolls and charges in the amounts set by Denver Water (collectively the "Water Fees"). Denver Water may establish reasonable classifications of users for purposes including charging Water Fees. Denver Water may enforce payment of the Water Fees, as set forth in Denver Water's Operating Rules.
- 1.4 No Representations by District. The District makes no representations regarding the quantity, quality or availability of water delivered by Denver Water; however, Denver Water has agreed that such deliveries will be potable water, unless otherwise agreed to with the customer. No representation is made by the District or Denver Water as to the water pressure.
- 1.5 New Facilities: Denver Water may require the installation of additional or enlarged water service facilities at the expense of the customer requiring service in accordance with a participation agreement, as a condition of receipt of water service. Owners shall be required to dedicate easements to Denver Water for such facilities. All water facilities shall be designed and constructed in accordance with Denver Water's Operating Rules and Engineering Standards and plans that are approved in advance by Denver Water.



- 1.6 Service Lines: The service line and fittings through which an owner receives water service from the facilities Denver Water's water system, including the meter pit and the meter, shall be owned by and installed at the expense of the owner, except as otherwise provided by Denver Water's Operating Rules. The dividing point between Denver Water-owned Water Mains and owner-owned service lines shall be defined as the connection on the corporation stop tapped into the water main or the discharge side of the valve closest to the Denver Water-owned Water Main. At the dividing point, water irrevocably leaves the common, public system and enters privately owned facilities to serve individual premises.
- 1.7 No Transfer of Water Rights / No Reuse: All water furnished by Denver Water is on a leasehold basis only for the use of Berkeley and its customers within Berkeley's Contract Service Area for purposes for which Denver Water's water rights have been decreed. Neither Berkeley nor its customers shall have the right to make a succession of uses of such water; and upon completion of the primary use, all dominion over the water furnished hereunder shall revert completely to Denver Water.
- 1.8 No Comingling: Water furnished by Denver Water may not be comingled with any other water source. Denver Water reserves the right to refuse to permit its water supply to be furnished to any premises where the use of such water will result in a health hazard to the water supply. Any determination on this matter by Denver Water shall be subject to review by the Colorado Department of Public Health and Environment or a similar, lawfully authorized health authority of the State, and Denver Water agrees to be bound by the decision of such authority but may appeal such decision by available means.
- 1.9 Conservation Plan: Denver Water will implement and all water customers are required to comply with a Water Conservation Plan to encourage wise use of water.
- 1.10 Contract Service Area. No water service is available and District water may not be used outside of the Contract Service Area without the express written permission of the District. Redistribution of Denver Water's water by anyone other than Denver Water is prohibited.
- 1.11 Access to Property: Authorized employees of Denver Water or authorized Denver Water contractors or representatives of the District shall be allowed free and unimpeded access at all reasonable hours to any building or premises where water is used, for purposes of inspection, repair, service line replacement, meter reading, and meter or automatic meter reading device (AMR) installation and maintenance. Where a meter or AMR device is installed inside a building or in another location where access is limited, the owner and any tenants shall provide access to the meter or AMR device upon notice to do so.

- 1.12 Health Hazard: Denver Water reserves the right to refuse to permit its water supply to be furnished to any premises where the use of such water will result in a health hazard to the water supply. Any determination on this matter by Denver Water shall be subject to review by the Colorado Department of Public Health and Environment.
- 1.13 Enforcement. Denver Water may exercise remedies and penalties for late payments or violations of its Operating Rules or Engineering Standards, as set forth in Denver Water's Rules, with remedies including turn-off of water or suspension of licenses. In addition, the District may exercise the remedies set forth in Article I of these Rules in the event of any such violations.

Exhibit A

Map of Current Service Area

