

**Oak Lodge Water Services District**  
**Rules and Regulations**  
**April 15, 2022**

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## PREFACE

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The Oak Lodge Water Services District (OLWSD or District) is a municipal corporation organized and operating under Oregon Revised Statutes Chapters 198, 264, and 450. The purpose of OLWSD is to supply Users in the District with sanitary sewage conveyance and treatment, watershed protection/surface water quality management, and domestic water supply. OLWSD also supplies, or can supply, water and sanitary sewer services to Users outside the District by agreement with municipalities, special districts, and private entities.

OLWSD is governed by the authority provided under state law and vested in a board of five directors residing within OLWSD's boundaries and elected by voters. The Board of Directors holds regular monthly meetings, which are open to the public.

No provision of these Rules and Regulations is intended to limit or alter any power granted to the District by state law, and this document should be interpreted to allow the District to exercise that authority to its fullest extent. At the time of adoption, these District Rules and Regulations contain references to other Local, State, and Federal regulations or documents. In the event changes to those regulations or documents necessitate a change to these District Rules and Regulations, the District will amend this document.

## DEFINITIONS

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The following words and phrases appearing in these Rules and Regulations shall have the meaning set forth in these Definitions unless the context determines otherwise. Defined words and phrases may or may not appear as capitalized terms. Other words and phrases may be defined in specific sections of the Rules and Regulations.

**Accessory Dwelling Unit (ADU)** means a secondary, subordinate dwelling unit as defined by Clackamas County or the Oregon State Building Code, whichever is prevailing. OLWSD defers to Clackamas County the determination of a structure or space to be an ADU.

**Attorney** means the attorney engaged by OLWSD to provide legal counsel.

**Authorized or Duly Authorized Representative** of the User means:

(1) If the User is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager: is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and to initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions are taken to gather complete and accurate information for individual wastewater discharge permit requirements; and has authority to sign

documents as assigned or delegated to the manager in accordance with corporate procedures.

(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the District.

**Best Management Practices (BMP)** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices.

**Board** means the Board of Directors for the District, acting as the governing body for OLWSD.

**Chemical Oxygen Demand (COD)** means the total measurement of all chemicals in the water that can be oxidized.

**Clean Water Act (CWA or the Act)** means the Federal Water Pollution Control Act, also known as the Clean Water Act.

**Compliance** means meeting the requirements, standards, and other obligations provided for in the District's Rules and Regulations, permits, contracts, orders, or other authorities.

**Confidential Information** means information and data on a discharger including products used, industrial processes, or methods of production which the discharger can demonstrate, to the satisfaction of the General Manager, constitute trade secrets. Effluent constituents and characteristics shall not be considered confidential information.

**Connection** means the sections of any service line located on private property extending continuously to the Main and capable of conveying water, sewage, or stormwater.

**Customer** means the Owner or User receiving service from the District, as applicable.

**Connection Charges** means the current service installation charge and meter installation charge as adopted by the Board.

**Day**, unless stated otherwise in these Rules and Regulations, means a calendar day.

**Development** means any human induced change to improved or unimproved real estate including, but not limited to: construction; installation; expansion of a building site or other structure; land division; drilling; or site alteration such as that due to land surface mining, dredging, clearing, grading, excavation, filling, construction of earthen berms, paving, or improvements for use as parking or storage.

**Disruption** means a deleterious impact on the structure, function, operation, or maintenance of the Publicly Owned Treatment Works (including an increase in maintenance requirements or a risk of harm to persons) or on the ability to beneficially reuse biosolids, recycled water, or any product produced by the Publicly Owned Treatment Works caused by a discharge either alone or in combination with other discharges.

**District** means the Oak Lodge Water Services District, or OLWSD.

**District Engineer** means the lead Engineer for the District, acting either directly or through authorized representatives. The District Engineer is a registered professional engineer licensed to practice in the State of Oregon.

**District Standards** means the District's Design and Construction Standards, as may be amended from time to time.

**Documented Violation** means any violation that the District or other government agency verified through observation, investigation, or data collection.

**Easement** means a property interest granting the right to use a defined area of property for a specific purpose or purposes as set forth in the instrument granting the easement.

**Enforcement** means any documented action taken to address a violation of these Rules and Regulations or any other applicable law.

**Fats, Oils and Grease (FOG)** means any substance that turns or may turn viscous or solidify with a change in temperature or other conditions.

**Federal Categorical Pretreatment Standards** means any regulation containing pollutant discharge limits promulgated by the United States Environmental Protection Agency in accordance with General Pretreatment Regulations for Existing and New Sources of Pollution of the Clean Water Act that applies to a specific category of industrial discharger.

**Fire Service Line** includes, but is not limited to, valves, backflow prevention assemblies, special water meters, pipes, and other devices installed solely for service to the standby connection dedicated for fire service only. The Fire Service Line shall be owned and maintained by the owner.

**Flagrant** means any documented violation where the respondent had actual knowledge of the law, standard, or other legal requirement and consciously took or omitted to take an action that resulted in the violation without regard to the consequences of such act or failure to act.

**Food Service Establishment (FSE)** means facilities maintained, used, or operated for storing, preparing, serving, manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members, residents, students, or employees, and that has any process or device that uses or produces FOG, grease, vapors, steam, fumes, smoke, or odors.

**Formal Enforcement** means an administrative action signed by the General Manager that is issued to a respondent on the basis that a violation has been documented, requires the respondent to take specific action within a specified time frame, and states consequences for

continued non-compliance.

**Garbage** means solid waste from the preparation, cooking, and dispensing of food; the handling, storage, and sale of produce; and from the packaging and canning of food. This definition also includes the disposal of pharmaceutical products.

**General Manager** means the District General Manager or designee.

**Grease Interceptor** means a plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept nonpetroleum fats, oil, and greases (FOG) from a wastewater discharge.

**Indirect Discharge or Discharge** means the introduction of pollutants into the Publicly Owned Treatment Works from any non-domestic source regulated under the Act. The discharge into the Publicly Owned Treatment Works is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances.

**Industrial Wastes** means any liquid, gaseous, or water born wastes or combination thereof resulting from any process of business, industry, manufacturing, trade, or recovery of any natural resources, except garbage.

**Inspector** means the authorized representative of the District Engineer whose authority, instructions, and decisions shall be limited to the duties and responsibilities entrusted to them in making detailed inspections of any or all portions of the permitted or contracted work or materials.

**Intentional** means any documented violation where the respondent voluntarily took or omitted to take an action and knew or should have known that taking or omitting to take an action would be a Violation.

**Interference** means a discharge that, alone or in conjunction with the discharge or discharges from other sources, inhibits or disrupts the Publicly Owned Treatment Works, its treatment processes or operations, or its sludge processes, use, or disposal and therefore is a cause of either a violation of the District's NPDES permit or the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder or any more stringent State or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

**Main** means the pipe in the street, alley, right-of-way, or easement, if the pipe is owned and maintained by the District.

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

**Mean High Water Line** means the jurisdictional limit of the Corps of Engineers under the Rivers and Harbors Act.

**Non-Contact Cooling Water** means water discharged from any system of heat transfer, condensation, air conditioning, refrigeration, or other sources to which no pollutant is added other than heat.

**Notice** means a written communication delivered, by hand or by mail, to the authorized individual, member of the firm, or officer of the corporation for which it is intended. If delivered or sent by mail, Notice shall be addressed to the last known business address of the individual, firm, or corporation. In the case of a contract with two or more persons, firms, or corporations, Notice to one shall be deemed Notice to all.

**Ordinary High-Water Mark** is as defined in the Shoreline Management Act (SMA) and means a biological vegetation mark that can be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in all ordinary years.

**Owner** means the fee title owner of the property that receives services from the District.

**Parcel** means a tax lot, or multiple adjacent tax lots under identical ownership, to which the District may provide sewer or water service.

**Pass Through** means a discharge that exits the Publicly Owned Treatment Works without benefit of treatment or with inadequate treatment.

**Permit** means any authorization required pursuant to this or any other regulation of the District for connection and/or discharge to the sanitary sewer system.

**Permittee** means any individual, partnership, firm, association, corporation, or public agency applying for or receiving a permit.

**Plans** means construction plans, including system plans, water plans, sewer plans and profiles, cross section, detailed drawings, originals, or reproductions approved or to be approved by the District that show the location, character, dimensions, and details for the work to be done.

**Premises** means any building, structure, improvement, or parcel that may now, or at some time, receive water or sewer service from the District.

**Pretreatment** means the application of physical, chemical, and/or biological processes to reduce the amount of pollutants and/or alter the nature of the pollutant properties in wastewater prior to discharging such wastewater into the public sanitary sewer system.

**Pretreatment Requirements** means any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

**Pretreatment Standard** means prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

**Prior Significant Action** means any violation proven pursuant to a contested case hearing or established with or without admission of a violation by payment of a civil penalty.

**Prohibited Discharges** means that no person shall discharge or cause to be discharged, in any manner into the public sanitary sewer system any material, substances, or wastes listed under the General Discharge Prohibitions section of these Rules and Regulations.

**Public Sewer** means a sewer owned and operated by the District, or other local public agency, which is tributary to the District's sewer facilities.

**Publicly Owned Treatment Works or POTW** means a treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), that is owned by the District. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, that convey wastewater to a treatment plant.

**Right-of-Way** means a publicly-owned easement for utilities and to which the District has an established right to access.

**Rates, Fees, and Other Charges** means the current rates, fees, and charges, including permit fees, and system development charges as adopted by the Board.

**Receiving Waters or Receiving Stream** means the natural water course or body of water to which the District's wastewater treatment plant discharges.

**Reimbursement Fee** means the cost associated with capital improvements constructed or under construction on the effective date of these Rules and Regulations.

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

**Rules and Regulations** means these Rules and Regulations as adopted by Ordinance by the Board.

**Sanitary Sewer Lateral** means the portion of pipe connecting private property structures to the main sewer system. The District accepts ownership of the lateral in the right-of-way.

**Sanitary Sewer Overflow (SSO)** means the discharge of partially treated or untreated sewage to waters of the state.

**Service Charge** means the periodic charges levied on all Users of the District's water and sewerage systems for operation and maintenance of the system and debt service as established by the District.

**Service Class** means groups of Users based on the type of sanitary sewer usage.

**Service Connection (Sewer)** means (for purposes of determining fees), a service connection is established when the side sewer lateral crosses from public property (right-of-way) into private property.

**Service Connection Point (Sewer)** means the point of connection between the Building Sewer and Sewer Lateral.

**Service Line (Water)** means the pipe and any associated fittings from the water main to, and including the meter, the meter box.

**Sewage** means the liquid and waterborne wastes derived from ordinary living processes free from industrial wastes and of such character as to permit satisfactory disposal without special treatment into the District sewerage system.

**Sewer Lateral** means the portions of the public sewer line that have the primary purpose of serving adjacent property. The sewer laterals are located within public rights-of-way, or within private easements where the District has expressly accepted ownership of the lateral, and connect sewer between the private property line or the boundary of an easement and the receiving line.

**Significant Industrial User** means:

1. A User subject to categorical pretreatment standards; or
2. A User that:
  - a. Discharges an average of twenty-five thousand (25,000) gallons per day (gpd) or more of process wastewater to the Publicly Owned Treatment Works (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
  - b. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the Publicly Owned Treatment Works treatment plant; or
  - c. Is designated as such by the District on the basis that it has a reasonable potential for adversely affecting the Publicly Owned Treatment Works' operation or for violating any pretreatment standard or requirement.
3. Upon a finding that a User meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the Publicly Owned Treatment Works' operation or for violating any applicable pretreatment standard or requirement, the District may, at any time, on its own initiative or in response to a petition received from a User and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a significant industrial User.
4. The District may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gpd of total categorical wastewater (excluding sanitary, non-contact cooling, and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
  - (a) The Industrial User, prior to the District's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
  - (b) The Industrial User annually submits the required certification statement, together with any additional information necessary to support the certification statement;



and

(c) The Industrial User never discharges any untreated concentrated wastewater.

**Sludge** means any solid, semi-solid, or liquid decant, subnate, or supernate from a manufacturing process, utility service, or pretreatment facility.

**Slug Load or Slug Discharge** means any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards as defined in these Rules and Regulations. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge that has a reasonable potential to cause Interference or Pass Through or in any other way violate the Publicly Owned Treatment Works' regulations, Local Limits, or Permit conditions.

**Suspended Solids** means solids that either float on the surface or are in suspension in liquids and which are removable by laboratory filtering in accordance with procedures set forth in the latest edition of *Standard Methods for the Examination of Water and Wastewater*.

**System** means all or any part of the water, sewer, or stormwater system owned by the District, including without limitation all service lines, meters, structures, facilities, and appurtenances.

**Systematic** means any documented violation that occurs on a regular basis.

**Systems Development Charge (SDC)** means a reimbursement fee assessed or collected at the time of connection to the water or sanitary sewer system. It shall also include that portion of a water or sanitary sewer connection charge that is greater than the amount necessary to reimburse the District for its average cost of inspecting and installing connections with the water and sanitary sewer system. Systems Development Charge does not include:

1. Any fees assessed or collected as part of a local improvement district;
2. Any charges in lieu of a local improvement district or assessment; or
3. The cost of complying with requirements or conditions imposed upon a land use decision.

**Trunk Sewer** means any public sewer sized and located to serve general topographical areas and lateral sewers (normally twelve (12) inches in diameter or larger). Trunk sewers are located within public rights-of-way or located within private easements where the District has expressly accepted ownership of the Trunk Sewer.

**User** means any person or entity who receives or contributes flow to or from the publicly maintained system.

**User's System** means those parts of the facilities beyond the termination of the District's system that are utilized in conveying water to the point of use, including the Customer service line and fire service line, and/or the building sewer lateral from the point of use to the service connection point at the property line.

**Utility** means tracks, overhead or underground wires, pipelines, conduits, ducts, or structures owned, operated, or maintained in or across a ROW or easement.

**Vault** means an enclosure used to protect meters, valves, or similar devices.

**Violation** means a transgression of any federal, state, or District rule, regulation, permit, order, or other authority or any part thereof and includes both acts and omissions. Violations shall be classified as Class I, Class II, or Class III.

**Waste** means sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation or of human or animal nature, including such wastes placed within containers of whatever nature prior to and for the purpose of disposal.

**Wastewater** means the liquid and water-carried wastes of the community and all constituents thereof, whether treated or untreated, discharged into or permitted to enter a public sewer.

**Water Billing Unit** means 100 cubic feet (CCF) of water, which is equal to 748 gallons.

**Water Meter** means a device for recording the quantity of water to a water service.

**Winter Average Period** means the period beginning October 15 and ending March 15th or the water meter reading cycle dates of the User's potable water service most nearly corresponding to the October 15th through March 15th time period.

## ABBREVIATIONS

The following abbreviations are presented for the convenience of the reader:

<u>ASPP</u>	Accidental Spill Prevention Plan
<u>ADU</u>	Accessory Dwelling Unit
<u>BMP</u>	Best Management Practice
<u>BOD</u>	Biochemical Oxygen Demand
<u>BP</u>	Base Penalty
<u>CCSD#1</u>	Clackamas County Service District #1
<u>CFR</u>	Code of Federal Regulations
<u>DSL</u>	Oregon Department of State Lands
<u>EDU</u>	Equivalent Dwelling Unit
<u>EPA</u>	U.S. Environmental Protection Agency
<u>FOG</u>	Fats, Oils, and Greases
<u>FSE</u>	Food Service Establishment
<u>GIS</u>	Geographic Information System
<u>GRD</u>	Grease Removal Device
<u>l</u>	liter
<u>LEL</u>	Lower Explosive Limit
<u>MAO</u>	Memorandum of Agreement and Order
<u>mg</u>	milligrams
<u>mg/l</u>	milligrams per liter
<u>NON</u>	Notice of Non-compliance
<u>NOV</u>	Notice of Violation
<u>NPDES</u>	National Pollutant Discharge Elimination System
<u>OLWSD</u>	Oak Lodge Water Services District
<u>OPSC</u>	Oregon Plumbing Specialty Code
<u>O&amp;M</u>	Operation and Maintenance
<u>PFU</u>	Plumbing Fixture Unit
<u>POTW</u>	Publicly Owned Treatment Works
<u>SIC</u>	Standard Industrial Classifications
<u>SIU</u>	Significant Industrial User
<u>SSO</u>	Sanitary Sewer Service Overflow
<u>TSS</u>	Total Suspended Solids
<u>USACE</u>	United States Army Corps of Engineers
<u>USC</u>	United States Code

## § 1 OVERVIEW

- § 1.1 Purpose. These rules and regulations establish the conditions by which the District will conduct its business and operations and how Customers may receive service.
- § 1.2 District Ownership.
- § 1.2.1 The District owns the District's Systems unless otherwise agreed to in writing.
  - § 1.2.2 No person other than those authorized by the District shall construct, maintain, operate, repair, or alter the District's System. No person other than those authorized by the District shall make a service connection or disconnect an existing service connection.
  - § 1.2.3 At all times, Customers shall provide the District with safe, reasonable, and efficient access to the District's System.
  - § 1.2.4 None of the properties of the District may be disposed of without approval of the Board.
- § 1.3 Statutory Authority. The District has the authority under ORS Chapters 264 and 450 to make and enforce necessary regulations within District's boundaries. The District exercises this authority through its governing body, the Board of Directors of the District. The Board will act at its discretion and in a manner consistent with the intent and purposes of ORS Chapters 264 and 450 and any other applicable law.
- § 1.4 Delegation and Administration. The Board delegates to the General Manager all duties necessary for the day-to-day operation of the District. The General Manager shall be the administrator of these Rules and Regulations.
- § 1.5 Jurisdiction. The District maintains jurisdiction of all activities associated with the System, surface water quality, and watershed protection. The System is operated only by authorized employees and agents of the District.
- § 1.6 Facilities Owned by Others. Clackamas County Department of Transportation and Development (CCDTD), Oregon Department of Transportation (ODOT), and other public and private entities own surface water conveyance facilities within the District's jurisdictional boundary. Unless otherwise agreed by the District, the District does not control or maintain these facilities associated with private roads, county roads, and state highways.
- § 1.7 Use of Water. The District will, as far as reasonable and practicable, and within its financial means, provide adequate sources of water supply, including necessary and primary feeder mains, storage facilities, and other improvements, to make water service generally available to all areas within the District. The Board may prescribe limitations on the use of water as to hours, purpose, or manner from time to time. The resale of

water purchased from the District by a Customer will be permitted only by special written contract with the District specifying the appropriate conditions therefore. The District will not be obligated to furnish or install system facilities for all properties within the District.

## **§ 2 CONTRACT FOR SERVICE**

- § 2.1 Contract for Service. By applying for or receiving any service from the District, an Owner or User is entering a contract for such services and agrees to comply with these Rules and Regulations.
- § 2.2 Connection to The Water and Sanitary Sewer System. Any connection to the water, sanitary sewer, or storm sewer system must be requested by the Owner, at Owner's expense, to connect directly with the proper public utility in accordance with the provisions of these Rules and Regulations. Such request shall be made through a complete application to connect to the water, sanitary, or storm sewer system. A completed application results in a permit upon payment of all fees and submittal of all required documents. No person may materially increase the flow, the strength, or the character of the sewage or stormwater, or add any fixtures not covered by the original application, without first obtaining a permit from OLWSD and paying all required fees and charges as may be fixed by the Board.
- § 2.3 Individual Contracts. Whenever the applicant or User's requirements for service are unusual, large, or subject to great fluctuation or variation, the District may require a special contract, and may require reasonable security satisfactory to the District, sufficient to protect the District against loss and to guarantee performance under the terms thereof. Water for swimming pools, tanks, reservoirs, and like facilities will be considered under this section and will be dependent upon sufficient water supply and service for normal residential use. All special contracts will be in writing, signed by the Owner or User and the District.
- § 2.4 Changes to Rules and Regulations. All District rules, regulations, rates, and charges are subject to change or modification by the Board and will be adopted by ordinance.
- § 2.5 Responsibility of the District.
- § 2.5.1 The District will maintain and repair, to the extent practical and reasonable, all parts of the Systems.
  - § 2.5.2 The District will not be liable for any damages or injuries caused by termination or interruption of service, reduction of water supply, variations in water pressure, or quality of water. Owners and Users are encouraged to prevent damage to their personal water system in the event of service interruptions or pressure changes within the System, including by equipping personal water systems with backflow prevention devices or assemblies and pressure regulators.

§ 2.5.3 Leakage within premises and related damages.

§ 2.5.4 The District will not be liable for any damage or injury caused by leaking or the running of water or sewage on the premises from pipelines, plumbing fixtures, open faucets, valves, fixtures, or hoses located beyond the right-of-way or service meters (typically found at the edge of the right-of-way).

§ 2.5.4.1 An exception to this rule may exist if it can be proven that the District caused sewage to be pushed into the private sewer lateral as a result of regular maintenance.

§ 2.5.5 The District will not be liable for any damage or injury caused by the malfunction, improper maintenance, or improper installation of a User's system.

§ 2.5.5.1 Water service to any premises known or found to have such defects and hazards will be disconnected and not restored until such defects and hazards have been eliminated.

§ 2.5.6 No person other than an employee of the District may operate any District-owned equipment or infrastructure.

§ 2.6 Responsibility of Owner or User.

§ 2.6.1 The Owner or User is responsible for compliance with all local, state, and federal laws and requirements related to maintenance of their property and plumbing system.

§ 2.6.2 Owners and Users must comply with all applicable local regulations, state plumbing code, and Oregon Health Authority regulations regarding the installation, testing, and inspection of backflow devices, backflow assemblies, and pressure regulators on their personal water systems.

§ 2.6.3 The Owner or User is responsible for all damage or injury resulting from the failure to properly construct, maintain, repair, or correct conditions in the Owner's or User's system.

§ 2.6.4 The Owner shall be liable for any damage to the System that is caused by an act of the User, their tenants, agents, employees, contractors, licensees, or permittees. The Owner may be fined and/or have service terminated in response to such damage.

§ 2.7 District Operation of System. Only the District may operate, modify, or alter the District's Systems. Violators shall be responsible for any damage or adverse effects.

§ 2.8 Inspection. The District, through its authorized employees, shall have the right, at reasonable times and upon presentation of proper credentials, to enter any premises to ensure compliance with these Rules and Regulations, investigate complaints, or perform

any other duty required by law.

- § 2.9 Water Supply. The Board has the right in cases of inadequate water supply to determine how water from the system may be used and may establish regulations limiting water use. The Board may give preference to those uses determined to be in the best interests of the public health, well-being, or necessity, or provided by law, and will give highest priority to household use, not including irrigation of lawns or fields.

### **§ 3 RATES, FEES AND OTHER CHARGES**

- § 3.1 Establishment of Rates and Fees. The District shall establish Rates, Fees, and other Charges (Fee Schedule) for use of water, sanitary sewer services, watershed protection, permitting, property, and other services of the District by Resolution. A copy of the Fee Schedule shall be found on the District's Website and on file in the District office for examination by the public during business hours. The Fee Schedule of the District presently in effect, as of the date of the adoption of these revised Rules and Regulations, will remain in full force and effect until revised by the District.

- § 3.2 Water Rates, Fees and Other Charges.

§ 3.2.1 Fee Schedule.

§ 3.2.1.1 The District's Fee Schedule for water furnished and services rendered will apply within and without the District. The Fee Schedule will be reviewed and amended from time to time as required. Rates charged may be fixed and classified according to the type of use and according to the amount of water used.

§ 3.2.1.2 The Fee Schedule will include charges for the installation of service pipe and meters from the water Main to the property line and various other materials furnished by the District for such projects.

§ 3.2.1.3 In the event a particular service is not specified in the Fee Schedule, a rate may be established upon request by the District Board.

§ 3.2.2 System Development Charge (SDC) For Water Connection.

§ 3.2.2.1 The District will impose an SDC for water system connections associated with new or increased development. The SDC shall apply to each application for a new meter and shall be due and payable at the time of application. The SDC imposed is separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development, including other SDCs charged by the District.

- § 3.2.2.2 The SDC is a charge for service to be rendered or a service hookup charge and shall be established by the Board through a duly adopted resolution. The General Manager shall not allow connection for increased usage of the system until the SDC has been paid in full. Installment payments of SDC fees may be arranged pursuant to Section 3.9 of these Rules and Regulations.
- § 3.2.2.3 The existing system development charge reimbursement fees in effect upon adoption of these revised Rules and Regulations will remain in effect but may be modified by District resolution following public hearing.

§ 3.3 Sanitary Sewer Rates, Fees, And Other Charges.

§ 3.3.1 Charges for the discharge or availability for discharge of sewage into the sanitary sewer system shall be established annually and shall include: (i) a base rate fixed charge for each calendar month, for each unit; and (ii) a consumption-based variable charge for each one hundred (100) cubic feet of water consumption as measured during the previous winter average period. The measured water consumption for the previous winter average period shall form the basis for calculating the monthly sanitary sewer bill for each account for the succeeding twelve (12) month period beginning on July 1. Said calculation shall be performed annually to determine sanitary sewer service charge rates for each account.

§ 3.3.2 System Development Charge (SDC) For Sewer Connection.

- § 3.3.2.1 The District will impose an SDC for sanitary sewer system connections associated with new or increased development. There will be one SDC for each EDU as defined in Section 3.6 and Table 3.6. These charges shall be due and payable at the time of permit issuance for the increased improvements or new development, at the time of connection, at the time of any change of service that requires an SDC, or as otherwise required by law. The SDC imposed is separate from and in addition to any applicable tax, assessment, charge, fee in lieu of assessment, or fee otherwise provided by law or imposed as a condition of development.
- § 3.3.2.2 The SDC is a charge for service to be rendered or a service hookup charge and shall be established by the Board of Directors through a duly adopted resolution. The General Manager shall not issue a permit or allow connection for increased usage of the system until the SDC has been paid



in full, unless otherwise allowed by law pursuant to Section 3.3.2.1. Installment payments of SDC fees may be arranged pursuant to Section 3.9 of these Rules and Regulations.

§ 3.4 Sanitary Sewer Change of Class of Service. When a parcel that is connected to the District's sanitary sewer system undergoes development or redevelopment that changes the number of equivalent dwelling units (EDUs), the following shall occur:

§ 3.4.1 If the change results in a greater number of EDUs, an additional system development charge shall be levied at the time of such change. The additional charge shall be equal to the net increase of EDUs times the current system development charge by EDU.

§ 3.4.2 If the change results in fewer EDUs pursuant to Table 3.6, there shall be no additional charge and no rebate. Any previously issued EDUs not being used or billed by the new Class of Service shall be automatically released to the public sanitary sewer system capacity. The property or account will be billed at the reduced number of EDUs to determine the base rate service charges. The Customer has the option to retain any number of the unused EDUs. All unused EDUs are billed pursuant to these Rules and Regulations. Only EDUs purchased through respective System Development Charges may be retained.

§ 3.5 Unoccupied Structures or Units. The District may charge for services for unoccupied structures or units according to these Rules and Regulations. Connection to the sanitary sewer system is a continuing request for service by the Owner or User, therefore charges will cease only when water service is discontinued or the property's sanitary sewer is physically disconnected from the System in accordance with these Rules and Regulations. Watershed protection management fees may continue to be billed regardless of the status of water service or condition of the sanitary sewer connection.

§ 3.6 Equivalent Dwelling Unit (EDU) Count Methodology. The District determines EDU counts using one of the two methods described below:

§ 3.6.1 Dwelling Unit Method: This method determines the EDU count based on the number of dwelling units proposed in the development.

§ 3.6.2 Plumbing Fixture Unit Method: This method determines the EDU count by dividing the number of plumbing fixture units (PFU) by the occupancy equivalency factor proposed in the development. EDUs will always be rounded up to the nearest whole number.

§ 3.6.2.1 Fixture Types. PFUs for given plumbing fixture types will be as shown in the Oregon Plumbing Specialty Code at the time of the permit application. PFU's are categorized generally in the Oregon Plumbing Specialty Code and are

consolidated into the Table below:

<b>Fixture Type</b>	<b>Equivalency</b>	<b>Factor</b>
Bathroom or combination bath/shower	4.0	
Clothes Washer	4.0	
Dental unit or cuspidor	1.0	
Dishwasher	1.5	
Drinking Fountain or water cooler (per head)	0.5	
Shower, Per Head	2.0	
Lavatory	2.0	1.0
Sink, bar		1.0
Sink, clinical Flushometer		8.0
Kitchen Sink, domestic		1.5
Laundry Sink		1.5
Service or Mop Basin		3.0
Wash each set of faucets		2.0
Urinal		2.0
Water closet low flow (<1.6 GPF), private		2.5
Water closet standard (>1.6 GPF), private		3.0
Other (use PFU values from Oregon Plumbing Specialty Code)		1.0-4.0

§ 3.6.2.2 Fixture Equivalencies for Use Classes. Conversion ratios are set by the District and reflect a City of Portland assessment of sanitary water usage per PFU, by business type.

<b>Occupancy</b>	<b>Number of PFU's per EDU</b>
Fire Station	16.0
Automotive Retailers	16.0
Repair Services	16.0
Education/Cultural	16.0
Churches/Clubs/Organizations	16.0
Rental/Storage Services	16.0
Construction Trade Services	16.0
Retail Sales & Businesses without food service	12.0
Public Use Facilities	12.0
Food Service	12.0
Beauty and Barber Salons	12.0
Clothing and Dry Good Stores	12.0
Warehouses Used for Storage	12.0
Commercial Kitchen, Catering, Cafeteria	7.0
Food Service, Fast Food	7.0

§ 3.6.2.3 Mixed Use. For mixed residential/nonresidential uses, the

EDUs will be determined by applying 1 EDU per dwelling unit for the residential portion and according to fixture counts for the nonresidential portion.

§ 3.6.3 The District may, at its discretion, make the determination as to which method shall be used to determine the EDU Count for non-residential uses.

§ 3.6.4 Table 3.6 further describes the methodology for EDU Counts for the purposes of determining SDC's and monthly service charges.

**TABLE 3.6 (Service Type Charge Equivalency)**

<b>Use I.D.</b>	<b>Type of Service</b>	<b>System Development Charge Equivalency</b>	<b>Monthly Sewer Service Charge Equivalency</b>
1	Single Family Dwelling	1	1
2	Recreation Vehicle Hookup	1	1
3	Accessory Dwelling Unit	1	1
4	Multi Family Dwelling	1 per dwelling unit	1 per dwelling unit
5	Mobile Home Parks	1 per mobile home space	1 per mobile home space
6	Group Homes, Adult Care & Residential Care Facilities	1 per every 3-person capacity*	1 per every 3-person capacity*
7	Day Care Facilities	1 per 10-person capacity*	1 per every 10-person capacity*
8	Motels	1 per motel unit	1 per motel unit
9	Elementary Schools	1 per 32.5 students*	1 per 32.5 students*
10	High Schools/ Junior High Schools	1 per 12.5 students*	1 per 12.5 students*
11	Hospitals	1 per 2.5 beds*	1 per 2.5 beds*
12	Churches	1 unit	1 unit
13	Offices	1 per 1500 square feet*	1 per 1500 square feet*
14	Gas Station	2	2
15	Auto or Equipment Repair	1	1
16	Restaurants, Taverns and Bars	1 per 10 seating spaces*	1 per 10 seating spaces*
17	Temporary Dwellings**	1	1
18	Laundry Facilities	1 per washing machine	1 per washing machine
19	Beauty Shops, Hair Salons 1 unit per 4 shampoo bowls	1 per 4 shampoo bowls*	1 per 4 shampoo bowls*
20	Commercial, Industrial, and all other buildings and establishments	See Section 3.6	

*	Fractions will be rounded up to the nearest whole number of SDCs and monthly billing units. Example: 5 shampoo bowls equals 2 SDC payments and 2 units of billing each month.
**	Temporary dwellings shall pay the regular connection charge at the time of connection to the system. If the temporary structure is disconnected prior to the expiration of the permit's three (3)-year term, a prorated refund based on the number of months remaining in the three-year term, less inspection fees, will be granted upon request. Such request must be made within ninety (90) days of disconnection.

§ 3.7 Watershed Protection Rates, Fees and Other Charges. A monthly watershed protection and management charge shall be paid by the Customer, calculated as follows:

§ 3.7.1 Monthly charges are based on the size and location of a Customer's site, as follows:

§ 3.7.1.1 An Equivalent Service Unit (ESU) is used as the base unit of measure in the District's rate structure. An ESU is currently 2,500 square feet, which represents the average amount of impervious surface on a single-family residence site within the District Boundary. The number of ESUs for a site are calculated by dividing the total impervious area on the site by 2,500 square feet. Single-family residential Customers are presumed to have one ESU.

§ 3.7.1.2 Each site's ESUs are multiplied by the watershed protection management service area charge listed in the Fee Schedule to determine the monthly fee for watershed protection.

§ 3.7.1.3 The service area charges are set annually in the Fee Schedule based on revenue requirements needed to meet planned workloads.

§ 3.7.2 Watershed Protection Facility Maintenance Surcharge. The District may add a surcharge to the monthly watershed protection charge for Customers who operate and maintain private detention of water quality facilities. The cost of such surcharge will be determined by the District's actual cost to provide services related to these facilities and by an equitable distribution of the cost to affected property owners. The surcharge will be established by an agreement between the District and the affected property owners, which will be a recorded deed restriction on the property.

§ 3.7.3 Watershed Protection System Development Charge. The District may, at a future date and pursuant to ORS 223.297 et seq., adopt system development charges for watershed protection to fund capital improvements such as additional system capacity and/or the installation, construction, and extension of the stormwater system. These charges shall be due and payable at the time a Customer is permitted to increase usage of the stormwater system. The SDCs are separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development, including other SDCs charged by the District.

### § 3.8 Commencement of Monthly Service Charges.

§ 3.8.1 For new connections, monthly service charges shall commence on the date that water service is first provided.

§ 3.8.2 For existing connections changing water service class as described in Table 3.6, monthly service charges shall commence upon the date the District authorizes the change in service class. Charges occur regardless of occupancy, completion, or other status of the property, unless

disconnected. Charges may be pro-rated as follows:

§ 3.8.2.1 For single unit accounts the service charges may be pro-rated to the nearest one-half month in which the connection is approved.

§ 3.8.2.2 For multiple unit accounts the service charges may be pro-rated to the nearest week in which the connection is approved.

### § 3.9 Installment Payment for SDCs.

§ 3.9.1 The District may approve payment of SDCs in twenty (20) semi-annual installments secured by a lien on the property upon which the new or increased development is to occur, or to which connection is to occur, including interest on the unpaid balance.

§ 3.9.2 The District shall provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.

§ 3.9.3 The District reserves the right to reject any application for installment payments.

§ 3.9.4 Requirements and procedures for installment payments of the SDC shall be in accordance with the following:

§ 3.9.4.1 A person requesting installment payments shall demonstrate the person's authority to allow imposition of a lien on the property and that the person's interest in the property is adequate to secure payment of the lien.

§ 3.9.4.2 Any eligible person requesting the installment plan shall at the time of the application for connection submit to the District an application for installment payments on a form provided by the District.

§ 3.9.4.3 The applicant, at the time of application and at applicant's expense, shall order and provide to the District a preliminary title report for the property that would be subject to the lien from a title insurance company doing business in Clackamas County, Oregon.

§ 3.9.4.4 The applicant, at applicant's expense, shall furnish the District with a current statement of any amount due to each lien holder disclosed by the preliminary title report, the tax assessor's statement of true cash value, and, for property proposed for improvement, information on which to base the estimated fair market value upon completion of the

proposed improvement. The applicant shall answer such questions as the District deems necessary to determine the applicant's ability to make the installment payments together with payments to any other lien holder. The applicant authorizes the District to contact other lien holders regarding applicant's payment history.

§ 3.9.4.5 The District will examine the title report for the property and other information to determine whether: (1)The total unpaid amount of all liens disclosed, together with the amount of the system development charge sought to be paid by installments, does not exceed (a) the appraised value of the property as determined by the current appraisal of the County Assessor or (b) if the District elects, based upon the appraisal or other evidence of value acceptable to the District, the amount does not exceed the estimated fair market value of the property; and (2) the District, in its discretion, upon review of the applicant's ability to make payments to the District, consents to execution of an agreement with the applicant to make the required payments.

§ 3.9.4.6 After the District is satisfied with the title report for the property, the applicant shall execute an installment promissory note, payable to the District in the form prescribed by the District for payment in installments not to exceed twenty (20) equal semi-annual installments due January 1 and July 1 of each year, together with interest on the deferred principal balance at the rate of interest established in the District's Fee Schedule. The promissory note shall be secured by a lien on the property. The cost of recording, preparation of security documents, title company report, and filing fees shall be borne by the applicant in addition to the connection charge. The applicant, by electing to pay in installments, agrees that as an additional remedy to recovery upon the promissory note and foreclosure of the lien, the District may after ten (10) days' notice of delinquent installments cause termination of service to the defaulting property.

§ 3.9.5 If the District determines that the amount of SDC, together with all unpaid liens, exceeds the appraised value of the property or that the applicant cannot execute a promissory note enforceable by a valid lien, or if the District determines that it will not have adequate security or that the

applicant cannot make the required payments, the District shall so advise the applicant and installment payments shall not be accepted.

§ 3.9.6 The District shall docket the lien in the lien docket. From that time, the District shall have a lien upon the described property for the amount of the SDC, together with interest on the unpaid balance at the rate established by the District. The lien shall be enforceable in the manner provided in ORS Chapter 223 and shall be superior to all other liens pursuant to ORS 223.230.

#### **§ 4 BILLING, PAYMENT & TERMINATION**

- § 4.1 Due Date; Delinquent Accounts. All charges for water and sewer services and watershed protection will be due and payable on the date of billing or as specified herein and become delinquent if unpaid as of the 15<sup>th</sup> of the billing month. Water and sewer services may be discontinued when a billing delinquency exists according to Oregon law and these Rules and Regulations. All delinquent payments will be charged a monthly fee, established in the Rate Schedule, from the date of delinquency until paid.
- § 4.2 Payments. All payments shall be made to the Oak Lodge Water Services District by automatic electronic payment, check, or credit/debit card delivered by mail, in person at the office of the District, or at other places the Board may designate.
- § 4.3 Account Setup. All accounts and/or requests for services are established and maintained in the name of the Owner. The District shall be entitled to collect information from the Owner sufficient to identify the individual or individuals who will be named on an account, including, but not limited to, driver license information, social security number, date of birth, and contact information. District shall keep such information solely for District purposes, including collections of delinquent accounts, and shall not disclose such information to the extent it is protected from disclosure by law.
- § 4.4 Property Owner Responsible. Connection to the water system and/or sanitary sewer system is a continuing request for service by the Owner, and the Owner is responsible for payment of all charges. The District will not recognize any attempt to transfer responsibility.
- § 4.5 Billing Address. Billing statements are mailed to the Owner, with a courtesy copy mailed to the service location if the Owner does not reside at the service address. If the Owner does not provide the District with an address for mailing of bills, the District may use the mailing address for tax statements shown on the records of the County Assessor and/or County Tax Collector.
- § 4.6 Notices for Non-Owner-Occupied Properties. The District will make all reasonable efforts to provide the property owner and User (landlord and tenant) with copies of all invoices, notices, and other information relating to fees and charges. This policy is intended to comply with ORS 91.255 and to provide notices to enable the landlord and



tenant a reasonable opportunity within the time set by the District to avoid delinquent charges and discontinuance of service.

#### § 4.7 Collection of Charges.

§ 4.7.1 All District invoices or bills for fees and charges shall be sent to the Owner at the address in the District's records.

§ 4.7.2 The District may enter into a payment plan in its sole discretion to avoid hardship to the User if there is a dispute between landlord and tenant regarding the District's fees and charges.

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

§ 4.7.4 The General Manager may enter into agreements regarding payment of delinquent fees and charges as are reasonable and necessary to obtain payment to the District and avoid hardship and inequities.

§ 4.7.5 Failure to make payment when due shall give the District the right to undertake such collection action as it deems appropriate under the circumstances including, but not limited to, letters, telephone calls (reasonable as to time and place), and legal proceedings.

#### § 4.8 Termination of Water Service by the District.

§ 4.8.1 Water service shall be subject to termination upon the occurrence of:

§ 4.8.1.1 Non-payment of charges established within the District's Fee Schedule;

§ 4.8.1.2 Non-compliance with these Rules and Regulations relating to matters other than non-payment of charges;

§ 4.8.1.3 Lack of use of water service for a period indicating intent to terminate water service; or

§ 4.8.1.4 Threat to health, safety, or welfare determined at the sole discretion of the District. Under these circumstances, termination may be immediate and without notice.

§ 4.8.2 Notice of the District's intent to terminate service shall be sufficient if given by any of the following:

§ 4.8.2.1 U.S. mail sent to the Owner's address as shown in District records and to the User at the service address, or

§ 4.8.2.2 By hand delivery of a notice to the Owner and to the User. When the notice is sent by mail, the notice shall be deemed complete upon deposit in the mail. The period for

compliance shall be as set forth in the notice. When notice is hand delivered, the notice shall be deemed complete when delivered to the property owner's address and the period of compliance shall be as set forth in the notice.

§ 4.8.3 In all instances where a water service has been turned off because of a delinquent account or charges, the District will make a service charge for the restoration and discontinuance of water service according to the current District Fee Schedule.

§ 4.8.4 Water service that has been terminated or disconnected for lack of payment for bills due the District will not be restored until all past due bills and other charges are paid in full.

§ 4.8.5 The failure of the District to discontinue water service for any reason, including nonpayment of service charges due, will not relieve the property owner or the User from the obligation and duty to pay for all said service furnished, whether the property owner or User does, or does not, have knowledge of the delinquencies for water use or charges.

#### § 4.9 Termination of Sewer Service Connection.

§ 4.9.1 Sewer service shall be subject to termination upon the occurrence of:

§ 4.9.1.1 Non-payment of charges established within the District's Fee Schedule;

§ 4.9.1.2 Non-compliance with these Rules and Regulations relating to matters other than non-payment of charges;

§ 4.9.1.3 Failure to cease discharging prohibited substances into the District sewerage system after notice from the District;

§ 4.9.1.4 Failure to install flow sampling or measuring devices after being notified by the District to do so; or

§ 4.9.1.5 Threat to health, safety, or welfare determined at the sole discretion of the District. Under these circumstances, termination may be immediate and without notice.

§ 4.9.2 The District will include the expense of such discontinuance as well as the expense of restoring service as part of the delinquent charges.

§ 4.9.3 Sanitary sewer service billing shall discontinue once the water meter is locked out by District Staff.

§ 4.9.4 Upon ten (10) days written notice, the District may undertake whatever steps are necessary to mitigate or terminate User's impact upon the District's or other public systems. The charges therefore shall be owed by Owner to the District. The notice period for this may be shortened if there

is an imminent threat to human health, the environment, or the System. Any costs incurred by the District to cease or mitigate the User's impact to the District's Systems shall be charged according to the District's Fee Schedule.

§ 4.10 Attorney Fees & Costs. In any action or suit to collect any delinquent User charges, the District shall be entitled to its reasonable attorney's fees, costs, and disbursements as may be awarded by the trial court, including any appeal.

§ 4.11 Temporary Discontinuance or Restrictions of Service.

§ 4.11.1 Temporary Discontinuance.

§ 4.11.1.1 A property owner or User may have the water and/or sewer service to the premises temporarily or indefinitely terminated by giving the District written notice as far in advance of the effective termination date as possible. Such property owner or User will, upon giving notice, pay all charges for services rendered to the date of such termination. Where water and/or sewer service has been discontinued at the request of a property owner or User, such service may be restored upon the request of that property owner or User.

§ 4.11.1.2 If, at the property owner or User's request, a service is shut off and turned on more than once in a thirty-day period, the District may charge for such services as established in the Fee Schedule.

§ 4.11.1.3 The District, in complying with a property owner's or User's request to discontinue service, will under no circumstances be responsible to the property owner or User, or any other party, for any damages resulting from such action, including civil damages.

§ 4.11.2 Restrictions on Service.

§ 4.11.2.1 If the District determines that conditions require the restriction or prohibition of use of water to protect the health, safety, or welfare of Customers, the Board shall establish a schedule of use restrictions and prohibitions. The schedule shall indicate the uses prohibited or restricted and the period or periods of prohibited and/or restricted use.

§ 4.11.2.2 Whenever the household supply of water within the District is being jeopardized by non-household use of water, the District may order the non-household use of water to be immediately discontinued. Non-household water includes

irrigation of lawns, gardens, or fields.

§ 4.12 Low Income Rate Relief.

§ 4.12.1 Charges for water and sanitary sewer service and the watershed protection charge may be reduced for Customers who qualify under the District's low-income rate relief policy. The service charge reduction shall be equivalent to one-half of the established base rate of each charge.

§ 4.12.2 Applicants for the low-income rate relief program must meet eligibility requirements established by the Board, show proof of income, and submit written applications on forms approved by the District. Eligible Customers who are approved for the low-income rate relief program must continue to meet eligibility requirements and submit written renewal applications for continued enrollment in the program.

§ 4.12.3 Financing Low Income Rate Relief. Water, sanitary, and watershed protection service charges shall be established at a level sufficient to cover revenue losses resulting from the reduced rates authorized under the low-income rate relief program. The District shall budget resources sufficient to fund the revenue losses due to the program at a rate of 0.5 percent of budgeted District rate revenues. This budgeted amount shall serve as a cap to the program's cost which will require Board of Director approval to exceed.

§ 4.13 Leak Adjustments.

§ 4.13.1 The District may issue partial credits to Owners for leaks that are repaired in a timely manner. To be eligible for a leak adjustment the Owner must repair the leak within thirty (30) days of notification. To obtain the adjustment the Owner must submit a completed "Leak Adjustment Request Application" along with receipts and/or invoices associated with the repair. Underground leaks from the back of the meter up to the foundation are eligible for adjustments. Leaking faucets, leaking toilets, sprinkler systems, or accidental over-watering are not eligible for adjustments.

§ 4.13.2 Application for a Leak Adjustment. When a Customer has a leak that qualifies for a leak adjustment, a credit is applied to the Customer's account for a portion of the excess water that was used. Oak Lodge Water Services District cannot refund the full amount of the excess water used as the District must cover the costs for the water and the costs to deliver the water to the Customer.

§ 4.13.3 Calculating a Leak Adjustment. To determine the adjustment amount, an average of water usage must be calculated. The average is calculated

using the last three (3) years water consumption for the same time period as the leak. This amount is considered the User's actual water use and the User is billed for this amount at the current retail rate. The remaining usage shall be calculated as follows:

§ 4.13.3.1 The billing shall reflect the North Clackamas County Water Commission wholesale water rate plus associated costs of delivering water to Customers.

§ 4.13.3.2 The Sanitary Sewer variable charges will be adjusted from the winter average calculation.

§ 4.14 Meter Reading and Billing. The District will read meters at regularly established intervals as determined by the District, and bills will be rendered based upon consumption to the nearest 100 cubic feet of water furnished. In the event the premises have multiple metered connections, the District will bill all meters serving the premises separately and will not combine readings unless such meters are installed in a battery at one location according to the requirements of the District. The District will provide one meter for each parcel unless otherwise specifically approved in writing by the District.

§ 4.15 Meter Accuracy and Testing. The District's meters comply with the standards established by the American Water Works Association (AWWA) Section C700.

§ 4.15.1 An Owner may request the meter be tested by making a request for such testing to the District:

§ 4.15.1.1 If the test shows the water meter registers outside the AWWA standard, the meter shall be repaired or replaced at no cost to the Owner for a new meter, parts, or labor.

§ 4.15.1.2 An adjustment of the volume (water unit) charge may be made if the meter registers in excess of the AWWA standard. Charge adjustments shall be made retroactive for a period not to exceed one year.

§ 4.15.1.3 If the test shows that the water meter registers within the AWWA standard, the Owner shall pay for the test in accordance with District's Rates, Fees, and Charges. The cost for the test shall be billed by the District and the District may charge the Owner for water delivered, not to exceed four (4) months (two billing cycles) prior to the testing.

§ 4.15.1.4 The District may audit, test, or replace the meter at any time at the District's discretion.

§ 4.15.2 If a meter cannot be read or has failed the District may prepare and submit to the owner an estimated bill based upon previous historical use.

§ 4.15.3 Owners will be liable for any damages to a meter or other equipment or to

any property owned by the District. Liability of the Owner includes, but is not limited to, breaking of seals and locks, tampering with meters, damage to meters caused by hot water or steam and damage to meter boxes, curb stops, meter stops, or other appliances or attachments. Any damage or charges incurred by the District will be collected by the District in any appropriate manner provided by law.

## **§ 5 PERMITS AND CONNECTIONS**

- § 5.1 Permit Required. A permit or other District approval, and associated fees, is required prior to any work proposed for construction or modification of a service connection, line extension, or any other improvement. Failure to acquire permit(s) is a violation of these Rules and Regulations.
- § 5.2 Design and Construction Standards. All permitted work approved by the District shall be governed by the District's Design and Construction Standards.
- § 5.3 Outside User Service. Service to persons and property outside the boundaries of the District will be at the discretion of the Board. The District may only provide water to outside Users if it has sufficient surplus water beyond its requirements within the District boundaries and such service, if provided, may be discontinued any time if the interests and needs of the District so require. Any such service installation shall be required to meet and abide by all Rules and Regulations of the District.
- § 5.4 Utility Main Extension & Pro Rata Cost Refund. When the District requires a person to pay for extension of a Main to provide service to the person's property, and the Main extension makes service available for other property, the person paying for the Main extension is entitled to a pro rata refund of the cost of such Main extension for a period of ten years. The pro rata refund will apply after the date of the installation of, payment for, and connection to the Main extension. The amount to be refunded will be determined by the District, which determination will be final. The pro rata refund will be based upon total front footage of all property abutting on the street, road, right-of-way, or public easement within which the Main extension was made and that is benefited by the Main extension.
- § 5.5 Where the construction of a Main is required to be located on private property, or where an existing Main on private property is required to be altered, the District may condition approval of the construction or alteration of the Main or approval of the resulting service connection on the receipt by the District from the property owner of a recordable easement interest establishing the approved location of the Main, together with reasonable limits the District establishes to protect the Main once constructed.

## **§ 6 WATER SERVICE CONNECTIONS**

- § 6.1 Individual Service Required. Each parcel must have its own water service connection and meter unless otherwise determined in writing by the District Engineer. No person

will furnish water to any premises without first obtaining written approval of the District. These connections will be governed by the specific terms and conditions of the District's authorization.

§ 6.2 Spider Connections Prohibited. The District does not permit "spider connections" that would provide service from parcel to another. The District requires each parcel to have a separate service connection.

§ 6.3 Meters.

§ 6.3.1 Meters will be set at property lines, and the service pipe from the Main to the meter, as well as the meter and the meter box, will be the property of the District and not the Owner of the premises, regardless of whether the Owner pays for the installation.

§ 6.3.2 When meters are required to be installed under circumstances that, in the District's opinion, may cause unusual installation or maintenance problems, the District will have the right to require concrete meter vaults or other devices to be installed. The cost of such vaults or other protective devices will be borne by the Owner requesting the service installation

§ 6.4 Pressure Regulation.

§ 6.4.1 As far as is reasonably possible, feasible, and economical, the District will furnish water at desirable pressures. In locations in which service pressures are higher than needed or desired by Users, a pressure regulator may be installed behind the meter box location at the owner's expense. Such installation will be made according to any applicable legal requirements and will be consistent with District regulations and policy.

§ 6.4.2 Under no circumstances will the District be responsible or liable for any equipment malfunction or other damage caused by the installation of, failure to install, or maintenance of such a device. All such installation and maintenance shall be by the Owner at the Owner's sole expense.

§ 6.4.3 The District will not be responsible for damages or difficulties experienced because of variations in pressure within the system or service interruptions.

§ 6.5 Connection to Another Water Supply. No private water supply shall be connected to the Customer's service line without written consent and approval of the General Manager.

§ 6.6 Large Service Connections. The Board may require persons requesting large service connections for fire protection or other reasons to pay for an equitable portion of the cost of Main(s) needed to supply the required flow. Each such case will be considered separately on its own merits and the circumstances. The Board may also enter into special service contracts, in which higher minimum charges are established sufficient to cover the cost of the service rendered.

§ 6.7 Service Interruption.

§ 6.7.1 From time to time, the District must interrupt water service for maintenance, replacement, or repairs of the District's system. The District will not be responsible for damages caused by such interruptions of water service or fluctuation of pressure.

§ 6.7.2 The District will, whenever feasible to do so, give Customers advance notice whenever it is known that service is to be interrupted. However, failure to give such notice will in no manner cause the District to become liable for loss or damage including, but not limited to, bursting of boilers, the breakage of any pipes or fixtures, stoppage or interruptions of water supply, or other damage resulting from the shutting off of water.

§ 6.8 Backflow and Cross Connection.

§ 6.8.1 Water service connections shall protect against backflow into the District's System as required by state law and these Rules and Regulations. Service of water may be terminated if 1) backflow prevention assemblies or backflow prevention devices required by the District are not installed, tested, inspected, and maintained as provided by these Rules and Regulations, 2) it is found that a backflow prevention assembly or backflow prevention device has been removed or bypassed, or 3) an unprotected cross-connection exists. Service will not be restored until such conditions or defects are corrected.

§ 6.8.2 The User shall provide the District access for inspection at all reasonable times to the User's system to determine if an unprotected cross-connection or violation of the District's requirements exists and that compliance requirements are met.

§ 6.8.3 Properties required to install an approved backflow prevention device or backflow prevention assembly include those where there is:

§ 6.8.3.1 A commercial account or any service meter 1 ½ inch and larger;

§ 6.8.3.2 A situation included or defined in Appendix A to these rules, which shall be Table 42 of OAR 333-061-0070, as amended or revised. In the event DEQ revises that rule, Appendix A shall be replaced with the then-current version of the rule;

§ 6.8.3.3 Intricate or inaccessible piping, which makes it impractical to ascertain whether or not a cross-connection exists;

§ 6.8.3.4 An elevation difference between the service connection at the public water Main and the highest water outlet on the property that exceeds 30ft;



- § 6.8.3.5 An irrigation system on the property;
- § 6.8.3.6 A temporary water supply provided for construction use;
- § 6.8.3.7 A fire line, fire sprinkler system, or private fire hydrant on the premises;
- § 6.8.3.8 The presence of materials or chemicals on site which present a potential hazard or risk of contamination to the water supply;
- § 6.8.3.9 A boiler on the property; or
- § 6.8.3.10 An auxiliary water supply on the property, such as a well, cistern, or body of water.

§ 6.9 Backflow Testing.

- § 6.9.1 The User or Owner of the premises where one or more backflow prevention assemblies or devices are installed shall cause a test or inspection of each assembly or device to be performed by an Oregon State Health Division certified tester:
  - § 6.9.1.1 At the time of installation or prior to water service being turned on;
  - § 6.9.1.2 If the device is moved or repaired, immediately thereafter;
  - § 6.9.1.3 Annually;
  - § 6.9.1.4 More frequently than annually for approved backflow prevention assemblies or devices that repeatedly fail or are protecting health hazard cross connections, as determined by the water supplier;
  - § 6.9.1.5 After a backflow incident; or
  - § 6.9.1.6 After an approved air gap is replumbed.
- § 6.9.2 Unless otherwise provided, the owner of a mobile apparatus on which a backflow prevention assembly or air gap separation is required shall cause a test of the assembly or an inspection of the air gap separation to be performed within the year before use within the District and annually thereafter.
- § 6.9.3 The District may require more frequent testing of a backflow prevention assembly if the assembly is installed at a facility that poses an extreme health risk or if the assembly has failed a test.
- § 6.9.4 All completed backflow test reports must be forwarded to the District within ten (10) days from the date of the test. The User or Owner and the District shall take the following actions depending on the results of the test and inspection reports:

- § 6.9.4.1 If the results indicate that the backflow prevention assembly or device is working properly, the results shall be entered in the District's records as such.
- § 6.9.4.2 If the results indicate that the backflow prevention assembly or device is not working properly, the User or Owner shall cause the assembly or device to be repaired and retested immediately and shall forward the subsequent results to the District within ten (10) days from the date the User or Owner received the initial results.
- § 6.9.4.3 If a backflow prevention assembly or device fails a test and repair is not immediately possible, the User or Owner must notify the District immediately of the failure, the location of the failed assembly or device, and estimated time for completing repairs to the assembly or device.
- § 6.9.4.4 If the District has not timely received the results of a test or inspection that is required to be performed, it may order the required test or inspection ("Force test/inspection") and invoice the cost of the Force test/inspection to the User or Owner. If the results indicate that the assembly or device needs repair, the District may either complete those repairs at the time of the Force test/inspection and add those fees to the Customer's invoice, or the District may turn the water off to the premises and the User or Owner will be responsible for repair costs as well as any fees associated with resumption of service to the premises.
- § 6.9.4.5 If the User or Owner of a failed backflow prevention assembly or device fails to make repairs that result in acceptable test results within ten (10) days of receiving results from a test or inspection showing the assembly or device is not operating properly, the District may order the repair and retest and invoice the cost of the repair and retest to the User or Owner, or the District may turn the water off to the premises and the User or Owner will be responsible for repair and retesting as well as any fees associated with resumption of service to the premises.
- § 6.9.5 The District may discontinue the water service of any person Owner or User who refuses or fails to pay for charges invoiced related to backflow testing or inspection, or for failure to perform or report the required test or inspection results.
- § 6.9.6 All water meters used for irrigation purposes will be locked upon installation and the locks will not be removed until the approved backflow prevention

assembly or device has been installed properly and a passing test or inspection report is received by the District's assigned Cross Connection Specialist.

§ 6.9.7 If the District does the first annual test of the backflow device on an irrigation connection, the cost shall be borne by the User and shall include the cost of connection and record keeping.

§ 6.10 Installation and Use of Fire Hydrants.

§ 6.10.1 Fire hydrants must be installed by a licensed contractor. The District will establish the size, location, type, and method of installation. After installation, the hydrant will become the property of the District. Any application for change in the type, size, or location of an existing fire hydrant will likewise be made to the District, and, if such change is approved, the applicant will pay for all costs associated with such change.

§ 6.10.2 Use of fire hydrants is by permit only. Applications for permits are available at the District office. Proof of insurance and cross-connection protection is required for the permits. If granted, the permit must be available for inspection at all times while a hydrant is being utilized. Non-compliance of this rule is a violation subject to fines.

§ 6.11 Automatic Standby Fire Service. The District may provide water for automatic standby fire service connections, upon written application thereof, and upon payment in advance, of the estimated cost of such installation. Before the District will approve such application, the applicant must make adequate provisions to prevent the use of water from such service for any purpose, other than extinguishing fire upon the premises, wherein such standby fire service connection is located. Under no circumstances will such a connection allow a cross-connection with any other District service facility. Charges for standby fire protection service connection will be as stated in the District's Fee Schedule.

**§ 7 SANITARY SEWER: DISCHARGE PROHIBITIONS**

§ 7.1 General Prohibitions. No person shall discharge or cause or permit to be discharged, directly or indirectly, into any public sewer or tributary sewer thereto, any pollutant or wastewater which will cause pass through, interference, or disruption. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, local, or state pretreatment standards or requirements.

§ 7.2 Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

§ 7.2.1 Pollutants which create a fire or explosive hazard in the POTW, including,

but not limited to, waste streams with a closed-cup flash point of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR '261.21;

- § 7.2.2 Wastewater having a pH lower than 5.5 Standard Unit (“S.U.”) or higher than 11.5 S.U. or having any corrosive property capable of causing damage or hazard to structures, equipment, or persons. Facilities with continuous monitoring of pH shall not exceed the pH range of 5.5 S.U. to 11.5 S.U. more than a total of 15 minutes on any single day (cumulative duration of all excursions); provided that, at no time shall any discharge of a pH be lower than 5.0 S.U. or at/or above 12.5 S.U.;
- § 7.2.3 Any solid or viscous substances in quantities or size capable of causing obstruction to the flow of sewers or other interference with the proper operation of the sewage treatment plant;
- § 7.2.4 Pollutants, including oxygen-demanding pollutants (BOD, COD etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause pass through, interference, or disruptions with the POTW;
- § 7.2.5 Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the collection system to exceed 104°F (40°C) unless the District approves alternate temperature limits;
- § 7.2.6 Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
- § 7.2.7 Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- § 7.2.8 Trucked or hauled pollutants, except at discharge points designated by the District;
- § 7.2.9 Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life or health or to prevent entry into the sewers for maintenance or repair;
- § 7.2.10 Wastewater that imparts color that cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently impart color to the treatment plant's effluent, thereby violating the District's NPDES permit. Color (in combination with

turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life;

- § 7.2.11 Wastewater containing any radioactive wastes or isotopes except as specifically approved by the General Manager in compliance with applicable State or Federal regulations;
- § 7.2.12 Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically approved by the District;
- § 7.2.13 Any sludge, screening, or other residue from the pretreatment of industrial wastes or from industrial processes;
- § 7.2.14 Medical wastes, except as specifically authorized by the District;
- § 7.2.15 Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- § 7.2.16 Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- § 7.2.17 Any liquid, 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 POTW or to the operation of the POTW. At no time shall either two (2) successive readings on an explosion meter, at the point of discharge into the system (or at any point in the system), be more than five (5%) percent or any single reading be over ten (10%) per cent of the lower explosive limit (LEL) of the meter;
- § 7.2.18 Grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;
- § 7.2.19 Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits;
- § 7.2.20 Any wastewater that in the opinion of the District can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; otherwise endanger life, limb, public property; or constitute a nuisance, unless allowed under special agreement

by the District (except that no special waiver shall be given from categorical pretreatment standards);

§ 7.2.21 Any hazardous wastes as defined in rules published by the State of Oregon or in federal regulations;

§ 7.2.22 Persistent pesticides and/or pesticides regulated by the Federal Insecticide Rodenticide Act (FIFRA);

§ 7.2.23 Sewage sludge, except in accordance with the District's NPDES permit, providing that it specifically allows the discharge to surface waters of sewage sludge pollutants;

§ 7.2.24 Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW;

§ 7.2.25 Any septic tank wastes unless otherwise approved by DEQ; or

§ 7.2.26 Except as authorized by a discharge permit or in writing by the District, removed substances such as solids removed from liquid waste streams, sludges, filter backwash, or other residuals removed in the course of treatment or control of wastewater.

§ 7.3 Prohibition on Discharge of Other Waters. No person shall discharge or provide a connection for discharging or draining into any public sanitary sewer or tributary sewer thereto any stormwater, surface water, groundwater, roof runoff, surface drainage, non-contact cooling water or other unpolluted water or the drainage of any swimming pool, catch basin, lake, swamp, or pond.

## **§ 8 INDUSTRIAL WASTE**

§ 8.1 Purpose and Policy. These Rules and Regulations set forth uniform requirements for Users of the POTW for OLWSD and enables the District to comply with all applicable State and Federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations. The objectives of these Rules and Regulations are:

§ 8.1.1 To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;

§ 8.1.2 To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

§ 8.1.3 To prevent the introduction of pollutants or contaminants that may cause a violation of any permit issued to the District, including its NPDES permit;

§ 8.1.4 To ensure that the quality of the wastewater treatment plant sludge is

maintained at a level that allows its use and disposal in compliance with applicable statutes and regulations;

§ 8.1.5 To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public; and

§ 8.1.6 To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW.

§ 8.2 These Rules and Regulations shall apply to all Users of the POTW. These Rules and Regulations authorize the issuance of wastewater discharge permits; authorize monitoring, compliance, and enforcement activities; establish administrative review procedures; require User reporting; and provide for the setting of fees for the equitable distribution of costs resulting from the program established herein.

§ 8.3 Prohibited Discharge Standards. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through or interference, as defined in Section 7. This applies to all Users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local Pretreatment Standards or Requirements.

§ 8.4 Federal Categorical Pretreatment Standards. National categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471, as promulgated by the Environmental Protection Agency (EPA) pursuant to the Federal Water Pollution Control Act, if more stringent than limitations imposed under these Rules and Regulations, shall be met by all Dischargers into the sewerage system who are subject to such standards.

§ 8.5 State Requirements. State requirements and limitations on discharges to the POTW shall be met by all Users that are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in these Rules and Regulations or in other applicable ordinances, rules, or laws.

§ 8.6 Local Limits. Pollutant limits have been established to protect against pass through and interference. No person shall discharge wastewater containing pollutant levels in excess of the limits described in the Local Limit Schedule. Additional pollutants or more restrictive maximum quantities may be required if the material discharged might cause interference with the operation of the wastewater treatment plant or violation of Federal, State, or local limits, standards, or laws.

Local Limit Schedule (Concentration, mg/l):

	<b>Daily Maximum Concentration</b>
<b>Arsenic</b>	0.39
<b>Cadmium</b>	0.27
<b>Chromium, Total</b>	1.71
<b>Copper</b>	1.92
<b>Cyanide</b>	0.23
<b>Lead</b>	0.43
<b>Mercury</b>	0.14
<b>Molybdenum</b>	0.42
<b>Nickel</b>	2.38
<b>Selenium</b>	0.90
<b>Silver</b>	0.24
<b>Zinc</b>	1.48

The local limits apply at the point where the wastewater is discharged to the POTW (end of the pipe). All concentrations for metallic substances are for "total" metal unless indicated otherwise. The General Manager may impose mass limitations in addition to (or in place of) the concentration-based limitations above. Where a User is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply.

Effluent limits and/or action levels may be established for BOD, COD, and/or TSS based on treatment plant capacity.

§ 8.7 Dilution. No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The General Manager may impose mass limitations on Users that he/she believes may be using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

§ 8.8 Pretreatment Facilities. Users shall provide necessary wastewater treatment as required to comply with these Rules and Regulations and shall achieve compliance with all



applicable pretreatment standards and requirements set out in these Rules and Regulations within the time limitations specified by the EPA, the State, or the District, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the District shall be provided, operated, and maintained at the User's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the District for review and shall be acceptable to the District before construction of the facility. The review of such plans and operating procedures will in no way relieve the User from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the District under the provisions of these Rules and Regulations.

## § 8.9 New Sources.

§ 8.9.1 Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

§ 8.9.1.1 The building, structure, facility, or installation is constructed at a site at which no other source is located;

§ 8.9.1.2 The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

§ 8.9.1.3 The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

§ 8.9.2 Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Sections 8.9.1.2 or § 8.9.1.3 above but otherwise alters, replaces, or adds to existing process or production equipment.

§ 8.9.3 Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

§ 8.9.3.1 Begun, or caused to begin as part of a continuous on-site construction program, any placement, assembly, or installation of facilities or equipment;

§ 8.9.3.2 Conducted significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities necessary for the placement, assembly, or installation of new source facilities or equipment; or

§ 8.9.3.3 Entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

§ 8.10 Deadline for Compliance with Applicable Pretreatment Requirements. Compliance by existing sources covered by Categorical Pretreatment Standards shall be within 3 years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate Standard.

The District shall establish a final compliance deadline date for any existing User not covered by Categorical Pretreatment Standards or for any categorical User when the local limits for said User are more restrictive than the federal Categorical Pretreatment Standards.

New sources and new Users are required to comply with applicable pretreatment standards within the shortest feasible time, not to exceed ninety (90) days from the beginning of discharge. New Sources and new Users shall install, have in operating condition, and start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

Any wastewater discharge permit issued to a categorical User shall not contain a compliance date beyond any deadline date established in EPA's Categorical Pretreatment Standards. Any other existing User or a categorical User that must comply with a more stringent local limit that is in non-compliance with any local limits shall be provided with a compliance schedule placed in an industrial wastewater permit to ensure compliance within the shortest time feasible.

§ 8.11 Additional Pretreatment Measures. Whenever deemed necessary, the General Manager may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and mandate such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of these Rules and Regulations.

§ 8.12 Accidental Spill Prevention Plans (ASPP). The General Manager may require any User to develop and implement an accidental spill prevention plan (ASPP) or slug control

plan. Where deemed necessary by the District, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the User's cost and expense. An accidental spill prevention plan or slug control plan showing facilities and operating procedures to provide this protection shall be submitted to the District for review and approval before implementation. The District shall determine which User is required to develop a plan and require said plan to be submitted within fourteen (14) days after notification by the District. Each User shall implement its ASPP as submitted or as modified after such plan has been reviewed and approved by the District, and Approval of such plans and operating procedures by the District shall not relieve the User from the responsibility to modify its facility as necessary to meet the requirements of these Rules and Regulations.

§ 8.12.1 ASPP Requirements. Any user required to develop and implement an accidental spill prevention plan shall submit a plan which addresses, at a minimum, the following:

§ 8.12.1.1 Description of discharge practices, including non-routine batch discharges;

§ 8.12.1.2 Description of stored chemicals;

§ 8.12.1.3 Procedures for immediately notifying the POTW of any accidental or slug discharges. Such notification must also be given for any discharge that would violate any of the standards of these Rules and Regulations; and

§ 8.12.1.4 Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic chemicals (including solvents), and/or measures and equipment for emergency response.

§ 8.13 Notification of Slug or Accidental Discharge. Users shall notify the District Wastewater Treatment Plant immediately after the occurrence of a slug or accidental discharge of substances regulated by these Rules and Regulations. The notification shall include the location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected User shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the District on account thereof under state or federal law.

Within five (5) days following an accidental discharge, the User shall submit to the General Manager a detailed written report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of either any expense, loss, damage, or other liability that may

be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property, nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by these Rules and Regulations or other applicable law.

Signs shall be permanently posted in conspicuous places on the User's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

- § 8.14 Industrial Wastewater Discharge Permit Requirements. No significant industrial User shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from District; the permit must be enforceable and contain all the elements as required by 40 CFR 403.8(f)(1)(iii)(B). Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of these Rules and Regulations and will subject the wastewater discharge permittee to the sanctions set forth in these Rules and Regulations. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.
- § 8.15 Wastewater Discharge Permitting: Existing Significant Industrial User (SIU). Any SIU that was discharging wastewater into the POTW before the effective date of these Rules and Regulations, and wishes to continue discharging in the future, shall, within sixty (60) days after notification by the General Manager, submit a permit application to the District. The SIU shall not cause or allow discharges to the POTW to continue more than three hundred sixty-five (365) days after the effective date of these Rules and Regulations unless a wastewater discharge permit is issued by the District.
- § 8.16 Wastewater Discharge Permitting: New Source and New User. At least ninety (90) days before startup of a new source any new User considered by the District to be an SIU must apply for and obtain a Wastewater Discharge permit. A new source or new User cannot discharge without first receiving a wastewater discharge permit from the District. New sources and new Users shall also be required to include in their application information on the method of pretreatment they intend to use to meet applicable pretreatment standards. New Sources and new Users shall give estimates of the information requested in Section 8.18.
- § 8.17 Wastewater Discharge Permitting: Extra Jurisdictional Users. Existing and new sources that are located beyond the District limits (but flow to the District) and that are required to obtain a wastewater discharge permit shall submit a wastewater discharge permit application to the District.
- § 8.18 Wastewater Discharge Permit Application Contents. All Users required to obtain an industrial wastewater discharge permit must submit, at a minimum, the following

information. The District shall approve a form to be used as a permit application. Categorical Users submitting the following information shall have complied with 40 CFR § 403.12(b).

§ 8.18.1 Identifying information. The User shall submit the name and address of the facility including the name of the operator and owners;

§ 8.18.2 Permits. The User shall submit a list of all environmental control permits held by or for the facility; and

§ 8.18.3 Description of operations. The User shall submit a brief description of: the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such Industrial User, including a list of all raw materials and chemicals used or stored at the facility that are or could accidentally or intentionally be discharged to the POTW; the number and type of employees; its hours of operation; each product produced by type, amount, process or processes, and rate of production; the type and amount of raw materials processed (average and maximum per day); and the time and duration of discharges. This description should also include a schematic process diagram that indicates points of discharge to the POTW from the regulated or manufacturing processes; site plans; floor plans; mechanical and plumbing plans; and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location, and elevation.

§ 8.18.4 Flow Measurement.

Categorical Users. The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following: Regulated or manufacturing process streams and other streams as necessary to allow use of the combined waste stream formula.

Non-Categorical Users. The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following: Total process flow, wastewater treatment plant flow, total plant flow, or individual manufacturing process flow as required by the Operations Manager. The District may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

§ 8.18.5 Measurements of Pollutants.

Categorical Users. The User shall identify the applicable pretreatment standards for each regulated or manufacturing process. In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by the Categorical Pretreatment Standard or as required by the District) of regulated pollutants (including local limits, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum

and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in this section. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR § 403.6(e) for a categorical User, this adjusted limit along with supporting data shall be submitted as part of the application.

**Non-Categorical User.** The User shall identify the applicable pretreatment standards for its wastewater discharge. In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration in the discharge (or mass where required by the District) of regulated pollutants, as appropriate. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in this section. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph. Where the District developed alternate concentration or mass limits because of dilution, this adjusted limit along with supporting data shall be submitted as part of the application.

§ 8.18.6 Certification. The User shall submit a statement, worded as specified in Section 8.19, that has been reviewed by an authorized representative of the User and certified by a qualified professional indicating whether the applicable Pretreatment Standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the User to meet the applicable Pretreatment Standards and Requirements.

§ 8.18.7 Compliance Schedule. If additional pretreatment and/or O and M will be required to meet the applicable Pretreatment Standards, the User shall submit the shortest schedule by which the User will provide such additional pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established pursuant to Sections 8.15 or 8.16 of these Rules and Regulations.

§ 8.18.7.1 Where the User's categorical Pretreatment Standard has been modified by a removal allowance (40 CFR § 403.7), the combined waste stream formula (40 CFR § 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR § 403.13) at the time the User submits the report required by this paragraph, the information required by Sections 8.18.4 and 8.18.5 shall pertain to the modified limits.

§ 8.18.7.2 If the categorical Pretreatment Standard is modified by a removal allowance (40 CFR 403.7), the combined waste

stream formula (40 CFR § 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR § 403.13) after the User submits the report required by Sections 8.18.4 and 8.18.5, then a report containing modified information shall be submitted by the User within sixty (60) days after the new limit is approved.

§ 8.18.8 Other Information. The User shall submit any other information as may be deemed necessary by the General Manager to evaluate the wastewater discharge permit application. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

§ 8.19 Signatory and Certification Requirement. All wastewater discharge permit applications and User reports must be signed by a responsible officer or manager, sole proprietor or general partner, as applicable, or duly authorized representative.

§ 8.19.1 Industrial Pretreatment Responsible Officer/Manager. For the purpose of this section, a responsible officer or manager means:

§ 8.19.1.1 A president, vice-president, secretary, treasurer of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

§ 8.19.1.2 The manager of one or more manufacturing, production, or operating facilities, provided that the manager is authorized to make management decisions that govern the operation of the regulated facility including: having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; ensuring that the necessary systems are established or actions are taken to gather complete and accurate information for control mechanism requirements; and having the authority, assigned or delegated to the manager in accordance with corporate procedures, to sign documents. This authorization must be made in writing by the principal executive officer or ranking elected official and submitted to the Approval Authority prior to or together with the report being submitted of the User and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather

and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

§ 8.19.2 Certification Statement for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User must annually submit the following signed certification statement signed in accordance with the signatory requirements in § 8.19.1. The certification must accompany an alternative annual report required by the District:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR \_\_\_\_\_, I certify that, to the best of my knowledge and belief, that during the period from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ [months, days, year]: (a) The facility described as \_\_\_\_\_ [facility name] met the definition of a Non-Significant Categorical Industrial User; (b) the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based on the following information:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_”

§ 8.20 Wastewater Discharge Permit Decisions. The General Manager will evaluate the data furnished by the User and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the General Manager will determine whether to issue a wastewater discharge permit. Upon a determination to issue, the permit shall be issued within thirty (30) days of full evaluation and acceptance of the data furnished. The General Manager may deny any application for a wastewater discharge permit.

§ 8.21 Industrial Wastewater Discharge Permit Contents. Industrial Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the General Manager to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, prevent violation of the District's NPDES permit, and protect against damage to the POTW.

§ 8.21.1 Required Conditions of Approval. Wastewater discharge permits must contain the following conditions:



- § 8.21.1.1 A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
- § 8.21.1.2 A statement that the wastewater discharge permit is non-transferable without prior notification to and approval from the District and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- § 8.21.1.3 Applicable pretreatment standards and requirements, including any special State requirements;
- § 8.21.1.4 Self-monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
- § 8.21.1.5 Requirements for immediate notification to the District where self-monitoring results indicate non-compliance;
- § 8.21.1.6 Requirements to report a bypass or upset of a pretreatment facility;
- § 8.21.1.7 Requirements to report immediately to the District all discharges, including slug loadings, that could cause problems to the POTW;
- § 8.21.1.8 Requirements for the SIU that reports non-compliance to repeat the sampling and analysis and submit results to the District within thirty (30) days after becoming aware of the violation;
- § 8.21.1.9 A statement of applicable civil, criminal, and administrative penalties for violations of pretreatment standards and requirements and any applicable compliance schedule;
- § 8.21.1.10 Requirements to control Slug discharges, if determined by the POTW to be necessary; and
- § 8.21.1.11 Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards.

§ 8.21.2 Optional Conditions of Approval. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- § 8.21.2.1 Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- § 8.21.2.2 Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate

containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

§ 8.21.2.3 Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;

§ 8.21.2.4 Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

§ 8.21.2.5 The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;

§ 8.21.2.6 Requirements for installation and maintenance of inspection and sampling facilities and equipment;

§ 8.21.2.7 A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit;

§ 8.21.2.8 Any special agreements the General Manager chooses to continue or develop between the District and User; and

§ 8.21.2.9 Other conditions as deemed appropriate by the General Manager to ensure compliance with these Rules and Regulations and State and Federal laws, rules, and regulations.

§ 8.22 Wastewater Discharge Permit Appeals. Any person, including the User, may petition the District to reconsider the terms of a wastewater discharge permit within one hundred twenty (120) days of its issuance. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal. If the District fails to act within thirty (30) days after receiving an appeal petition, a petition for appeal will be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Clackamas County Circuit Court.

§ 8.23 Wastewater Discharge Permit Duration. Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the General Manager. Each wastewater discharge permit will indicate a specific date upon which it will expire.

§ 8.24 Wastewater Discharge Permit Modification or Voluntary Termination. The General Manager may modify the wastewater discharge permit for good cause including, but not limited to, the following:

§ 8.24.1 To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

§ 8.24.2 To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

§ 8.24.3 To address a change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

§ 8.24.4 To address information indicating that the permitted discharge poses a threat to the District's POTW, District personnel, or the receiving waters;

§ 8.24.5 To address a violation of any terms or conditions of the wastewater discharge permit;

§ 8.24.6 To address misrepresentations or failures to fully disclose all relevant facts in the wastewater discharge permit application or in any required report;

§ 8.24.7 To revise or grant a variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

§ 8.24.8 To correct typographical or other errors in the wastewater discharge permit;  
or

§ 8.24.9 To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

§ 8.25 Wastewater Discharge Permit Transfer.

§ 8.25.1 Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least sixty (60) days advance notice to the General Manager and the General Manager approves the wastewater discharge permit transfer. The notice to the General Manager must include a written certification by the new owner and/or operator which:

§ 8.25.1.1 States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

§ 8.25.1.2 Identifies the specific date on which the transfer is to occur;  
and

§ 8.25.1.3 Assumes full responsibility for complying with the existing  
wastewater discharge permit beginning on the date of the  
transfer.

§ 8.25.2 Failure to provide advance notice of a transfer renders the wastewater  
discharge permit voidable as of the date of facility transfer. Provided that  
the notice required above occurred and that there were no significant  
changes to the manufacturing operation or wastewater discharge, the new  
owner will be considered an existing User and will be covered by the  
existing limits and requirements in the previous owner's permit.

## § 8.26 Wastewater Discharge Permit Revocation.

§ 8.26.1 Wastewater discharge permits may be revoked for, but not limited to, the  
following reasons:

§ 8.26.1.1 Failure to notify the District of significant changes to the  
wastewater prior to the changed discharge;

§ 8.26.1.2 Failure to provide prior notification to the District of changed  
conditions;

§ 8.26.1.3 Misrepresentation or failure to fully disclose all relevant facts  
in the wastewater discharge permit application;

§ 8.26.1.4 Falsifying self-monitoring reports;

§ 8.26.1.5 Tampering with monitoring equipment;

§ 8.26.1.6 Refusing to allow the District timely access to the premises  
and records;

§ 8.26.1.7 Failure to meet discharge limitations;

§ 8.26.1.8 Failure to pay fines;

§ 8.26.1.9 Failure to pay sewer charges;

§ 8.26.1.10 Failure to meet compliance schedules;

§ 8.26.1.11 Failure to complete a wastewater survey or the wastewater  
discharge permit application

§ 8.26.1.12 Failure to provide advance notice of the transfer of a  
permitted facility;

§ 8.26.1.13 If the District must invoke its emergency provision; or

§ 8.26.1.14 Violation of any pretreatment standard or requirement, any  
terms of the wastewater discharge permit, or these Rules  
and Regulations.

§ 8.26.2 Wastewater discharge permits shall be voidable upon cessation of  
operations or transfer of business ownership. All wastewater discharge

permits issued to a particular User are void upon the issuance of a new wastewater discharge permit to that User.

§ 8.27 Wastewater Discharge Permit Reissuance. A User who is required to have a wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application a minimum of sixty (60) days prior to the expiration of the User's existing wastewater discharge permit. A User whose existing wastewater discharge permit has expired and who has submitted its re-application in the time period specified herein shall be deemed to have an effective wastewater discharge permit until the District issues or denies the new wastewater discharge permit. A User whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein will be deemed to be discharging without a wastewater discharge permit.

§ 8.28 Reporting Requirements: Baseline Monitoring Reports. Within either one hundred and eighty (180) days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR '403.6(a)(4) (whichever is later), existing categorical Users currently discharging to or scheduled to discharge to the POTW shall be required to submit to the District a report which contains the information listed below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical Users after the promulgation of an applicable categorical standard, shall be required to submit to the District a report which contains the information listed below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

Users described above shall submit the information set forth below for Baseline Monitoring Reports:

§ 8.28.1 Identifying Information. The name and address of the facility, including the name of the operator and owner;

§ 8.28.2 Environmental Permits. A list of any environmental control permits held by or for the facility;

§ 8.28.3 Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;

§ 8.28.4 Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the

combined waste stream formula set out in 40 CFR 403.6(e);

§ 8.28.5 Measurement of Pollutants. Where the Standard requires compliance with a best management practice or pollution prevention alternative, documentation as required by the District or the applicable Standards to determine compliance with the Standard;

§ 8.28.6 Categorical Pretreatment Standards. The categorical pretreatment standards applicable to each regulated process;

§ 8.28.7 Sampling Results. The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the District) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations (or mass, where required) shall also be reported. The sample shall be representative of daily operations and shall be sampled and analyzed in accordance with procedures set out in these Rules and Regulations;

§ 8.28.8 Certification. A statement, reviewed by the User's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional Operation and Maintenance (O and M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

§ 8.28.9 Compliance Schedule. If additional pretreatment and/or O and M will be required to meet the pretreatment standards, the shortest schedule by which the User will provide such additional pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in these Rules and Regulations.

§ 8.28.10 Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with these Rules and Regulations.

§ 8.29 Operational Compliance Report (Initial Compliance Report). After ninety (90) days of operation following the date for final compliance of an existing Significant Industrial User with applicable pretreatment standards and requirements set forth in these Rules and Regulations, in federal categorical standards, or in a wastewater discharge permit, or, in the case of a new source or a new User considered by the District to fit the definition of an SIU, within ninety (90) days following commencement of the introduction of wastewater into the POTW, the affected User shall submit to the District a report containing the information outlined in Section 8.31.

For User's subject to equivalent mass or concentration limits established by the District in accordance with procedures established in 40 CFR 403.6 (c), the report shall contain a reasonable measure of the User's long-term production rate. For all other User's subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report shall include the User's actual production during the appropriate sampling period.

§ 8.30 Semiannual Compliance Report. Any User that is required to have an industrial waste discharge permit and performs self-monitoring shall comply with all applicable requirements under 40 CFR 403.12 and submit to the District semiannually, during the months of June and December, unless required on other dates or more frequently by the District, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the industrial waste discharge permit. At a minimum, Users shall sample their discharge at least twice per year.

The report shall include a record of the concentrations (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations and shall also include any additional information required by these Rules and Regulations or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. If a User sampled and analyzed more frequently than what was required by the District or by these Rules and Regulations, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge during the reporting period.

Any User subject to equivalent mass or concentration limits established by the District or by unit production limits specified in the applicable categorical standards shall report production data.

If the District calculated limits to factor out dilution flows or non-regulated flows, the User will be responsible for providing flows from the regulated process flows, dilution flows, and non-regulated flows.

Flows shall be reported on the basis of actual measurement, provided, however, that the District may accept reports of average and maximum flows estimated by verifiable techniques if the District determines that an actual measurement is not feasible.

Discharges sampled shall be representative of the User's daily operations and samples shall be taken in accordance with the requirements specified in these Rules and Regulations. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

In cases where the Pretreatment Standard requires compliance with a Best Management

Practice or pollution prevention alternative, the User must submit documentation required by District or the Pretreatment Standard necessary to determine the compliance status of the User.

The District may require reporting by Users that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent, or determine any other factor which is related to the operation and maintenance of the sewer system.

The District may require self-monitoring by the User or, if requested by the User, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If the District agrees to perform such periodic compliance monitoring, it may charge the User for such monitoring, based upon the costs incurred by the District for the sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the sewer bills. The District is under no obligation to perform periodic compliance monitoring for a User.

The District may reduce the requirement for semiannual compliance reports to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by state laws, where the Industrial User's total categorical wastewater flow does not exceed any of the following:

- (1) 350 gallons per day, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches; and
- (2) 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved Local Limits have been developed.

Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance. In addition, reduced reporting is not available to an Industrial User with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the General Manager, decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

§ 8.31 Compliance Schedules for Meeting Applicable Pretreatment Standards. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, etc.). No increment referred to in this section shall exceed nine (9) months.

Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the District including, at a minimum, whether or not it complied with the increment of progress to be met on such



date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports.

§ 8.32 Notification of Significant Production Changes. Any User operating under a wastewater discharge permit incorporating equivalent mass or concentration limits shall notify the District within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not providing a notice of such anticipated change will be required to comply with the existing limits contained in its wastewater discharge permit.

§ 8.33 Hazardous Waste Notification. Any User that is discharging more than 15 kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) is required to provide a one-time notification in writing to OLWSD, to the EPA Region 10 Office of Air, Waste, and Toxics Director, and to the State Department of Environmental Quality. Any existing User exempt from this notification shall comply with the requirements contained herein within thirty (30) days of becoming aware of a discharge of 15 kilograms of hazardous wastes in a calendar month or any discharge of acutely hazardous wastes to the District sewer system.

Such notification shall include:

§ 8.33.1 The name of the hazardous waste as set forth in 40 CFR Part 261;

§ 8.33.2 The EPA Hazardous waste number; and

§ 8.33.3 The type of discharge (continuous, batch, or other).

§ 8.33.4 If an industrial User discharges more than 100 kilograms of such waste per calendar month to the sewer system, the notification shall also contain the following information to the extent it is known or readily available to the industrial User:

§ 8.33.4.1 An identification of the hazardous constituents contained in the wastes;

§ 8.33.4.2 An estimation of the mass and concentration of such constituents in the waste streams discharged during that calendar month; and

§ 8.33.4.3 An estimation of the mass of constituents in the waste streams expected to be discharged during the following twelve (12) months.

These notification requirements do not apply to pollutants already reported under the

self-monitoring requirements. Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a User shall notify the District of the discharge of such a substance within ninety (90) days of the effective date of such regulations. In the case of any notification made under this paragraph, an industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

§ 8.34 Notice of Potential Problems, Including Accidental Spills, Slug Loads. Any User shall notify the District immediately of all discharges that could cause problems to the POTW, including any slug loads. The notification shall include the concentration and volume and corrective action. This initial notification shall be followed by a written summary report within five (5) days of the discharge. Steps being taken to reduce any adverse impact should also be noted during the notification. Any User who discharges a slug load of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the District under state or federal law.

§ 8.35 Non-Compliance Reporting. If sampling performed by a user indicates a violation, the User shall notify the District within 24 hours of becoming aware of the violation. Within five (5) days following such discharge, the User shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to these Rules and Regulations. The User shall also repeat the sampling and submit the results of the repeat analysis to the District within thirty (30) days after becoming aware of the violation. Where the Control Authority has performed the sampling and analysis in lieu of the Industrial User, the Control Authority must perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis. Resampling is not required if:

§ 8.35.1 The District performs sampling at the Industrial User at a frequency of at least once per month; or

§ 8.35.2 The District performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Control Authority receives the results of this sampling.

§ 8.36 Notification of Changed Discharge. All Users shall promptly notify the District in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, and the listed or characteristic hazardous wastes for which the User has submitted initial notification under 40 CFR 403.12 (p). Users shall notify the District immediately of any change that affects the potential for slug discharges to the POTW.

- § 8.37 Reports from Un-Permitted Users. All Users not required to obtain a wastewater discharge permit shall provide appropriate reports to the District as the General Manager may require.
- § 8.38 Record Keeping. Users subject to the reporting requirements of these Rules and Regulations shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring activities required by these Rules and Regulations and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses including documentation associated with Best Management Practices. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or POTW or where the User has been specifically notified of a longer retention period by the General Manager.
- § 8.39 Sampling Requirements for Users. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques; unless time-proportional composite sampling or grab sampling is authorized by the District, the samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during the 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory. Composite samples for other parameters unaffected by compositing procedures as documented in approved EPA methodologies may be authorized by the District, as appropriate.

For sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfides, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the District may authorize a lower minimum. For the reports required by 40 CFR 403.12 (e) and (h), the District shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with Applicable Pretreatment Standards and Requirements.

Samples shall be taken immediately downstream from pretreatment facilities if such exist, immediately downstream from the regulated or manufacturing process if no pretreatment exists, or at a location determined by the District and specified in the User's wastewater discharge permit. For categorical Users, if other wastewaters are mixed with the

regulated wastewater prior to pretreatment, the User shall measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 CFR 403.6 (e) in order to evaluate compliance with the Applicable Categorical Pretreatment Standards. For other SIUs, for which the District has adjusted its local limits to factor out dilution flows, the User shall measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standard(s).

All sample results shall indicate the time, date, and place of sampling and methods of analysis and shall certify that the waste stream sampled is representative of normal work cycles and expected pollutant discharges from the User. If a User sampled and analyzed more frequently than what was required in its wastewater discharge permit, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report.

- § 8.40 Analytical Requirements. All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.
- § 8.41 District Monitoring of User's Wastewater. The District will follow the same procedures as outlined in Sections 8.42 and 8.43.
- § 8.42 Compliance Monitoring: OLWSD Inspection and Sampling. The District shall have the right to enter the facilities of any User to ascertain whether the purpose of these Rules and Regulations and any wastewater discharge permit or order issued hereunder is being met and whether the User is complying with all requirements thereof. Users shall allow the General Manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the General Manager will be permitted to enter without delay for the purposes of performing specific responsibilities.

The General Manager shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.

Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the General Manager and shall not be replaced. The costs of clearing such access shall be borne by the User.

Unreasonable delays in allowing the General Manager access to the User's premises shall be a violation of these Rules and Regulations.

§ 8.43 Compliance Monitoring Facilities. Each User shall provide and operate at its own expense a monitoring facility to allow inspection, sampling, and flow measurements of each sewer discharge to the District. Each monitoring facility shall be situated on the User's premises, except, where such a location would be impractical or cause undue hardship on the User, the District may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The General Manager, whenever applicable, may require the construction and maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line or a wastewater treatment system).

There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, including the sampling and measuring equipment, shall be maintained at all times in a safe and proper operating condition at the expense of the User.

The General Manager may require the User to install monitoring equipment as necessary. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

§ 8.44 Search Warrants. If the General Manager has been refused access to a building, structure or property, or any part thereof and is able to demonstrate probable cause to believe that there may be a violation of these Rules and Regulations, or that there is a need to inspect as part of a routine inspection program of the District designed to verify compliance with these Rules and Regulations or any wastewater discharge permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the General Manager shall seek issuance of a search and/or seizure warrant from the Clackamas County Circuit Court.

Such warrant shall be served at reasonable hours by the General Manager in the company of a uniformed police officer of Clackamas County.

§ 8.45 Vandalism. No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance, equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in these Rules and Regulations.

§ 8.46 Confidential Information. Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, monitoring programs, and from District inspection and sampling activities shall be available to the public without restriction, unless the User specifically requests and is able to demonstrate to the satisfaction of the District that the release of such information would

divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

§ 8.47 Publication of Users in Significant Non-Compliance. The District shall publish annually, in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of the Users that, during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. For the purposes of this provision, an industrial User is in significant noncompliance if its violation meets one or more of the following criteria:

§ 8.47.1 Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken for the same pollutant parameter during a six- (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

§ 8.47.2 Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the TRC [TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH];

§ 8.47.3 Any other discharge violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, longer-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

§ 8.47.4 Any discharge of pollutants that has caused imminent endangerment to the public or to the environment or has resulted in the District's exercise of its emergency authority to halt or prevent such a discharge;

§ 8.47.5 Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or

enforcement order for starting construction, completing construction, or attaining final compliance;

§ 8.47.6 Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

§ 8.47.7 Failure to accurately report non-compliance; or

§ 8.47.8 Any other violation or group of violations, which may include a violation of Best Management Practices, that the POTW determines will adversely affect the operation or implementation of the local Pretreatment program.

*Administrative Enforcement Remedies – Pretreatment Rules.*

*The following procedures are intended solely for enforcement of the District's pretreatment rules.*

- § 8.48 Notification of Violation. When the General Manager finds that a User has violated (or continues to violate) any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the General Manager may serve upon that User a written Notice of Violation (via certified letter). Within fourteen (14) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the General Manager. Submission of this plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the District to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.
- § 8.49 Consent Orders. The General Manager may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for non-compliance. Such documents will include specific action to be taken by the User to correct the non-compliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to this subsection and shall be judicially enforceable. Use of a consent Order shall not be a bar against, or prerequisite for, taking any other action against the User.
- § 8.50 Show Cause Hearing. The General Manager may order via a certified letter a User that has violated or continues to violate any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the General Manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action,

the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least seven (7) days prior to the hearing. Such notice may be served on any authorized representative of the User. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

- § 8.51 Compliance Orders. When the General Manager finds that a User has violated or continues to violate any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the General Manager may issue an order to the User responsible for the discharge directing that the User come into compliance within a time specified in the order. If the User does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the non-compliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.
- § 8.52 Cease and Desist Orders. When the General Manager finds that a User has violated (or continues to violate) any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the User's past violations are likely to recur, the General Manager may issue an order to the User directing it to cease and desist all such violations and directing the User to immediately comply with all requirements and take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.
- § 8.53 Administrative Fines. When the General Manager finds that a User has violated or continues to violate any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the General Manager may fine such User in an amount not to exceed the maximum fine allowed under state law. Such fines shall be assessed on a per violation, per day basis (see Section 11). In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.
- § 8.54 Emergency Suspensions. The General Manager may immediately suspend a User's discharge (after informal notice to the User) whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause



an imminent or substantial endangerment to the health or welfare of persons. The General Manager may also immediately suspend a User's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW or which presents or may present an endangerment to the environment.

Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the General Manager shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or any individuals. The General Manager shall allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the District that the period of endangerment has passed, unless the termination proceedings in these Rules and Regulations are initiated against the User.

A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the General Manager prior to the date of any show cause or termination hearing under these Rules and Regulations.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

#### § 8.55 Termination of Discharge (Non-Emergency).

§ 8.55.1 In addition to the Administrative Enforcement provisions in these Rules and Regulations, any User that violates the following conditions is subject to discharge termination:

- § 8.55.1.1 Violation of wastewater discharge permit conditions;
- § 8.55.1.2 Failure to accurately report the wastewater constituents and characteristics of its discharge;
- § 8.55.1.3 Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- § 8.55.1.4 Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- § 8.55.1.5 Violation of the pretreatment standards of these Rules and Regulations.

§ 8.55.2 Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under these Rules and Regulations why the proposed action should not be taken. Exercise of this option by the District shall not be a bar to, or a prerequisite for, taking any other action against the User.

§ 8.56 Judicial Enforcement Remedies.

§ 8.56.1 Injunctive Relief. When the General Manager finds that a User has violated (or continues to violate) any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the General Manager may petition the Clackamas County Circuit Court through the District's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by these Rules and Regulations on activities of the User. The District may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

§ 8.56.2 Civil Penalties. A User that has violated or continues to violate any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the District for a maximum civil penalty allowed under State law but not less than \$1,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

The General Manager may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the District.

In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

§ 8.57 Remedies Non-exclusive. The provisions in Section 8 of these Rules and Regulations are not exclusive remedies for violations of the District's pretreatment rules. The District reserves the right to take any, all, or any combination of these actions against a non-compliant User. Enforcement in response to pretreatment violations will generally be in accordance with the District's enforcement response plan. However, the District reserves the right to take other action against any User when the circumstances warrant. Further, the District is empowered to take more than one enforcement action against any

non-compliant User. These actions may be taken concurrently.

§ 8.58 Supplemental Enforcement Action.

§ 8.58.1 Performance Bonds. The General Manager may decline to issue or reissue a wastewater discharge permit to any User that has failed to comply with any provision of these Rules and Regulations, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement unless such User first files a satisfactory bond, payable to the District, in a sum not to exceed a value determined by the General Manager to be necessary to achieve consistent compliance.

§ 8.58.2 Liability Insurance. The General Manager may decline to issue or reissue a wastewater discharge permit to any User that has failed to comply with any provision of these Rules and Regulations, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

§ 8.58.3 Public Nuisances. A violation of any provision of these Rules and Regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the General Manager. Any person(s) creating a public nuisance shall be subject to the provisions of these Rules and Regulations governing such nuisances, including reimbursing the District for any costs incurred in removing, abating, or remedying said nuisance.

§ 8.58.4 Contractor Listing. Users that have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the District. Existing contracts for the sale of goods or services to the District held by a User found to be in significant non-compliance with pretreatment standards or requirements may be terminated at the discretion of the District.

*Affirmative Defenses to Discharge Violations.*

§ 8.59 Upset. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary non-compliance with applicable pretreatment standards because of factors beyond the reasonable control of the User.

An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

An upset shall constitute an affirmative defense to an action brought for non-compliance with applicable pretreatment standards if the requirements of this section are met.

§ 8.59.1 A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that:

§ 8.59.1.1 An upset occurred and the User can identify the cause(s) of the upset; and

§ 8.59.1.2 The facility was at the time being operated in a prudent manner and in compliance with applicable operation and maintenance procedures.

Additionally, the User must submit the following information to the District and treatment plant superintendent within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

§ 8.59.1.3 A description of the indirect discharge and cause of non-compliance;

§ 8.59.1.4 The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and

§ 8.59.1.5 Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.

In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with applicable pretreatment standards.

Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of their treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

§ 8.60 Prohibited Discharge Standards. A User shall have an affirmative defense to an enforcement action brought against it for non-compliance with the prohibitions in these Rules and Regulations if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during,

the pass through or interference; or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the District was regularly in compliance with its NPDES permit, and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

§ 8.61 Bypass. For the purposes of this section, "Bypass" means the intentional diversion of waste streams from any portion of a User's treatment facility.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

A User may allow any bypass to occur that does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of this section.

§ 8.61.1 Notice of Bypass. If a User knows in advance of the need for a bypass, it shall submit prior notice to the POTW at least ten (10) days before the date of the bypass, if possible. A User shall submit oral notice to the District of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. The District may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

§ 8.61.2 Bypass Conditions. Bypass is prohibited, and the District may take an enforcement action against a User unless:

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

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

preventive maintenance; and

§ 8.61.2.3 The User submitted notices as required under this section.

The General Manager may approve an anticipated bypass, after considering its adverse effects, if the General Manager determines that it will meet the three conditions listed in this section.

§ 8.62 Wastewater Pretreatment Fees. The District may adopt reasonable fees, as shown in the District's Fee Schedule, for reimbursement of costs of setting up and operating the District's Pretreatment Program, which may include:

§ 8.62.1 Fees for wastewater discharge permit applications, including the cost of processing such applications;

§ 8.62.2 Fees for monitoring, inspection, and surveillance procedures, including the cost of collecting and analyzing a User's discharge and reviewing monitoring reports submitted by Users;

§ 8.62.3 Fees for reviewing and responding to accidental discharge procedures and construction;

§ 8.62.4 Fees for filing appeals; and

§ 8.62.5 Other fees as the District may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by these Rules and Regulations and are separate from all other fees, fines, and penalties chargeable by the District.

### **§ 9 FATS, OILS AND GREASE (FOG) PROGRAM**

§ 9.1 Statement of Policy. The purpose of this chapter is to enhance beneficial public use of Oak Lodge Water Services District's sewer facilities by preventing blockages of sewer lines resulting from discharges of fats, oils and grease (FOG) and other constituents to the sewer facilities. These Rules and Regulations specify appropriate FOG requirements for Food Service Establishments (FSEs) and/or property owners where FSEs are located and support such entities in implementing a cost-effective FOG abatement program. These Rules and Regulations establish quantity and/or quality standards on all wastewater and/or waste discharges containing FOG as these cause or contribute to the occurrence of sanitary sewer services overflows (SSOs), affect treatment plant operations, and increase publicly owned treatment works costs.

Oak Lodge Water Services District has final authority in determining the compliance status of all FSE/property owners with respect to their discharge of FOG (either vegetable or animal origin) either directly or indirectly into the District's wastewater collection system.

The following regulations reflect requirements of the State and Federal government and the District's National Pollution Discharge Elimination System (NPDES) permit. The

purpose of the regulations is to set forth uniform requirements for Users of the District's wastewater collection and treatment system to enable the District to comply with all applicable State and Federal laws required by the Federal Water Pollution Control Act, as amended, and by requiring commercial and industrial Users to comply with the General Pretreatment Regulations in 40 CFR Part 403, as amended.

§ 9.2 Applicability and Pretreatment Standards. Food service establishments shall install grease interceptors when deemed necessary by the District for the proper handling of wastewater containing excessive amounts of fat, oil, or grease. These interceptors shall be maintained by the User at their expense in a manner which prevents fat, oil, and grease from being discharged into the District sanitary system. Materials removed from the interceptor must be disposed of at a facility approved to receive such wastes.

The additions of chemicals, enzymes, emulsifying agents, microorganisms, or similar compounds that are intended to decrease the maintenance performed on grease interceptors are prohibited.

§ 9.3 Surface Water Issues. No surface or stormwater is allowed in the sanitary sewer system. In no instance shall spilled grease and oils be washed to the stormwater drains or landscaped areas. Existing FSE are prohibited from engaging in any wash down activities in any outside area, including but not limited to uncovered garbage or waste oil storage areas. If instances of spilled grease or oil occur in the garbage or waste oil storage area the site will be required to install a roof over the area.

§ 9.4 Right of Access. Persons or premises where wastewater with the potential to contain FOG is created or discharged shall allow District personnel, or their alternate designees, reasonable and safe access to the entire facility in order to carry out inspections or other actions, including but not limited to sampling waste streams, authorized by these Rules and Regulations. It is the FSE's or property owner's responsibility to open all grease removal device (GRD) access points for District inspection activities. No person shall interfere with, delay, or refuse entrance to such personnel attempting to inspect or enforce upon any facility involved directly or indirectly with the discharge of wastewater to the District's sewer system. The District or its designees are authorized to collect samples of any waste stream, including the discharge from the facility and any GRD. Failure to grant access shall result in an additional inspection fee and may result in suspension of sewer services provided by the District or water turn off.

§ 9.5 Cost Recovery for Collection System Cleaning. In the event that an FSE discharges FOG from the FSE / Owner's premises and into the sewage collection system owned and operated by OLWSD, so that the FOG leaves behind visible deposits adhered to the pipes, OLWSD may at their discretion clean the pipe system to the extent that their crew deems necessary, and the FSE / property owner will be billed for the cost of the District's labor, equipment, and materials. In lieu of this, either the District or the FSE / property owner may hire a licensed contractor (with the District's approval) to clean the lines (to the extent directed by the District) and vacuum up / remove the grease and

dispose of it to a facility approved to receive such wastes. The contractor would then bill the FSE / property owner directly.

## **§ 10 SURFACE WATER MANAGEMENT**

- § 10.1 Authority; MS4 Permit. Under the Clackamas County Co-Applicants' Municipal Separate Storm Sewer System (MS4) Permit, the District is charged with protecting water quality and satisfying requirements of the MS4 permit. Implementation of these regulations is through the MS4 Permit. As required by the MS4 Permit, the District's authority includes having the ability to control the discharge of pollutants by reducing the discharge of pollutant loads, to the maximum extent practicable, and to prohibit non-stormwater discharges into the storm sewer system.
- § 10.2 Conveyance System Subject to Jurisdictional Authority. The conveyance system components maintained and/or repaired by the District include storm sewers, culverts, inlets, ditches, and swales. The District's responsibility for these types of utility assets is limited to District-owned assets or those that the District operates under an intergovernmental agreement.
- § 10.3 Permits Required. The District issues Erosion Control/Surface Water Management Permits within its jurisdictional area. All construction activities affecting areas 500 square feet or greater within the District shall obtain an Erosion Control/Surface Water Management Permit. Construction activities affecting areas 250 square feet or greater within the undisturbed buffer, sensitive areas, or riparian areas must also obtain an Erosion Control/ Surface Water Management Permit. An Erosion Control/Surface Water Management Permit is also required to discharge to the District's surface water system as described in Sections 10.5 and 10.6 of these Rules and Regulations.
- § 10.4 Agency Coordination. The District coordinates with CCDTD on land use development proposals within the County. In the Clackamas County Comprehensive Plan Title 13, Chapter 7, Clackamas County recognizes that the District has responsibility for operating, planning, and regulating some surface water management systems. The County has a policy to coordinate the review of development applications with the District, for proposals within the District's jurisdiction, and to ensure that approval is not granted in the absence of adequate sanitary sewer facilities or a mechanism to provide them concurrently with development. Additionally, per Clackamas County Zoning and Development Ordinance Section 1006.08(C), approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority.

§ 10.4.1 Additionally, any construction activity disturbing five (5) or more acres of land currently requires an NPDES Construction Stormwater Discharge Permit issued by DEQ.

*Permit Procedure. Review and Approval Process.*



§ 10.5 Erosion Control/Surface Water Management Permits. An Erosion Control/Surface Water Management Permit is issued by the District through an administrative approval process. An Erosion Control/Surface Water Management Permit application shall be submitted upon a form provided by the District. A complete application shall consist of all materials required as listed in Section 0 of these Rules and Regulations.

§ 10.5.1 Determination of Completeness. After receiving a permit application, the General Manager shall inform the applicant of a determination either that (1) the application is complete or (2) the application is incomplete and what steps are necessary to make the application complete.

§ 10.5.2 Incomplete Application Procedure. If the applicant receives a determination from the General Manager that an application is not complete or that additional information is required, the applicant shall submit the necessary information to the District. After an applicant has submitted the requested additional information, the District shall make the determination as described in this section.

§ 10.6 Permit Approval. The District may approve, approve with conditions, or deny all Erosion Control/Stormwater Management Permit applications. In addition to the requirements listed in Section 0 of these Rules and Regulations, the District retains the right to require additional Erosion Control/Surface Water Management Permit conditions of approval. Inspection of erosion control measures is required prior to approval and prior to the start of any excavation work.

*Application Requirements.*

§ 10.7 Activities that Require a Permit. Construction activities that impact areas 500 square feet or greater must obtain an Erosion Control/Surface Water Management Permit. Construction activities affecting areas 250 square feet or greater within the undisturbed buffer, sensitive areas, or riparian areas must also obtain an Erosion Control/ Surface Water Management Permit.

§ 10.7.1 Erosion Control Plan. Submittal requirements include:

§ 10.7.1.1 All erosion control plans shall meet requirements of the current District Design and Construction Standards.

§ 10.7.1.2 One completed copy of Erosion Prevention/Sedimentation Control Information containing 1) Plans for Erosion Prevention/Sedimentation Control during wet weather period (November – April); and 2) The methods and/or facilities to be used to prevent erosion and pollution created from the development both during and after construction. Site specific considerations may be incorporated. The plan shall be consistent with the specific drainage basin or sub basin plan;

- § 10.7.1.3 An analysis of source controls as an alternative method to control stormwater runoff, such as detention and storage techniques;
  - § 10.7.1.4 Information regarding adjacent open space;
  - § 10.7.1.5 Information describing historic localized flooding problems resulting from surface water runoff;
  - § 10.7.1.6 If required by the District, information regarding the design and construction of a detention and drainage system that ensures offsite impacts caused by the development will be mitigated; and
  - § 10.7.1.7 Facilities developed onsite shall be constructed in a manner consistent with basin wide or sub basin drainage management plans.
- § 10.8 Bond. The District may request the applicant submit a Performance Bond, cashier's check, or other acceptable financial security in favor of the District to secure performance of the required obligation. The amount secured by the District shall be 100% of the improvements that will ultimately be owned by the District. Upon default, the District may perform the work or remedy violations and draw upon the posted security instrument.
- § 10.9 Additional Information. The District may also require the applicant to provide additional information as indicated in these Rules and Regulations.
- § 10.10 Plan Review. Site Plan, Storm Drainage, and Erosion Control Plan review and approval shall be required prior to the start of any excavation work.
- § 10.11 Inspections. The erosion control measures shall be installed and inspected prior to the start of any excavation work. The District retains the right to require that erosion control measures be adjusted or additional measures documents be implemented in accordance with guidance, as necessary, throughout construction.
- § 10.12 Exceptions. Exceptions to Erosion Control/Surface Water Management Permit application requirements must be documented and approved by the District. A variance to the requirements in Section 10.6 may be requested as allowed under Section 12 of these Rules and Regulations.
- § 10.13 Permit Fees. The District shall collect a fee for the review of plans, administration, enforcement, and field inspection(s) to carry out the rules contained herein. Fees are provided in the District's Fee Schedule.
- § 10.14 Permit Appeals. Any person aggrieved by a ruling or interpretation of the provisions of this Code in issuing a permit may submit a written appeal to the District and pay the permit appeal fee as allowed under Section 12 of these Rules and Regulations.

*Discharge Regulations.*

- § 10.15 Discharge to Sanitary Sewer System Prohibited. Discharge or contribution to the discharge of any stormwater or other unpolluted water is not allowed into the District's sanitary sewer system without specific approval from the District.
- § 10.16 Discharge to Public Stormwater System. Prohibited stormwater discharge activities include, but are not limited to, the following:
- § 10.16.1 Introduction of pollutants or waters to the public stormwater system containing pollutants or concentrations at levels equal to or in excess of those necessary to protect waters of the State;
  - § 10.16.2 Failure to abide by the terms of any Erosion Control/Surface Water Management Permit, MS4 permit, NPDES permit, statute, administrative rule, ordinance, stipulated and final order or decree, or other permit or contract;
  - § 10.16.3 Discharges of non-stormwater or spills or dumping of materials other than stormwater into the public storm system unless pursuant to a conditional Erosion Control/Surface Water Management Permit approved by the District and in compliance therewith;
  - § 10.16.4 Illegal or unpermitted connection or methods of conveyance to the public stormwater system; and
  - § 10.16.5 Any discharge that will violate federal, state, or local water quality standards.
- § 10.17 Discharge to Creeks or Drainageways. New storm drains and roof drains are not allowed to drain directly into creeks or drainageways or encroach into the buffer unless an Erosion Control/Surface Water Management Permit is obtained from the District. Encroachment into buffer areas must be approved by the District and will require mitigation. Existing and replacement storm drains shall be constructed according to current local, county, state, and federal regulations. Non-single-family development shall provide an approved water quality facility prior to any discharge from the site to a storm drain system, a creek, or drainageway, as approved by the District.
- § 10.17.1 State Discharge Limitations. State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those provided in this chapter.
  - § 10.17.2 Local Discharge Limitations. The District retains the right to establish by ordinance more stringent limitations or requirements on discharges if such limitations or requirements are deemed necessary to comply with this chapter.
- § 10.18 Pretreatment Facilities. The District may require that pretreatment facilities are necessary to comply with water quality standards. Before constructing or operating any

pretreatment facilities within the District, an Erosion Control/Surface Water Management Permit authorizing such connection shall first be secured in writing from the District and fees paid. A variance to these requirements may be requested as allowed under Section 12 of these Rules and Regulations.

§ 10.19 Plans, Specifications, and Construction.

§ 10.19.1 The District may require plans, specifications, and other information relating to the construction or installation of pretreatment facilities.

§ 10.19.2 Pretreatment facility construction and installation shall not commence until written approval of plans and specifications by the District is obtained.

§ 10.19.3 Every facility for the pretreatment and handling of surface water discharged from non-single family residential development sites shall be constructed in accordance with approved plans and specifications.

§ 10.19.4 The applicant shall notify the District when the facility is ready for final construction inspection. The inspector shall then inspect the facility construction. If such construction meets the previous permit requirements, a pretreatment facility approval shall be issued.

§ 10.20 Facility Operations and Maintenance Agreement. The District may require an Operations and Maintenance Agreement for pretreatment facilities. This agreement may set forth operations and maintenance, sampling, access, and other requirements. This agreement will provide for District access to inspect the facility. This agreement will be recorded in the County records against the affected property.

§ 10.21 Expense to Owner. Every facility for the pretreatment and handling of surface water discharged shall be installed, maintained, and repaired at the expense of the facility owner discharging the surface water. The owner shall be responsible for maintaining and repairing pretreatment facilities using BMPs, as determined by the District or authorized representative

§ 10.22 Sampling and Monitoring Facility. A person constructing a pretreatment facility, as required by the District, shall also install and maintain, at the expense of the facility, a suitable sampling access point for checking and investigating the discharge from the pretreatment facility to the public storm system. The sampling point shall be in accordance with specifications approved by the District.

§ 10.23 Sampling. Samples discharged into the public surface water system shall be representative of the use and shall be taken after treatment, if any, and before dilution by other water. The sampling method shall be one approved by the District and in accordance with best engineering practices. All sample analysis shall be performed in accordance with the procedures set forth in 40 CFR Part 136, as amended.

§ 10.24 Reporting Requirements. The District may require the permit holder to submit a

compliance report indicating the quantity and quality of surface water discharge, the need for pretreatment to comply with applicable standards, and the operation and maintenance schedule of the pretreatment facility.

§ 10.25 Inspection and Right-of-Entry. The District or authorized representatives may inspect the monitoring facilities of any permittee to determine the compliance with the requirements of these Rules and Regulations. The discharger shall allow the District or authorized representatives to enter upon the premises at any reasonable hour for the purpose of inspection, sampling, or records examination. The District shall also have the right to install on the User's property such devices as are necessary to conduct sampling, inspection, compliance, monitoring, and/or metering operations. The right of entry includes, but is not limited to, access to those portions of the premises that contain facilities for sampling, measuring, treating, transporting, or otherwise handling surface water and storing records, reports, or other related documents.

§ 10.26 Discharge to Storm Drain Facility. An Erosion Control/Surface Water Management Permit is required to discharge or drain to any storm drain facility, including but not limited to pipes, streets, ditches, streams, pollution reduction manholes, and detention facilities, whether constructed or natural. Before discharging or draining to any storm drain facilities within the District, an Erosion Control/Surface Water Management Permit authorizing such discharge shall first be secured in writing from the District and fees paid.

§ 10.26.1 The District may require plans, specifications, and other information relating to the construction or installation of storm drain facility connections.

§ 10.26.2 Storm drain facility connections construction and installation shall not commence until a written permit and approval of plans and specifications by the District is obtained.

§ 10.26.3 Every storm drain facility connection shall be constructed in accordance with approved plans and specifications and shall be installed, maintained, and repaired at the expense of the facility owner connecting to a storm drainage facility.

§ 10.26.4 The applicant shall notify the District when the connection is ready for inspection.

§ 10.26.5 After the applicant has notified the District that the connection construction is ready for inspection, the inspector shall inspect the connection construction therein, and, if such construction meets the previous requirement as approved in the permit, a connection approval shall be issued.

## *Erosion Control and Environmental Protection*

§ 10.27 Erosion Control and Environmental Protection. This Section provides for the regulation of erosion and pollution control to maintain and protect water quality and natural resources in accordance with federal, state, and local water quality standards. Nothing in this section shall relieve any person from obligation to comply with the regulations or permits of any federal, state, or local authority.

§ 10.28 General Policy.

§ 10.28.1 To comply with water quality standards set forth in OAR 340-041, it is the District's policy to prevent erosion and eliminate or reduce the amount of sediment and other pollutants reaching the public storm and surface water system.

§ 10.28.2 The provisions of this Section apply during construction and until permanent erosion and pollution control measures are in place following construction as described herein, unless otherwise noted.

§ 10.28.3 This Section is intended to regulate construction activities and other activities that accelerate erosion. It is the District's policy to require temporary and permanent measures for all construction projects to lessen the adverse effects of site alteration on the environment.

§ 10.29 Erosion Control Requirements.

§ 10.29.1 Where the District determines that erosion control facilities are necessary to comply with water quality standards, an Erosion Control/Surface Water Management Permit shall be required for construction and operation of such facilities. Before constructing any erosion control facilities within the District, an Erosion Control/Surface Water Management Permit authorizing such facilities shall first be secured in writing from the District and fees paid. Erosion control facilities and measures shall meet requirements of the current District's Design and Construction Standards.

§ 10.29.2 The permittee or owner is responsible for the cost of installation, maintenance, and repair of all erosion control facilities required by an Erosion Control/Surface Water Management Permit, including both temporary and permanent facilities, as applicable.

§ 10.29.3 The permittee or owner shall use BMPs, as determined by the District or Authorized designee.

§ 10.29.4 No visible or measurable erosion shall leave the property during any construction or other erosion accelerating activity. The permittee/owner, along with any person who causes such visible or measurable erosion, shall be responsible for cleanup, damages, and fines. Cleanup

responsibilities may involve, but are not limited to, public facilities, resources, and areas impacted by a project including, but not limited to, creeks, drainageways, wetlands, catch basins, storm drains, and sensitive areas.

§ 10.29.5 Plans, Specifications, and Construction. In addition to the requirements of Section 0, the District may require plans, specifications, and other information relating to the construction or installation of erosion control facilities or restoration plans. Erosion control facility construction and installation shall not commence until the permittee receives the District's written approval of erosion control plans and specifications. All erosion control facilities shall be constructed in accordance with approved plans and specifications.

§ 10.29.6 Inspection. The erosion control facilities and measures necessary to meet the requirements of this subsection shall be installed by the owner and shall be inspected by the District prior to the start of any construction activity. The owner shall notify the District when the erosion control facility is ready for final construction inspection. The District's inspector shall then inspect the facility construction prior to final approval.

#### § 10.30 Maintenance.

§ 10.30.1 Maintenance of existing facilities shall be the responsibility of the property owner or applicant.

§ 10.30.2 The permittee or owner shall maintain the erosion control facilities and use BMPs in conformance with the approved erosion control plan.

§ 10.30.3 If adequate maintenance is not performed, the maintenance standards and schedule shall be reviewed and enforced by the District and the owner or permittee shall be responsible to the District for costs incurred.

§ 10.30.4 Where an erosion control plan is not effective or sufficient as determined by the District through a site inspection, the District may issue a stop work order and the permittee or owner shall be required to submit a revised plan to the District. Upon approval of the revised plan by the District, the permittee or owner shall immediately implement the additional facilities and techniques of the revised plan.

§ 10.30.5 In cases where erosion is occurring in violation of these Rules and Regulations, the District may require the owner/permittee to install interim control measures prior to submittal of the revised erosion control plan.

§ 10.31 Deposit of Sediment. No person shall drag, drop, track, or otherwise place or deposit, or permit to be deposited, mud, dirt, rock, or other such debris on a public street or into any

part of the public storm and surface water system or any part of a private storm and surface water system that drains or connects to the public stormwater and surface water system. Any such deposit or material shall be immediately removed using hand labor or mechanical means. No material shall be washed or flushed into any part of the storm and surface water system without erosion control measures installed to the satisfaction of the District. Failure to comply with this Section shall be a violation.

§ 10.32 Construction Stormwater Permitting; NPDES Permit. As discussed in subsection 10.4.1, any person conducting construction activity disturbing up to five (5) acres shall obtain a District permit. Any person conducting construction activity disturbing five (5) or more acres of land shall obtain an NPDES Stormwater Discharge Permit issued by DEQ.

§ 10.33 Dust Control. Dust and other particulate matters containing pollutants that settle on property or are carried to surface waters through rainfall or other means shall be minimized to the maximum extent practicable, utilizing all measures necessary, including but not limited to:

§ 10.33.1 Sprinkling with water haul and access roads and other exposed dust producing areas;

§ 10.33.2 Establishing temporary vegetative cover;

§ 10.33.3 Placing wood chips or other effective mulches on vehicle and pedestrian use areas;

§ 10.33.4 Maintaining the proper moisture conditions on all fill surfaces;

§ 10.33.5 Pre-wetting cut and borrow area surfaces; and

§ 10.33.6 Using of covered haul equipment.

#### *Water Quality Maintenance.*

§ 10.34 Construction of New Facilities. Construction of new water quality facilities between stream banks shall be pursuant to permits issued by jurisdictional state and federal agencies (i.e., the United States Army Corps of Engineers (USACE) and Oregon Department of State Lands (DSL)) and applicable regulations.

§ 10.35 Pollutants. Pollutants in the DEQ current toxics standards identified in OAR 340-041, such as, but not limited to, fuels, lubricants, asphalt, concrete, bitumens, raw sewage, other harmful materials, and trash or debris, shall not be discharged into rivers, streams, impoundments, wetlands, sensitive areas, undisturbed buffers, or any storm drainage system or at such proximity that the pollutants flow to these watercourses.

§ 10.36 Alterations. The withdrawal of water from a stream, impoundment, wetland, or sensitive area shall not result in the alteration or further degradation of the temperature or water quality of the waterbody in violation of OAR-340-041.



§ 10.37 Construction Activities. All sediment-laden water from construction activities shall be routed through sedimentation basins, filtered, or otherwise treated to remove the sediment load before the water is discharged into the surface water system.

*Natural Resource Protection.*

§ 10.38 Fish and Wildlife Habitat. Construction activities shall be done in a manner that minimizes adverse effects on wildlife and fishery resources pursuant to the requirements of local, state, and federal agencies charged with wildlife and fish protection.

§ 10.39 Sensitive Areas. An Erosion Control/Surface Water Management Permit is required for activities disturbing sensitive areas that would affect water quality by altering or affecting sensitive areas and associated buffers. These activities include, but are not limited to:

§ 10.39.1 Landscaping;

§ 10.39.2 Construction activities;

§ 10.39.3 Tree cutting;

§ 10.39.4 Vegetation removal; and

§ 10.39.5 Streambank restoration.

§ 10.40 Sensitive Areas include:

§ 10.40.1 Existing or created wetlands, including all mitigated wetlands; limits defined by wetlands reports approved by the USACE, DSL, and the District;

§ 10.40.2 Rivers, streams, springs, sloughs, swamps, creeks; limits defined by the top of the bank or first break in a slope measured upland from the mean high-water line;

§ 10.40.3 Impoundments (lakes and ponds); limits defined by the top of the bank or first break in slope measured upland from the mean high water line;

§ 10.40.4 Sensitive areas delineated on the map maintained by the District in its Geographic Information System (GIS).

§ 10.40.5 Sensitive areas, for the purposes of this chapter, do not include water quality facilities, such as constructed wetlands or the undisturbed buffers adjacent to sensitive areas.

§ 10.41 Study Requirements. An approved study may be required by the District to identify areas on the parcel that are, or may be, sensitive areas when, in the opinion of the District:

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

§ 10.41.2 The parcel has been included in an inventory of sensitive areas adopted by the District and more site-specific identification of the boundaries is

needed.

§ 10.42 Maintenance of Undisturbed Buffer. Undisturbed buffers shall be protected, maintained, enhanced, or restored as follows:

§ 10.42.1 An Erosion Control/Surface Water Management Permit is required for all construction activities in the buffer greater than 250 square feet. The disturbance area is calculated by multiplying the width of undisturbed buffer area by the length of the parcel adjacent to the sensitive area shown above.

§ 10.42.2 Uncontained areas of hazardous materials as defined by DEQ are prohibited in the buffer.

§ 10.42.3 Vegetative cover native to the region shall be maintained, enhanced, or restored, if disturbed in the buffer.

§ 10.42.4 Only native vegetation shall be used to enhance or restore the buffer.

§ 10.42.5 Invasive non-native vegetation may be removed from the buffer and replaced with native vegetation.

§ 10.43 Undisturbed Buffer Measurements. Starting points for undisturbed buffer measurements from the sensitive area begin at:

§ 10.43.1 The edge of a DSL-approved wetland delineation area;

§ 10.43.2 The edge of the top of the bank or first break in slope measured upland from the Ordinary High Water Mark of rivers, streams, sloughs, swamps, and creeks; and

§ 10.43.3 The edge of the top of the bank or first break in slope measured upland from the mean high-water line of impoundments (lakes and ponds).

§ 10.43.4 The District maintains a map in its GIS that delineates the buffer areas applicable to the District based on the buffer area widths specified above.

§ 10.44 Encroachment Mitigation. Where no reasonable and feasible option exists for not encroaching within the minimum undisturbed buffer, such as at a road crossing or where topography limits options, then onsite mitigation on the intrusion of the buffer will be based on a ratio of 1.5 to 1. A variance to this requirement may be requested as allowed under Section 12 of these Rules and Regulations.

§ 10.44.1 All encroachments into the buffer, except those listed in Section 10.45, require written approval from the District.

§ 10.44.2 The District shall mail notice of its decision to grant or deny approval to the applicant and to owners of property within 250 feet of the affected property.

§ 10.45 Undisturbed Buffer – Exceptions. No construction activities or other activities shall be allowed that otherwise detract from the water quality protection provided by the buffer, as required by federal, state, and local regulations, except as allowed by the District in the following situations:

§ 10.45.1 A road crossing the undisturbed buffer to provide access to the sensitive area or across the sensitive area, provided any impacts to the buffer area, including conveyance and fish passage impacts, are addressed with a restoration plan or mitigation plan approved by the District.

§ 10.45.2 Utility construction or approved plans by a governmental agency or public utility subject to Public Utility Commission regulation, providing the buffer is restored and a restoration plan approved by the District.

§ 10.45.3 A walkway or bike path not exceeding eight (8) feet in width, only if it is part of a regional system of walkways and trails managed or adopted by a public agency.

§ 10.45.4 A pervious walkway or bike path, not exceeding eight (8) feet in width that does not provide access to the sensitive areas or across the sensitive areas. If the walkway or bike path is impervious, then the buffer must be widened by the width of the path. The average distance from the path to the sensitive area must be at least 60% of the total buffer width. At no point shall a path be constructed closer than ten feet from the boundary of the sensitive area, unless approved by the District.

§ 10.45.5 Measures to remove or abate hazards, nuisances, or fire and life safety violations.

§ 10.45.6 A homeowner that takes measures to protect property from erosion, such as protecting riverbanks from erosion, within limits allowed by federal, state, and local regulations. Permits may be required for these property protection activities.

§ 10.45.7 The undisturbed buffer shall be left in a natural state. Gardens, lawns, or other landscaping shall use vegetation identified in the Oak Lodge Water Services District Plant List, except with a plan approved by the District. The proposal shall include information to demonstrate that improvement and maintenance of improvements will not be detrimental to water quality. Existing landscaping/vegetation and activities to maintain existing landscaping within the undisturbed buffer is allowed, unless identified on the Required Eradication List contained in the Oak Lodge Water Services District Plant List.

§ 10.46 Tree Replacement within Undisturbed Buffer. Existing trees within the undisturbed buffer or riparian area are encouraged to remain in place. If a tree is removed from the buffer

area the following conditions apply.

§ 10.46.1 Any trees removed a diameter at breast height (DBH) of at least 3-inches shall be replaced at a ratio of 4:1 (four trees planted for every one removed) within a time frame, location(s), and species identified in the approved site restoration plan.

§ 10.46.2 An Erosion Control/Surface Water Management Permit shall first be secured from the District if the tree removal activity causes ground disturbance greater than 250 square feet.

§ 10.46.3 Trees removed by or requiring removal as a result of natural causes (e.g., windstorm, disease (requires report from Certified Arborist to validate and document disease), or wildlife activities) do not have to be replaced.

§ 10.46.4 Types of trees allowed for replacement are those identified in the Oak Lodge Water Services District Plant List, except as allowed in a plan approved by the District.

§ 10.46.5 A variance to the requirements of this subsection may be requested as allowed under Section 12 of these Rules and Regulations.

§ 10.47 Location of Undisturbed Buffer. The District may require that the buffer be fenced, signed, delineated, or otherwise physically set apart from other parcels or areas of parcels that will be developed. In any new development or redevelopment, the undisturbed buffer shall be contained in a tract and shall not be a part of any parcel to be used for the construction. The District reserves the right to require separate tracts for undisturbed buffers; however, conservation easements will be considered and allowed if the developer can demonstrate that restrictions for activities on the parcel will protect the resource associated with the buffer. Restrictions may include permanent signage, fencing, documentation with the title of the property, or other methods approved by the District.

§ 10.48 Plans, Specifications, and Construction.

§ 10.48.1 In addition to requirements in Section 0 the District may require additional plans, specifications, and other information relating to construction within, variances from, and restoration of buffers. Construction and restoration shall not commence until written approval of plans and specifications by the District is obtained and shall occur in accordance with approved plans and specifications.

§ 10.48.2 The applicant shall notify the District when the facility is ready for final construction inspection. The inspector shall then inspect the facility construction therein.

§ 10.49 Hazardous Chemicals, Pesticides, Fertilizers.

§ 10.49.1 The use of hazardous chemicals including, but not limited to, pesticides (including insecticides, herbicides, defoliants, and soil sterilants) and fertilizers must strictly adhere to federal, state, and local regulations.

§ 10.49.2 All hazardous chemicals that are delivered to or stored at the job site during construction, restoration, or maintenance activities shall be stored, covered, and protected from the weather. None of the materials shall be exposed during storage. Hazardous chemicals shall be disposed of in such a manner that pollution of soil, groundwater, surface water, or air does not occur. In no case shall hazardous materials be disposed of in drainageways.

*Additional Surface Water Management Standards.*

§ 10.50 Purpose. This Article provides for additional treatment design, water quality, water quantity, and natural resource protection standards.

§ 10.51 General Standards.

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

§ 10.51.1.1 Protect and preserve existing streams, creeks, natural drainage channels and wetlands and to meet state and federal requirements;

§ 10.51.1.2 Protect property from flood hazards identified by the District; and

§ 10.51.1.3 Provide records or show on District stormwater studies a system by which storm/surface water within the development will be controlled without causing damage or harm to the natural environment, property, or persons.

§ 10.51.2 All stream crossings must be approved by USACE, DSL, Clackamas County, and other authorized federal, state, and local agencies.

§ 10.51.3 In the event a development or any part thereof is traversed by any water course, channel, stream or creek, gulch or other natural drainage channel, adequate easements for purposes of surface water drainage maintenance shall be provided to the District. This does not imply a maintenance obligation by the District.

§ 10.51.4 Channel obstructions are not allowed except with District written approval.

§ 10.51.5 Facilities developed on site, including flow discharge from site, shall be constructed in a manner consistent with the *OLWSD Surface Water Master Plan*.

- § 10.51.6 All storm conveyance pipes, vaults, detention facilities, or other water quality or quantity facilities shall be built to specifications of the District.
- § 10.51.7 All surface water facilities shall be constructed per specifications of the District.
- § 10.51.8 Inspection of surface water facilities and approval of shop drawings shall be provided by the developer's engineer.
- § 10.51.9 Following completion of construction, the engineer shall submit a document, stamped by a professional engineer, indicating all surface water systems have been inspected and installed per approved plans and approved changes.
- § 10.51.10 Maintenance is required for all onsite surface water facilities. The maintenance program must be approved by the District. The District may require a recorded Operations and Maintenance Agreement for onsite facilities.
- § 10.51.11 As-built plans of facilities, easements for all facilities, and approved maintenance plans shall be provided to the District upon completion of construction. Record drawings may be substituted for as-built plans when determined appropriate by the District or authorized representative.
- § 10.51.12 Each surface water system shall have adequate easements and access for construction, operation, and maintenance. A commercial or industrial User having ownership or control of onsite detention facilities shall maintain such facilities in compliance with these Rules and Regulations and provide documentation of annual maintenance.
- § 10.51.13 All surface water facilities shall be maintained as needed and as approved by the District. Proof of maintenance shall be annually submitted in accordance with a schedule approved by the District. If the facility is not maintained, the District may perform the inspection, maintenance, and documentation and charge the owner of the facility.
- § 10.51.14 Site plans, grading plans, storm drainage plans, and associated calculations must be stamped and signed by a professional engineer licensed by the State of Oregon and meet the standards of the District. The District may waive this requirement upon request of a variance under Section 12.
- § 10.51.15 Permittees or owners shall provide a performance bond or other surety acceptable to the District prior to recording of the plat for residential developments or the issuance of building permits for commercial or industrial developments. The amount of the performance bond shall be in

the amount of 100% of the permittee's engineer's cost estimate for all approved but uncompleted surface water and buffer improvements.

§ 10.51.16A maintenance bond shall be provided to the District prior to release of the performance bond. The maintenance bond shall be in favor of the District, in the amount of 25 percent of the actual construction cost, for a period of one year from the date of final District inspection and acceptance of all completed buffer mitigation and public surface water facilities. During construction and the guarantee period, the District may perform work if the owner fails to do so and charge the Bond. At the end of the one-year guarantee period, if no replacement work is required by the final inspection, the residual bond amount shall be released and remitted to the owner. If replacement work is required, the District may extend the bond term by one year. Nothing herein shall limit the owner's responsibility for repair and maintenance to the amount of the bond.

§ 10.51.17The permittee or owner is responsible for complying with federal, state, and local regulations.

§ 10.51.18All developments and redevelopments shall provide water quantity, water quality, and infiltration systems to meet requirements of Section 10.22.

§ 10.51.19Development projects shall not be phased or segmented in such a manner to avoid the requirements of these Rules and Regulations.

§ 10.52 Onsite Detention Design Criteria. All onsite detention facilities shall be constructed in accordance with the District's Design and Construction Standards.

#### *Water Quality Standards.*

§ 10.53 Required Water Quality Facilities. All new developments and re-developments shall provide on-site water quality facilities, as required by the District. Water quality facilities shall be designed to capture and treat the first 1-inch of stormwater runoff from a 24-hour storm event.

§ 10.54 Acceptable Systems. Accepted types of vegetated treatment facilities include vegetated swales, filter strips, constructed wetlands, wet ponds, and extended dry detention ponds. Alternative systems may be used with approval by the District and shall be designed to provide equivalent treatment as is provided with a vegetated system, as described in the District's Design and Construction Standards.

### **§ 11 ENFORCEMENT**

§ 11.1 Purpose. This section provides procedures to enforce the District's Rules and Regulations including all applicable rules, regulations, permits, orders, and any other related or future requirements of water, sewer, and watershed protection management. Pretreatment and Discharge violations are governed by the Discharge Enforcement

## Rules and Regulations.

§ 11.2 Violations and Civil Penalties. The District may impose civil penalties including, but not limited to, stop work orders, fines, or modification or revocation of a permit and/or cessation of services or seek an injunction or other relief provided by law when any User or person violates any condition or provision of these Rules and Regulations, any rule or regulation adopted thereunder, any permit or order issued or otherwise enforceable by the District, or any other federal or state regulations or administrative rules.

§ 11.3 Objectives. The goal of enforcement is to:

§ 11.3.1 Obtain and maintain compliance with applicable federal and state statutes or administrative rules and the District's NPDES permits, Rules and Regulations, and orders;

§ 11.3.2 Protect the public health and the environment;

§ 11.3.3 Deter future violators and violations; and

§ 11.3.4 Ensure appropriate and consistent enforcement.

§ 11.4 Classes of Violation. The District shall address all documented violations in order of seriousness at the most appropriate level of enforcement necessary, taking into account the circumstances of each violation. The violators who do not comply with initial enforcement action shall be subject to increasing levels of enforcement until compliance is achieved. There are three levels of violation: Class I, Class II, and Class III.

§ 11.4.1 Class I. Any violation that poses a major risk of harm to public health or the environment or violation of any compliance schedule contained in a District permit or a District order, including but not limited to:

§ 11.4.1.1 Violation of these Rules and Regulations;

§ 11.4.1.2 Violation of a District order or approved plan;

§ 11.4.1.3 Intentional unauthorized discharges;

§ 11.4.1.4 Negligent spills or discharges that pose a major risk of harm to public health or the environment;

§ 11.4.1.5 Discharge of waste to surface waters without first obtaining a National Pollutant Discharge Elimination System Permit;

§ 11.4.1.6 Failure to immediately notify the District of a spill or upset condition that results in an unpermitted discharge to public waters that poses a major risk of harm to public health or the environment;

§ 11.4.1.7 Violation of a permit compliance schedule;

§ 11.4.1.8 Failure to provide access to premises or records;

§ 11.4.1.9 Any other violation related to water quality which poses a major risk of harm to public health or the environment; or



§ 11.4.1.10 Two Class II violations, or one Class II and two Class III violations, or three Class III violations.

§ 11.4.2 Class II. Any violation which poses a moderate risk of harm to public health or the environment, including but not limited to:

§ 11.4.2.1 Violation of these Rules and Regulations;

§ 11.4.2.2 Violation of a District order or approved plan;

§ 11.4.2.3 Waste discharge permit limitation violations that pose a moderate risk of harm to public health or the environment;

§ 11.4.2.4 Negligent spills that pose a moderate risk of harm to public health or the environment;

§ 11.4.2.5 Failure to submit a report or plan as required by permit or license; or

§ 11.4.2.6 Any other violation related to water quality that poses a moderate risk of harm to public health or the environment.

§ 11.4.3 Class III. Any violation that poses a minor risk of harm to public health or the environment, including but not limited to:

§ 11.4.3.1 Violation of these Rules and Regulations;

§ 11.4.3.2 Violation of a District order or an approved plan;

§ 11.4.3.3 Negligent spills or discharges that pose a minor risk of harm to public health or the environment;

§ 11.4.3.4 Violation of a waste discharge permit limitation that poses a minor risk of harm to public health or the environment;

§ 11.4.3.5 Any other violation related to water quality that poses a minor risk of harm to public health or the environment.

*Procedure for Enforcement.*

§ 11.5 Inspection, Entry, and Sampling.

§ 11.5.1 Authorized District representatives may inspect the property and facilities of any owner to determine compliance with the requirements of these Rules and Regulations. The person shall allow the District, or its authorized representatives, to enter upon the premises at all reasonable hours for the purpose of inspection, sampling, or records examination.

§ 11.5.2 The District shall also have the right to set up on the owner's property such devices as are necessary to conduct sampling, inspection, compliance, monitoring and/or metering operations. The right of entry includes, but is not limited to, access to those portions of the premises that contain facilities for sampling, measuring, treating, transporting, or otherwise addressing sewage or stormwater and storing records, reports, or other related

documents.

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

§ 11.5.4 Where feasible, inspections shall occur at reasonable times of the day. If a permit has been issued and the owner or their representative is at the site when the inspection is occurring, the General Manager or authorized representative shall first present proper credentials to the owner or their representative. The owner or person having charge or control of the premises shall allow the General Manager or the General Manager's authorized representative, agents, and contractors to:

§ 11.5.4.1 Enter upon the property where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of a permit;

§ 11.5.4.2 Have access to and copy any records that must be kept under the conditions of a permit;

§ 11.5.4.3 Inspect at reasonable times the property, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required by the Rules and Regulations or under a permit; and

§ 11.5.4.4 Sample or monitor at reasonable times, for the purpose of assuring permit compliance with the Rules and Regulations, or as otherwise authorized by local or state law, any substances or parameters at any location.

This subsection is subject to the abatement provision in Section 11.19.

§ 11.6 Notice of Non-Compliance (NON). After identifying a violation, the District may issue a Notice of Noncompliance that:

§ 11.6.1 Informs a person of the existence of a violation, the actions required to resolve the violations, and the consequences of continued non-compliance. The NON may specify the time by which compliance is to be achieved and that the need for formal enforcement action will be evaluated

§ 11.6.2 Is issued under the direction of the General Manager;

§ 11.6.3 May be issued for all classes of documented violations; and

§ 11.6.4 Is consistent with the objectives in Section 11.3.

§ 11.6.5 The NON may be in the form of a phone call followed by a Compliance Telephone Memorandum. The NON will require the violator to provide a written report within five (5) business days that details the event, the steps taken to correct the problem, and the steps to prevent future events.

§ 11.7 Informal Resolution. The District shall attempt to resolve violations and solicit compliance with education and technical assistance, especially with parties who are unlikely to have knowledge of regulatory requirements. Generally, violators will be given an initial period to correct the violation based on the educational materials and technical assistance provided by District staff. Informal resolution shall include the following efforts:

§ 11.7.1 Education through a discussion of the violated regulation and the facility's need to come into compliance.

§ 11.7.2 Technical assistance that includes sharing of program materials, referrals to other agencies or contractors, and guidance on best management practices ("BMPs") that should be used. Technical assistance should seek to provide the violator with options, when options are available.

§ 11.7.3 Oral notice that explains the nature of the violation and a time frame for remedy. Resolution of the violation should always be verified by a submittal from the violator proving the violation is remedied, windshield surveys, site visits, or records checks.

§ 11.8 Oral Notices. All oral notices shall be given in person to the appropriate facility personnel. All instructions or requested remedies shall be oral, presented by phone or in person, to the appropriate facility manager and/or property owner to enhance conformance with the remediation instructions. Written documentation of these instructions shall be forwarded to the facility manager upon request. All oral notices of violation shall be recorded in the District's Work Order database.

§ 11.9 Notice of Violation (NOV); Exceptions.

§ 11.9.1 Except as otherwise provided, prior to the assessment of any civil penalty the District shall serve a notice of violation upon the owner (or Respondent) that:

§ 11.9.1.1 Is served, either personally, by office or substitute service as those terms are defined in the Oregon Rules of Civil Procedure, or by certified or registered mail, return receipt requested, specifying the violation and stating that the

District will assess a civil penalty if a violation continues or occurs after five (5) days following receipt of the notice;

§ 11.9.1.2 Shall be issued for the first occurrence of a documented Class I violation, or the repeated or continued occurrence of documented Class II or III violations where NON has failed to achieve compliance or satisfactory progress toward compliance;

§ 11.9.1.3 Is issued under the direction of the General Manager;

§ 11.9.1.4 May include a time schedule by which compliance is to be achieved;

§ 11.9.1.5 May be issued for all classes of documented violations; and

§ 11.9.1.6 Is consistent with the objectives in Section 11.3.

§ 11.9.2 The above notice shall not be required where the Respondent has otherwise received actual notice of the violation not less than five (5) days prior to the assessment of civil penalty. No advance notice, written or actual, shall be required if:

§ 11.9.2.1 The act or omission constituting the violation is intentional;

§ 11.9.2.2 The violation would normally not be in existence for five (5) days;

§ 11.9.2.3 The water pollution might leave or be removed from the jurisdiction of the District;

§ 11.9.2.4 Respondent received written notice with respect to any violation of the permit or order within thirty-six (36) months of the alleged violation; or

§ 11.9.2.5 The requirement to provide written notice would disqualify a state program from federal approval or delegation.

§ 11.10 Notice of Civil Penalty Assessment. In addition to any liability, duty, or other penalty provided by law, the General Manager may assess a civil penalty for any violation of the District's statutes, regulations, permits, or orders as follows:

§ 11.10.1 The District shall issue the written notice of assessment of civil penalty upon the Respondent using the procedure set forth in Section 11.9.

§ 11.10.2 The amount of any civil penalty shall be determined through the use of the matrices and formula contained in Section 11.11.

§ 11.10.3 The Notice of Civil Penalty Assessment must comply with Oregon law related to notice and contested case hearings.

§ 11.10.4 The penalty may be assessed for the occurrence of any class of documented violation, for any class of repeated or continuing documented

violations, or where a person has failed to comply with a notice of violation and intent to assess a civil penalty or other order or Stipulated Final Order.

§ 11.11 Civil Penalty Procedures. No civil penalty issued by the General Manager pursuant to this matrix shall be less than one hundred dollars (\$100) or more than ten thousand dollars (\$10,000) for each day of each violation. When determining the amount of civil penalty to be assessed for any violation the General Manager shall apply the following procedures:

§ 11.11.1 Determine the class of violation and the magnitude of violation.

§ 11.11.1.1 For each civil penalty assessed, the magnitude is moderate unless the violation is major or minor.

§ 11.11.1.2 The magnitude of the violation is major if the District finds that the violation had a significant adverse impact on human health or the environment. In making this finding, the District will consider all reasonably available information.

§ 11.11.1.3 The magnitude of the violation is minor if the District finds that the violation had no more than a de minimis adverse impact on human health or the environment and posed no more than a de minimis threat to human health or other environmental receptors. In making this finding, the District will consider all reasonably available information.

§ 11.11.1.4 Choose the appropriate base penalty (BP) based upon the above finding:

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

§ 11.11.2.....

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

“P” is determined by whether the Respondent has any prior significant actions relating to statutes, rules, orders, and permits pertaining to environmental quality or pollution control.	
0	if no prior significant action or there is insufficient information on which to base a finding
1	if the prior significant action is one Class II or two Class III violations

2	if the prior significant action is one Class I or equivalent
3	if the prior significant actions are two Class I or equivalents
4	if the prior significant actions are three Class I or equivalents
5	if the prior significant actions are four Class I or equivalents
6	if the prior significant actions are five Class I or equivalents
7	if the prior significant actions are six Class I or equivalents
8	if the prior significant actions are seven Class I or equivalents
9	if the prior significant actions are eight Class I or equivalents
10	if the prior significant actions are nine Class I or equivalents determining the appropriate value for prior significant actions as listed above

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

2	if all prior significant actions are greater than three years old, but less than five years old
4	if all the prior actions are greater than five years old

In making the above reductions no finding shall be less than zero (0). Any prior significant action which is greater than ten (10) years old shall not be included in the above determination.

"H" is determined by the history of the Respondent taking all feasible steps or procedures necessarily appropriate to correct any prior significant actions.	
-2	if the Respondent took all feasible steps to correct any violation
0	if there is no prior history or insufficient information on which to base a finding
1	if the Respondent took some but not all feasible steps to correct a Class II or III violation
2	if the Respondent took some but not all feasible steps to correct a

	Class I violation
3	if no action to correct prior significant actions

“E” is the economic condition of the Respondent.	
-4 to -1	if economic condition is poor, subject to any significant economic benefit gained by Respondent through non-compliance
0	if there is insufficient information on which to base a finding, the Respondent gained no economic benefit through noncompliance, or the Respondent is economically sound
2	if the Respondent gained a minor to moderate economic benefit through noncompliance
4	if the Respondent gained a significant economic benefit through noncompliance

If the District finds that the economic benefit of noncompliance exceeds the dollar value of 4, it may increase the penalty by the amount of economic gain, if the penalty does not exceed the maximum penalty allowed by rule and statute.

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

“O” is determined by whether the violation was a single occurrence or if it was repeated or continuous during the period resulting in the civil penalty assessment.	
0	if a single occurrence
2	if repeated or continuous

“R” is determined by whether the violation resulted from an unavoidable accident, or a negligent or intentional act of the Respondent.	
-2	if it was an unavoidable accident
0	if there is insufficient information to make any other finding
2	if negligent
4	if grossly negligent
6	if intentional
10	if flagrant

“C” is determined by the Respondent’s cooperativeness in correcting the violation.	
-2	if Respondent is cooperative
0	if Respondent is neither cooperative nor uncooperative or there is insufficient information on which to base a finding
2	if violator is uncooperative

In addition to the factors listed in this Section of the Rules and Regulations, the General Manager may consider any other relevant rule or statute and shall state the effect the consideration had on the penalty. On review, the Hearings Officer shall consider the factors contained in this section of the Rules and Regulations and any other relevant rule or statute.

§ 11.11.3.....  
 Petroleum Spills.

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

§ 11.12 Memorandum of Agreement and Order (MAO). A Memorandum of Agreement and Order



(MAO) is a formal enforcement action that is in the form of an agreement or consent order issued by the Board or General Manager that:

§ 11.12.1.....  
May be negotiated between the District and the subject party prior to or after any notice set forth above;

§ 11.12.2.....  
Shall be signed by the General Manager on behalf of the District and the authorized representative of the subject party; and

§ 11.12.3.....  
Shall set forth action to be taken and set civil penalties. This may be issued for any class of violations.

§ 11.12.4.....  
Other Remedies. The formal enforcement action as described in these sections in no way limits the District from seeking other legal or equitable remedies in the proper court as provided by Oregon or federal law. The District is authorized to refer violations of District Rules and Regulations to the proper authorities for the investigation and enforcement of criminal matters. The name of the Respondent and the case file number or permit number;

§ 11.12.5.....  
The name and signature of the Respondent and a statement that, if acting on behalf of a partnership or corporation, the person executing the Notice of Appeal is duly authorized to file such appeal and such person is the contact representative;

§ 11.12.6.....  
The date that the Civil Penalty Assessment or other formal enforcement was received by the Respondent; and

§ 11.12.7.....  
The nature of the decision and the specific grounds for appeal.

§ 11.13 Misdemeanor Classification. Pursuant to ORS 198.600, violation of District Rules and Regulations is a Class C misdemeanor.

§ 11.14 Right to Hearing. A civil penalty shall be due and payable twenty-one (21) days after Respondent is served with the penalty notice. The decision of the General Manager to assess a civil penalty or other enforcement action or any violation pertaining to the District's statutes, regulations, permits, or orders shall be final unless the Respondent files a written Notice of Appeal and Request for Hearing with the District within twenty-one (21) days from the date of service of the notice on Respondent. The Notice of Appeal

and Request for Hearing shall contain the following:

§ 11.14.1.....

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

§ 11.14.2.....

The hearing shall be conducted in accordance with ORS Chapter 183. The record of the hearing shall be considered by the District or Hearings Officer, who shall enter appropriate orders including the amount of civil penalty assessed. Appeal of such orders may be taken by the Respondent as provided in Section 12.

§ 11.14.3.....

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

*Stop Work Order; Right of Entry.*

§ 11.15 Erosion Control Violations. In addition to civil penalties described in Section § 11.11, violations may be enforced by on-site control activities to mitigate existing violations and prevent future violations to the greatest extent possible, as follows:

§ 11.15.1.....

Initial violations will result in a written description of requirements for repair of the problem and a time period for compliance as included in the initial notice.

§ 11.15.2.....

If the repair is not performed or violations continue, the inspector will issue a stop work order on the project that will remain in effect until the violation is repaired to the requirements stated in these Rules and Regulations;

§ 11.15.3.....

If the violation is not remedied or the person fails to commence diligently remedying the violation within 24 hours, the District may enter upon the property to abate the violation; or

§ 11.15.4.....

Notwithstanding anything herein to the contrary, if the District reasonably believes the violation constitutes an emergency or other circumstance requiring immediate action, the District may take reasonable and necessary remedial action with or without notice to the owner as deemed appropriate by the District considering the circumstance.

- § 11.16 Emergency Action. Notwithstanding anything herein to the contrary, if the District reasonably believes the violation constitutes an emergency or other circumstance requiring immediate action, the District may take reasonable and necessary remedial action with or without notice to the owner as deemed appropriate by the District considering the circumstance.
- § 11.17 Costs to Remedy. Any costs incurred by the District to remedy a violation shall be paid by the owner.
- § 11.18 Additional Charges. If the required repairs are not completed within the specified time frame or if violations continue that require additional site visits, additional daily charges described in Section 11.11 will be assessed to the owner of the property.
- § 11.19 Abatement. Nothing herein shall prevent the District, following five (5) days written notice to the discharger and discharger’s failure to act, from entering upon the property and disconnecting, sealing, or otherwise abating any unauthorized connection to the stormwater or system discharger violating any permit, these Rules and Regulations, or water quality standards. As part of this power, the District may perform tests upon the property to trace sources of water quantity or water quality violation.
- § 11.20 Compromise or Settlement of Civil Penalty. At any time, subsequent to service of a written notice of assessment of civil penalty, the General Manager may compromise or settle any unpaid civil penalty at any amount that the General Manager deems appropriate. Any compromise or settlement executed by the General Manager shall be final. In determining whether a penalty should be compromised or settled, the General Manager may consider the following:
  - § 11.20.1.....  
New information obtained through further investigation or provided by Respondent that relates to the penalty determination factors;
  - § 11.20.2.....  
The effect of compromise or settlement on deterrence;
  - § 11.20.3.....  
Whether Respondent has or is willing to employ adequate means to correct the violation or maintain compliance;
  - § 11.20.4.....  
Whether Respondent has had any previous penalties that have been compromised or settled;
  - § 11.20.5.....  
Whether the compromise or settlement would be consistent with the District’s goal of protecting the public health and environment as set forth in Section 11.3; and

§ 11.20.6.....

The relative strengths or weaknesses of the District's case.

- § 11.21 Stipulated Penalties. Nothing in these Rules and Regulations shall affect the ability of the District to include stipulated penalties in an MAO or any other agreement.
- § 11.22 Appointment of Hearings Officer. For any contested case hearing, the District, through the General Manager, may appoint a hearings officer to determine all issues.
- § 11.23 Collection of Civil Penalty. Procedures for the enforcement of the civil penalty shall be as follows:
- § 11.24 Time Limit. Any civil penalty is final unless appealed pursuant to Section 12 and may be entered as a judgment in the Circuit Court. The penalty shall be paid in full within twenty-one (21) days of the date the decision is final. Payment shall be made either in cash or by certified check made payable to the District.
- § 11.25 Relief in Circuit Court: If full payment is not made, the District may take further action for collection and/or cause service to be terminated. Alternatively, counsel for the District may, following the authorization of such action by the District, commence an action for appropriate legal and/or equitable relief in the Circuit Court.
- § 11.26 Civil Action and Other Relief. Notwithstanding the foregoing administrative hearing processes, nothing in this Subsection shall prohibit the District from commencing civil action in the Circuit Court for injunction or other relief or seeking imposition of civil penalties described above by the court.

## **§ 12 VARIANCES AND APPEALS**

- § 12.1 Purpose. This Article provides processes for variances and appeals for meeting requirements under the Rules and Regulations.
- § 12.2 Variance Requests: Under the variance process, any person may request a variance to the requirements in these Rules and Regulations. The Board delegates to the General Manager decisions on requests for variance.
  - § 12.2.1 The variance process includes a letter to the General Manager from the permittee that describes the following:
    - § 12.2.1.1 A description of the project or action specific to the Rules and Regulations;
    - § 12.2.1.2 A description or summary of what is required per the Rules and Regulations; and
    - § 12.2.1.3 An alternate proposal that documents and describes the variance request and clearly describes the water quality and quantity equivalency to the Rules and Regulations.
  - § 12.2.2 The District shall review and respond in writing to the Permittee within

fourteen (14) days the decision to approve or deny a Variance Request. Should the permittee choose to appeal this decision, the formal Appeal process shall occur.

### § 12.3 Exemption Requests.

§ 12.3.1 Under the Exemption process, any person may request an exemption to the requirements of the Rules and Regulations. The Board delegates to the General Manager decisions on requests for exemption from the District's requirements.

§ 12.3.2 The Exemption Request process includes a letter to the General Manager from the permittee that describes the following:

§ 12.3.2.1 A description of the project or action specific to the Rules and Regulations;

§ 12.3.2.2 A description or summary of what is required per the Rules and Regulations; and

§ 12.3.2.3 A clear and technical reason why an exemption would be appropriate and how providing an exemption would address water quality and quantity requirements of the Rules and Regulations.

### § 12.4 Appeals.

§ 12.4.1 Appeals to General Manager. Except for violations and enforcement matters, which are addressed in Section 11.14, any person aggrieved by a ruling or interpretation (decision) of the provisions of these Rules and Regulations may submit a written appeal to the General Manager. The appeal letter and associated fee (see District's Fee Schedule) must be submitted within fourteen (14) days after the decision is made. The appeal shall be in writing and shall set forth the events and circumstances leading to the appeal and the nature of the impact of the ruling on the appellant, together with any other reasons for the appeal. The General Manager shall make a written decision within thirty (30) days of written notification of appeal. If the appeal is broad in nature, the General Manager may refer the appeal to the Board. If the appellant chooses to appeal the decision of the General Manager or the Board, the General Manager shall appoint a hearings officer to decide the appeal.

§ 12.4.2 Hearings Officer. The hearings officer appointed pursuant to section 11.22 shall set a *de novo* hearing on the matter at which he or she will take testimony and hear arguments. The General Manager shall give notice of the time and place for the hearing to the appellant, the applicant, and all property owners within 250 feet of the subject property. The notice called

for in this section shall be given by First Class mail, postage prepaid, at least fourteen (14) days in advance of the time scheduled for the hearing. Only persons who have been aggrieved by the General Manager's decision shall have standing to participate in the hearing. The hearings officer shall issue written findings and a decision on the appeal within thirty (30) days after the *de novo* hearing, with copies to the Board, all persons who participated in the hearing, and those persons who have requested a copy.

§ 12.4.3 Circuit Court Review. Decisions of the General Manager or the Hearings Officer shall be reviewable by the Circuit Court of the State of Oregon for Clackamas County, solely and exclusively under the provisions of ORS 34.010 to 34.100.

### **§ 13 ADOPTION OF NEW OR AMENDED RULES AND REGULATIONS**

- § 13.1 New Rules and Amendments. The Board of Directors of Oak Lodge Water Services District may promulgate new or amended rules pertaining to these rules or regulations. Such rules and regulations shall be adopted in a meeting of the governing Board of Directors by ordinance.
- § 13.2 Fee Schedule Revision. The Fee Schedule for furnishing services, installation of meters, service pipes, main extensions, etc., may be revised in the interest of the District. Any revisions to the Fee Schedule shall be adopted by the Board in accordance with Oregon law.
- § 13.3 Adoption of Revised Appendices. The Board of Directors of Oak Lodge Water Services District may adopt revisions to the appendices of these Rules and Regulations by Ordinance in a legally called meeting of the governing Board of Directors by motion duly made, seconded, and passed.

### **§ 14 MISCELLANEOUS PROVISIONS**

- § 14.1 Severability. If any provision of these Rules and Regulations is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.
- § 14.2 Titles Not Part of Text. Titles of chapters or sections of these Rules and Regulations are not a part of the text of the sections. The titles are for indexing and locating convenience only.

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