



# **CHEROKEE METROPOLITAN DISTRICT**

## **RULES AND REGULATIONS**

# CHEROKEE METROPOLITAN DISTRICT

## RULES AND REGULATIONS

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ARTICLE 1 GENERAL PROVISIONS

PART 1 DEFINITIONS

1-101. Definitions. Unless the context specifically indicates otherwise, the following terms, as used in these Rules and Regulations shall have the meanings designated.

Act, or "the Act," shall mean the Federal Water Pollution Control Act Amendments of 1972, and subsequent amendments (i.e., *Clean Water Act of 1977* 33 U.S.C. Section 1251 et seq.).

Approval Authority means the director in an NPDES state with an approved state pretreatment program and the appropriate regional administrator in a CDPHE state without an approved state pretreatment program.

Authorized Representative of Industrial User means:

1. A principal executive officer or manager if the industrial user is a corporation.
2. A general partner or proprietor if the industrial user is a partnership or proprietorship.
3. A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facility from which the indirect discharge originates.

Best Management Practices means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices [40 CFR 403.S(a)(1) and (b)]. Best Management Practices include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Biocides means those chemical compounds commonly known as herbicides, fungicides, rodenticides, insecticides or bactericides.

Biochemical Oxygen Demand means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory methods of five days at twenty (20) degrees C. expressed in terms of weight and concentration (milligrams per liter).

Bypass or Bypassing (water) shall mean any pipe, tube, faucet or other instrument, device or contrivance by which water may be transmitted, diverted, taken or used, connected to any line used to supply water to the premises in such a manner as to transmit, divert, take or use any such water without passing through an authorized meter for measuring or determining the amount of such water.

Bypass (wastewater) shall mean the intentional diversion of waste streams from any point of an industrial user's treatment facility. Bypass is prohibited unless it complies with 2-1007, Band 40 CFR 403.17.

Collection Line means that portion of the wastewater treatment system which collects and transmits wastewater from users to the wastewater treatment plant, excluding service lines.

Combined Waste Stream Formula means a formula as outlined in the General Pretreatment Regulations of the Clean Water Act and applied to sampled wastewater flow from regulated users to determine compliance with all applicable pollutant limitations and which accounts for dilution effects from unregulated wastewater streams such as sanitary, cooling water, etc.

Compliance Schedule means a schedule containing increments of progress in the form of dates for the commencement and/or completion of major events leading to the construction and operation of additional pretreatment required facilities for the user to meet the applicable pretreatment standards.

Composite Sample means multiple samples collected at equally spaced intervals or proportioned according to flow.

Consumptive Use Allowance means the technical determination of the volume of potable water purchased through the District's meters which is not discharged to the sanitary sewer and is not used for landscape irrigation.

Control Authority means the Manager of the District or his designated representative.

Conventional Pollutant means BOD, suspended solids, pH and fecal coliform bacteria, and such additional pollutants as are now or may be in the future specified and controlled in this District's NPDES permit for its wastewater treatment works where said works have been designed and used to reduce or remove such pollutants.

Cooling Water means the water discharged from uses such as air conditioning or refrigeration or to which the only pollutant added is heat.

Customer shall mean the person or organization responsible for the water utility account for the premises and includes authorized employees or agents of the owner.

Daily Maximum means the maximum allowable discharge of pollutant during a calendar day.

Director or Wastewater Department Director means the Manager of the Cherokee Metropolitan District or the Manager's designated representative.

Discharge Rate refers to that volume of effluent per operating day from the user which has been determined by the Manager to be representative of process effluent from that user.

Distribution Main (water) means that portion of the water supply system which transmits and distributes water of the District from treatment or storage facilities to users, excluding services.

Domestic Wastes or Sanitary Wastes means:

1. Residential property waste from the preparation, cooking and handling of food, or
2. Wastes containing human excrement and similar matter from the sanitary convenience of dwelling, commercial buildings, industrial facilities and institutions.

Extra Cost Charge refers to additional monitoring time and materials costs incurred by the District's wastewater division charged to the responsible user, and which are necessitated by a violation of applicable environmental standards. Such charges may include but not be limited to inspection time, sampling time, administrative review time, overhead charges and any other charges deemed necessary by the Manager to determine a user's compliance with this Article.

Fixture Unit Equivalent means the unit value prescribed for plumbing fixtures as set out in the Uniform Plumbing Code, computed based on the design capability of such fixture to permit the flow of water or wastewater.

Flow Proportionate Sample means a sample collected during a predetermined time, which reflects variations in wastewater flow volume.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of food.

Grab Sample means a singular sample of a user's effluent which is taken during the user's normal operating day without regard for variations in daily operational characteristics, flow or concentration of pollutants.

Incompatible Pollutant means any pollutant, which is not a "Conventional Pollutant" as defined in this Section on Definitions.

Indirect Discharge means the introduction of pollutants into a POTW from any non-domestic course regulated under section (b), (c), or (d) of the 307(b), Clean Water Act.

Individual Wastewater Disposal System means a septic tank, cesspool or similar self-contained receptacle or facility which collects and/or treats or otherwise disposes of wastewater and which is not connected to the wastewater treatment system of the District.

Industrial User means a source of indirect discharge, which contains non-domestic wastewater.

Instantaneous Compliance Sample means a grab sample collected for the purpose of gauging compliance with the Wastewater Treatment Code or is otherwise used to track Compliance Schedule progress.

Industrial Waste means any liquid, solid or gaseous waste or form of energy or combination thereof resulting from any process or operational procedures of an industrial user.

Interference means inhibition or disruption of the POTW's sewer system, treatment processes or operations that contributes to a violation of any requirement of the district's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act (33 U.S.C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Resource Conservation and Recovery Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria applicable to the method of

disposal or use employed by the POTW.

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

Manager or District Manager means the Manager of the Cherokee Metropolitan District, or his designated representative.

Mass Emission Rate is the rate of material or pollutants discharged to the District sanitary sewer system during a given time interval.

Master Plumber means a master plumber as defined in and licensed pursuant to Article 58 of Title 12 of the Colorado Revised Statutes 1973, as the same may be now or hereafter amended, and registered with the Regional Building Department.

Mobile Home means any wheeled vehicle, exceeding eight feet (8') in width or thirty-two feet (32') in length, including towing gear and bumpers, without motor power, built on a permanent chassis designed for long-term residential occupancy or temporary office use and containing complete electrical, plumbing and sanitary facilities and designed to be installed in permanent or semi-permanent manner without a permanent foundation which is capable of being drawn over public highways by a motor vehicle. If a mobile home meets the criteria as factory-built housing or a manufactured home, it shall not be a mobile home.

National Categorical Pretreatment Standard is any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (B) and (C) of the Act (33 U.S.C. 1347).

National Pollutant Discharge Elimination System means the program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable water, the contiguous zone and the oceans pursuant to Section 402 of the Act. This shall be analogous with the term CDPS, Colorado Discharge Permit System, wherein the State of Colorado is delegated the authorities and responsibilities outlined above.

New Source means any building, structure, facility or installation from which there is or may be the discharge of pollutants, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance under section 307C of the Act which will be applicable to such source if such standard is thereafter promulgated in accordance with 40 CFR 403.3(k), provided that there is no current source, process or production equipment associated with discharges are replaced or wastewater generating processes are independent of an existing source.

Normal Domestic Strength Wastewater means wastewater that when analyzed by standard methods contains no more than one hundred, seventy-eight (178) milligrams per liter of suspended solids (TSS) and two hundred, eighty-two (282) milligrams per liter of BOD.

Operating Day means that portion of a twenty-four (24) hour day during which industrial waste is discharged or generated.

Pass Through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunct-

ion with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES or CDPS Permit including an increase in the magnitude or duration of a violation.

Person means any individual, firm, company, partnership, corporation, association, group or society and includes the United States and the State of Colorado and agencies, districts, commissions and political subdivisions created by or pursuant to state or federal law.

pH means the logarithm of the reciprocal of the concentration of hydrogen-ions in moles per liter of solution.

Publicly Owned Treatment Works as defined by Section 212 of the Clean Water Act. This definition includes any devices and systems used in the transport, storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. The term also means state or municipality owned systems as defined in Section 502(4) of the Act, which have jurisdiction over the indirect discharges to and the discharges from such a treatment works.

Premises or Property means a lot, parcel of land, building, or establishment.

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

Pretreatment Requirements means related to pretreatment other imposed on an industrial user.

Pretreatment Standard, or National Pretreatment Standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act, which applies to Industrial Users. All regulations stated in 40 CFR 403 are applied to the District's pretreatment program. This term includes prohibitive discharge limits established pursuant to 40 CFR part 403.5.

Receiving Water means lakes, rivers, streams or other water courses which receive treated or untreated wastewater.

Regional Building Official means the Director of the Regional Building Department of El Paso County, Colorado or his designated representative.

Rules or Rules and Regulations means the Rules and Regulations of the Cherokee Metropolitan District approved by the Cherokee Metropolitan District Board of Directors set forth to protect the public health, safety, welfare and convenience to the District's customers and to impose and collect user charges for the use of the water supply and wastewater system of the District.

Service Line (Wastewater) means the wastewater collector line extending from the wastewater disposal facilities of the premises up to and including the connection to the collection line.

Service Line (Water) means the water line extending from the premises up to and including the connection to the valve box.

Significant Industrial User means any industrial user of the District's wastewater treatment facility whose discharge:



1. Is subject to Categorical Pretreatment Standards under Section 403.6 of 40 CFR Chapter 1, Subchapter N; or
2. Any discharger subject to categorical pretreatment standards, or contains significant amounts of those toxic materials specified by the Manager in accordance with rule making or as defined in standards issued under Section 307 of the Act, or
3. Any other industrial user that discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW.
4. Is determined by the Manager to have potential impact, either singly or in concert with other contributing industries, on the treatment works such that the quality of the effluent from the treatment works or cause a violation of Sections 2-603 and 2-604 of these Rules and Regulations or 40 CFR 403.5.

Significant Industrial User Wastewater Discharge Permit means an authorization to discharge industrial process waste waters by a significant user into the District's sanitary sewer system.

Significant Noncompliance occurs if an industrial user's violation(s) meets one or more of the following criteria:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken during a six-month (6) period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
2. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).
3. Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Manager determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the public).
4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
5. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
6. Failure to provide, within thirty (30) days after required reports

such as baseline monitoring reports, compliance reports, periodic self-monitoring reports, compliance schedules.

7. Failure to accurately report noncompliance.
8. Any other violation or group of violations, which the Manager determines, will adversely affect the operation or implementation of the local pretreatment program.

Slug Load or Slug Discharge means any discharge of water, sewage or industrial waste which:

1. Contains any substances regulated by Part 6 of this Article in concentrations or amounts which, exceed for any time the prohibitions contained in 40 CFR Part 403.5(b), as specified in 2-602: F, J, N, R, S, T, U, V and 2-603 of this Code, or
2. Causes a two-fold or more increase in discharge rate for a period longer than twenty (20) minutes, or
3. Is a condition of discharge determined by the Manager to be a Slug Discharge as specified in the user's Discharge Permit, or through other notifications made to the user by the Manager.

Standard Industrial Code is a numerical code indicating the classification of users pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987 and amendments thereof and supplemented by the Wastewater Division.

Storm Water means any flow occurring during or immediately following any form of natural precipitation and resulting therefrom.

Suspended Solids means the total suspended matter that floats on the surface or is suspended in water, wastewater or other liquids and which is removable by laboratory filtering by standard methods.

Tamper or Tampering shall mean damaging, altering adjusting or in any manner interfering with or obstructing the action or operation of any meter provided for measuring or determining the amount of water passing through such meter.

Tap Fee Charge means that charge assessed to new users of the wastewater treatment system and/or the water system to finance capital.

TDS (Total Dissolved Solids) means organic matter composed largely of minerals, salts and organic matter that come from natural groundwater sources and a variety of household and commercial uses, all of which end up in concentrated amounts in wastewater.

A trap is a device for retaining sand, silt, grit, mineral or inert material, petroleum solvent, grease or oil by gravity separation from wastewater and of a design and capacity approved by the District.

Unauthorized Metering shall mean removing, moving, installing, connecting, reconnecting or disconnecting any meter or metering device for water service by a person other than an authorized employee of the District.

Unpolluted Water is water not containing any substance limited or prohibited by the effluent standards in effect or water whose discharge of receiving water quality standards.

Upset means an exceptional incident which causes temporary and unintentional non-compliance with the discharge limitations or prohibitions applicable to the user and which is beyond the reasonable control of the user.

User means any person who takes water from, or is connected to, a water supply system of the District or any person who discharges or causes or permits the discharge of wastewater into the District's wastewater system.

1. Commercial User means any person whose use of the water supply or wastewater systems of the District is in connection with the operation of a business, trade or occupation whether for profit. Such persons shall include, but shall not be limited to, clubs, lodges, hotels, apartments and rooming houses, tourist camps and cottages, multi-family dwellings where more than one dwelling unit is served through one meter, schools, governmental buildings and churches.
2. Residential User means any person whose use of the water supply or wastewater system of the District is exclusively for domestic purposes in a private home or individual dwelling unit where not more than one dwelling unit is served through one meter.

Water Supply System or Water System means:

1. All rights, property and obligations of the District concerning water and water supply facilities.
2. All devices, facilities, structures, equipment or works owned or used by the District for the purpose of the collection, storage, transmission, treatment, regulation or distribution of potable water, including distribution mains, pumping facilities, metering facilities, pressure regulation facilities and their appurtenances and excluding service lines.
3. All standby or contingency equipment, facilities or material, which may be necessary to provide reliable water service.
4. All devices, facilities, structures, equipment or works owned or used by the District for the purpose of the transmission, storage, treatment plants, pumping facilities, reservoirs, transmission lines and their appurtenances.
5. All land or sites owned or used by the District for the purpose of providing water to users.
6. All extension, improvements, additions, alterations or remodeling thereof.

Wastewater means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any ground water, surface water and storm water that may be present, whether treated or untreated.

Wastewater Treatment System or Wastewater System means all rights, property systems and obligations concerning such wastewater systems of the District.

1. All devices, facilities, structures, equipment or works owned or used by the District for the purpose of the transmission, storage,

treatment, recycling and reclamation of industrial and domestic wastes, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including interception sewers, outfall sewers, collection lines, pumping, power and other equipment, and their appurtenances and excluding service lines.

2. All extensions, improvements, additions, alterations or any remodeling.
3. All elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities.
4. All works, including the land and sites that may be acquired, that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

1-102. Abbreviations. The following abbreviations, when used in this ordinance, shall have the designated meanings:

BOD - Biochemical Oxygen Demand  
BMP - Best Management Practice  
BMR - Baseline Monitoring Report  
COPS - Colorado Discharge Permit System  
CFR - Code of Federal Regulations  
CIU - Categorical Industrial User  
COD - Chemical Oxygen Demand  
EPA - U.S. Environmental Protection Agency  
GPD - Gallons Per Day  
IU - Industrial User  
mg/l - milligrams per liter  
NPDES - National Pollutant Discharge Elimination  
System NSCIU - Non-Significant Categorical Industrial  
User POTW - Publicly Owned Treatment Works  
RCRA - Resource Conservation and Recovery Act  
SIU - Significant Industrial User  
SNC - Significant Non-compliance  
TSS - Total Suspended Solids  
U.S.C. - United States Code  
WRF - Wastewater Reclamation Facility

## PART 2 STATEMENT OF PURPOSE

1-201. The Board of Directors finds, determines and declares that it is necessary and conducive to the protection of the public health, safety, welfare and convenience to adopt and have full force and effect this Regulation and, further, to impose and collect user charges for the use of the water supply and wastewater system of the District. If this Regulation is inconsistent with any previous ordinance, rules or regulations of the District, this Regulation shall control.

PART 3 DESIGNATION AND COLLECTION OF CHARGES

1-301. User Charges

- A. Each user of the water supply and wastewater system of the District shall pay a monthly user charge for the use of the systems, payable in the manner and amount determined as hereinafter provided.
1. Such monthly user charges may include amounts due from a past billing period arising from events whether under the control of the District including, but not limited to, meter malfunctions, billing errors, employee meter reading errors or customer failure to read a meter when requested.
  2. The user shall be permitted to make installment payments if amounts due from a past billing period are included in the monthly user charge, provided, however, that if such amount is the failure to read the meter which failure is due to instances in which the meter is not readily accessible, the user may not be permitted to make installment payments. Any installment payments made pursuant to this subsection may extend over a period equal in length to the period during which the errors were accumulated and shall bear no interest.
- B. The user charges levied pursuant to these Rules and Regulations shall be determined and collected by the District, and such charges shall be due and payable at the District ten days following the billing (bills mailed the 15th are due the 25th; bills mailed the 30th are due the 10th).
- C. The Manager shall make and enforce such rules and regulations as may be necessary for the regulation, collection, rebating and refunding of user charges.

1-302. Determination of Charges Hearing

- A. The District shall determine the amount due and payable from each person for charges imposed by this Regulation and shall make an initial demand for payment from each person.
- B. Upon verbal or written application to the Manager, an informal hearing concerning the propriety of the imposition of the number of charges imposed by this Ordinance shall be granted to any person from whom an initial demand for payment was made. Such application shall be made within ten (10) days after the initial demand for payment.
1. At any informal hearing held pursuant to this Section, the person requesting such a hearing shall have the burden of establishing the impropriety of the imposition and for the charge for which an initial demand for payment was made. The Manager shall designate the time and place of any informal hearing granted under this Section. The Manager may conduct the hearing or may designate a representative to:
    - a. Take testimony of interested parties at such meeting, and
    - b. Transmit a report of the hearing, including any transcripts

or evidence to the Manager with recommendations for action thereon.

2. Any testimony taken at a hearing will be recorded electronically. The transcript as recorded shall be made available to any member of the public or any party to the hearing upon payment of the usual charge.
3. Upon reviewing the hearing, the Manager shall make written findings of fact. Thereupon, the Manager may affirm, modify or abate in full the amount of the charge. Any such affirmation, modification or abatement of the charge shall be the final determination by the Manager of the amount properly due and payable, subject to review by the Board. The Manager shall notify all parties to the hearing of such final determinations and shall make a demand for payment to the party to be charged.
4. In the event no hearing is requested within the prescribed period or the person requesting such hearing fails to appear at the time and place designated by the Manager, the amount set out in the initial demand for payment shall be deemed the final determination of the amount properly due and payable.

1-303. Collection of Charges; Remedies of the District

- A. All charges not paid within ten (10) days of the month following the mailing of a demand for payment pursuant to a hearing, or within ten (10) days of the second month following the mailing of a demand for payment where no hearing was requested, shall be deemed delinquent and the District may take any actions as provided, including the recovery of such charges in an action at law against the delinquent party or owner of the premises.
- B. If charges for service, tap fees, development fees or invoices for work done by the District are not paid when due, then services furnished the delinquent property may be discontinued pursuant to the terms and conditions as provided.

1-304. Deposits

- A. Subject to the provisions of this Section, the District may require from a user of the District system a deposit from a non-owned user. This deposit is a guarantee of payment of current user charges. Such deposit shall be in an amount determined by the District's Board of Directors. Any such deposit from a non-owner shall be held by the District until the account is closed or proof is shown that the user becomes an owner.
- B. No deposit required and made pursuant to this Section shall **not** relieve any user from payment of current user charges as they become due and payable.

1-305. Warranty Deed

The District may require from a user a copy of their warranty deed when they are purchasing a property within the District. If required, this must be delivered to the District office within three (3) days of signing up for service. Failure to deliver a copy of the warranty deed may result in services being discontinued pursuant to the terms and conditions provided.

PART 4 ENFORCEMENT AND GENERAL PENALTY

1-401. Legal Action

- A. The remedies of the District as set forth in this Part shall be cumulative and not alternative and the District may pursue any such remedy either singly or in combination as it may deem necessary and appropriate.
- B. Any use of or connection to the water supply or wastewater systems of the District in violation of any provision of these Rules and Regulations, or any act or condition which damages, injures, or threatens to damage or injure the water supply or wastewater systems of the District shall be considered a public nuisance and the District may commence an action for appropriate legal and/or equitable relief in the District Court in and for the County of El Paso or in any other appropriate court. In any such action, the District may recover reasonable attorney fees, costs, court reporter fees and other expenses of litigation.
- C. Any discharge in violation of the provisions of these Rules and Regulation, or an order of the Manager issued pursuant to these Rules and Regulation, or any discharge of wastewater, industrial wastes or other wastes into the wastewater treatment system of the District contrary to the provisions of these Rules and Regulation, or any order of the Manager, shall be considered a public nuisance and the District may commence an action for appropriate legal and or equitable relief.

1-402. Lien

In the event that any tap fee charge, permit charge, user charge or invoice for work done by the District for water or wastewater service imposed by this Regulation shall not be paid when due, the Manager may issue a notice to the owner of the property or user, or both, setting forth the amounts due and payable, identifying the property connected to the system for which the amount is delinquent, and stating that the District claims a perpetual lien on and against said property for the unpaid amounts. Such notice shall be verified by the Manager and filed with the Clerk and Recorder of the county in which said property is located. Until paid, such charges shall constitute a perpetual lien on and against the property served, and such lien may be foreclosed in the same manner as provided by the laws of the State of Colorado for the foreclosure of a mechanic's lien.

1-403. Discontinuance of Service

- A. If charges imposed by these Rules and Regulation are not paid when due, then one or both services furnished the delinquent property may be discontinued. As a condition precedent to such disconnection, the District shall notify such property of the proposed disconnection at least two (2) days prior, which notice shall include the amount due and payable and the date by which such amount shall be paid and a statement that discontinuance of service may be avoided by payment of all charges.
- B. If the District proposes to disconnect or discontinue the service of any property for nonpayment of charges, an informal hearing shall be available to resolve any dispute concerning the charges. Such a hearing shall be conducted by an employee or other representative of the District authorized

to resolve any such dispute. Such a hearing shall not be available if a hearing has already been granted pursuant to Article 1, Part 301. No property shall be subject to disconnection or discontinuance of service for nonpayment of charges imposed by this Regulation where such charges are paid in full prior to the proposed disconnection or discontinuance of service.

1-404. Payment for Delivery of Service

The District shall not charge, demand, collect or receive a greater or less or different compensation for any product or commodity furnished, or to be furnished, or for any service rendered or to be rendered, than the rates, tolls, rentals and charges applicable to such product, commodity or service as specified in this Regulation. All users shall pay for the services received and mistakes, ignorance, negligence or faulty equipment shall not be a defense to any action commenced by the District to recover the costs or amount of any services delivered and received at a property.



ARTICLE 2 WASTEWATER TREATMENT CODE

PART 1 WASTEWATER DIVISION

2-101. Responsibility of the District

The District shall be responsible for the wastewater system and wastewater treatment plants serving the District and such other areas as authorized by the District's Board of Directors. The Manager shall monitor and require the compliance of local, state, and federal laws and regulations.

2-102. Responsibility of the Manager

The Manager of the District shall monitor and require the compliance of all applicable local, State and Federal laws and regulations related to the legal operation of the District's entire wastewater system. The Wastewater ORC shall be a Colorado Wastewater A certified operator and shall be responsible for the management of the wastewater system of the District and all the related property. He/she shall see that the system is kept properly clean and in good working order and repair. He/she shall ensure proper compliance with all local, State and Federal regulations for collection, treatment and discharge of wastewater and shall perform all other duties in connection with such systems as may be required of him/her by the Manager.

2-103. Adoption of Rules and Regulations

The Manager may adopt rules and regulations consistent with the provisions of this Regulation for the administration of the wastewater system. Rules and regulations adopted by the Manager shall pertain to, but shall not be limited to, discharge limitations, pretreatment requirements, standards for installation of wastewater lines and services and implementation of standards promulgated pursuant to the Act. In establishing such rules and regulations, the Manager shall seek to establish standards that will assure safe, efficient operation of the wastewater system, that will limit wastewater discharges to the system in concentrations and quantities which will not harm either the wastewater system, wastewater treatment process or equipment, that will not have an adverse effect on the receiving water or will not otherwise endanger persons or property or constitute a nuisance.

PART 2 WASTEWATER SERVICE

2-201. Application for Service

Any person desiring to connect a service line to the wastewater treatment system of the District, or to add fixtures to an existing connection shall make an application to the Manager for wastewater service. The application for service shall be supplemented by any plans, specifications or other information deemed necessary by the Manager to determine compliance with all regulations or rules concerning the wastewater system. The Manager or authorized engineer shall endorse his/her approval or disapproval of the application as complying or failing

to comply with all regulations or rules concerning the wastewater system of the District. Upon approval by the Manager of such application, such user receiving wastewater service shall pay therefore in accordance with the applicable rates, rules and regulations.

2-202. Policy for Service Outside District

It is the policy of the District to refuse to service wastewater treatment to users located outside of the District. However, the District expressly reserves the right to do so as the same may be limited by state or federal law and to impose such conditions as it may see fit relative to furnishing such service.

2-203. Application for Service Outside the District

Any person desiring to connect a service line and/or add fixtures to an existing connection, which is located outside the District boundaries shall comply fully with all regulations of the District. Such a person shall then make an application to the District for wastewater service. The application for service shall be supplemented by any plans, specifications or other information deemed necessary by the Manager to determine compliance with all regulations or rules concerning the wastewater system. The Manager or authorized engineer shall endorse his/her approval or disapproval of the application as complying or failing to comply with all regulations or rules concerning the wastewater system of the District.

2-204. Special Service Contract

- A. The District may provide by contract for the use of and connection to the District's wastewater treatment system by institutions, plants or other similar users which are located outside the boundaries of the District. Such use of or connection to the District's wastewater treatment system shall be subject to such terms and conditions as the District may see fit to impose.
- B. Contracts entered pursuant to this Section shall provide for the compliance by the user with the discharge prohibitions and limitations contained in this Regulation. Such contracts shall require the user to:
  - 1. Submit to the jurisdiction of the District for the purposes of the enforcement procedures set out in this Regulation, and
  - 2. Stipulate liquidated damages for violation of the provisions of this Regulation as may be determined by the Manager.
- C. Contracts entered pursuant to this Section may provide for acceptance by the District of only normal domestic strength wastewater, and the requirements of subsection B(2) of this Section shall not apply to such contracts. However, such contracts shall provide that any discharge of industrial wastewater by the user shall subject such user to consequential damages for breach of contract including, but not limited to, any amounts the District may be required to pay for violation of the conditions of its NPDES permit where the discharge of the user caused or

contributed to such violation. Discharges of industrial wastewater by a user bound by such a contract shall not be accepted by the District except pursuant to notice to the District and execution of an amended or additional contract to which the requirements of Subsection B(2) of this Section shall apply.

- D. Contracts for use of or connection to the wastewater treatment system of the District in force and effect on the effective date of this Ordinance shall remain in full force and effect in accordance with the terms and conditions thereof.

2-205. Excavations for Service

All excavations for installation or repair of wastewater lines shall be adequately guarded with barricades and lights and meet all applicable safety standards to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of work shall be restored in a manner satisfactory to the Manager of the District.

PART 3 CONNECTION AND INSTALLATION OF SYSTEM

2-301. Connection Requirements

The owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the District and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a collection line of the District, is hereby required at such owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper collection line in accordance with the provisions of these Rules and Regulations within ninety (90) days after official notice to do so, provided that said collection line is within four hundred feet (400') one hundred twenty-two (122 meters) of the property line. Under unusual circumstances such as unique topographical characteristics, the District Manager, with Health Department approval, may waive the connection requirement herein stipulated.

2-302. Connection or Disconnection

Permission of the District shall be required for all new connections; existing connections or disconnections made to or from the wastewater treatment system of the District.

2-303. Unauthorized Connections Prohibited

It shall be unlawful for any unauthorized person to uncover, make any connections with or openings into, use, alter or disturb any collection line or appurtenance thereof, without first obtaining written permission from the Manager and such connections shall be made in compliance with Building and Plumbing Codes for Installation of Sewer Mains and Services and other applicable rules and regulations of the District.

2-304. Connection to System, Inspection by District

An applicant for wastewater service shall notify the Manager when the

service line is ready for inspection and connection to the collection line. The connection and testing required by the District shall be made under the supervision of the Manager and/or authorized engineer. The District shall not be subjected to any liability for any deficiency or defect which is not discovered by inspection nor shall the owner or developer of such premises be absolved from liability for such deficiency or defect and any resulting damage or from responsibility to correct such deficiency or defect.

2-305. Collection Lines, Manner of Extension

Collection lines to collect and intercept wastewater from and throughout areas or additions shall be extended by the owner and/or developer of premises to be served by such lines from the existing collection line to the farthest point or points upgrade of such premises. If the Manager determines that extension to collection lines to the farthest point or points upgrade is not necessary for efficient expansion of the wastewater treatment system, the Manager may waive the requirement of such extension.

In any event, collection lines shall be extended by the owner and/or developer of premises to be served by such lines from the existing collection line to a point which permits the shortest possible service line between the collection line and the property line of the premises served thereby. Thereafter said collection lines shall be extended to adjoining premises in compliance with the latest specifications as promulgated, supplemented and amended by the Manager, as provided in Part 3 of this Regulation. Extensions shall not be made for remote or isolated services unless the applicant requesting such service shall provide for the cost of such extension to the point of service and such extension is approved by the Manager.

2-306. Compliance of Wastewater Lines with Subdivision Requirements

No wastewater lines shall be laid or placed in any proposed addition or subdivision to the District until said proposed addition is platted and approved.

2-307. Exceptions for Service Lines Separate for Each Building

A separate and independent service line shall be provided for every building. However, where one building stands at the rear of another on an interior lot which cannot be subdivided, and no service line is available nor can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the service line of the front building may be extended to the rear building and the whole considered as one service. Multi-family or commercial or industrial complexes having more than one building on a single-platted lot may have the individual buildings connected to a single common service line unless and until such lot is re-subdivided or the buildings otherwise become separately owned in which case independent connections shall be made. Waiver of this requirement for a separate and independent service line may be granted by the Manager upon re-subdivision or creation of separate ownership of individual buildings on a single lot with existing multi-family or commercial, but not industrial complexes. Such waiver shall be granted upon showing that the service lines owned in common will be maintained by an entity of the owners of the separate buildings. By regulation, the Manager may provide for additional requirements to assure proper maintenance and repair of the common service lines, and if necessary, monitoring of effluent quality or quantity. The District does not assume any obligation nor acquire any liability for damage to the connection property

or any portion thereof caused by or resulting from any such connection to the wastewater system.

2-308. Service Line Construction to Conform to Rules and Regulations

The size, slope, alignment and materials of construction of a service line, and the methods to be used in excavating, placing of the pipe. Jointing, testing and back filling the trench, shall all conform to the requirements of the Building and Plumbing Codes and the District's Rules and for Installation of Sewer Mains and Services and other applicable rules and regulations of the District.

2-309. Use of Gravity Flow in Service Lines

Whenever possible, the service line shall be brought from the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the collection line, wastewater carried by such building drain shall be lifted by means approved by the Manager and discharged to the wastewater system.

2-310. Maintenance of Service Lines

The owner of any premises connected to the District's wastewater treatment system shall be responsible for the maintenance of the service line and appurtenance thereto, from and including the connection to the collection line to the premises served. The owner shall keep line in good condition and shall replace, at his expense, any portions thereof which, in the opinion of the Manager and/or District's Superintendent have become so damaged or disintegrated as to be unfit for further use. The owner must secure all required permits for construction purposes and shall be responsible for returning the public right-of-way and the street to acceptable county standards.

1. If more than one premise is connected to a single service line, the owners of the respective premises shall be jointly and severally responsible for the maintenance and repair requirements imposed by this Section.
2. Prior to repair or alteration of the service line, permission must be obtained from the District. The District shall not be subject to any liability for any deficiency in the repair or alteration of such premises and shall be absolved from liability for such deficiency or defect and any resulting damage or from responsibility to correct such deficiency or defect.
3. Wastewater service lines 4" and 6" in diameter shall be installed per the following sections. Wastewater service lines 8" in diameter and greater shall be installed as wastewater mains.
4. All wastewater service line taps, new installations, repairs, rehabilitations, disconnections, replacements and reuse shall be inspected by Cherokee Metropolitan District. The inspection shall include the wastewater service line from the wastewater main to the structure. Wastewater service line stubs installed with new wastewater mains shall be inspected as part of the wastewater main inspection. The contractor shall contact Cherokee Metropolitan District two (2) working days prior to construction.

No portion of a wastewater service line shall be backfilled until the inspector has inspected the service line and the contractor has remedied all the deficiencies. The inspector will note any deficiencies; and once the contractor has made all corrections to the satisfaction of the inspector, the inspector will sign off on the inspection. As soon as practicable, the contractor shall commence backfilling.

**2-311. Conditions for Use of Existing Lines**

Old wastewater lines may be used in connection with new buildings only when they are found to meet all requirements of this Regulation and to be compatible with the proposed use. If found unacceptable for future use, the owner shall be required to excavate the line at the point of connection to the collection line and cap the connection.

**2-312. Requirements for Commencement and Completion of Construction**

Construction of a building or facility to be served by a wastewater connection shall commenced within one hundred twenty (120) days from the date of payment of connection charges and such construction shall be pursued to completion without suspension or abandonment, as set out in the Uniform Building Code under Building Permits, Section 302(d). Failure to comply with the above regulations will result in cancellation of the consent and all connection charges shall be returned, less the cost to the District incurred to determine such noncompliance.

**2-313. Tap Fee Charges**

Residential, commercial, and industrial accounts are charged an infrastructure fee, water development fee, and a wastewater infrastructure fee according to tap size ranging from  $\frac{3}{4}$ " to 2" meter. Out-of-District tap fees are assessed at a 1.5x multiplier.

**Cherokee  
Metropolitan District  
In-District Tap Fee  
Schedule**

**Single Family Residential, Commercial, Industrial**

Tap Size	Water		Wastewater	Estimated Total
	Infrastructure Fee	Development	Infrastructure Fee	
0.75"	\$8,750	\$6,300	\$6,000	\$21,050
1"	\$11,700	\$11,200	\$10,650	\$33,550
1.5"	\$17,550	\$25,200	\$24,000	\$66,750
2"	\$23,400	\$44,800	\$42,650	\$110,850

Tap fees for meters larger than 2" to a single user assessed based on projected water use

Cost of meter and installation included in water infrastructure fee for meters 2" and less

Irrigation meters assessed water fees only

**Individually Metered Townhomes and Multiplexes (0.75" Meter)**

Tap Size	All Fees Assessed Per Unit			Estimated Total per unit
	Water		Wastewater	
	Infrastructure Fee (Includes Meter)	Development	Infrastructure Fee	
0.75"	\$3,240	\$5,400	\$4,450	\$13,090

**Apartments Not Individually Metered (0.75" Unit Connection)**

Tap Size	All Fees Assessed Per Unit			Estimated Total per unit
	Water		Wastewater	
	Infrastructure Fee	Development	Infrastructure Fee	
0.75"	\$2,000	\$4,050	\$3,850	\$9,900

Cost of each building meter to be billed to Developer at time of installation

2-314. Disconnection

If a user desires to disconnect his premises from the wastewater system of the District, he shall not be permitted to take up that portion of the service line between the collection line and the property line of the premises, but at his expense the service line shall be capped at said property line and the service line shall be removed from the property line to the structure. New service lines to replace existing service lines shall not be approved by the District until old service lines are dug up and properly capped. Such a cap shall be sufficiently tight to prevent the escape of wastewater gas or the infiltration of water.

PART 4 COSTS AND CHARGES

2-401. Allocation of Cost, Wastewater Facilities

- A. Except as otherwise provided, a property owner or developer shall be responsible for the costs and construction of all wastewater facilities and the appurtenances thereto in and through his property or development upon approval of the plans and specifications by the District. The District shall inspect and approve the actual construction, prior to connection of structures.
  
- B. The Manager may require the property owner or developer to construct a collection line larger than that required for his needs for the service of lands adjacent to his property or development, in which case the District may enter into a recovery agreement with the owner or developer to collect a pro rata share of the costs of such construction from the owner of the adjacent lands at the time of their connection and refund such costs to the owner or developer. When an owner or developer finds it necessary to construct wastewater facilities through or adjacent to unserved or undeveloped lands, the owner or developer shall pay the entire cost of such facilities. However, the District may agree in writing with the owner or developer to collect a pro rata share of the costs from the owner of property served by such facilities at the time of connection to the wastewater system and shall refund such cost to the owner or developer or the District may refuse a tap fee until the property owner shows proof of payment to the owner or developer that his pro rata share has been paid.
  
- C. If pump stations and force mains are required, the cost of constructing said stations and mains shall be the responsibility of the owner of the property served thereby. Where it appears that more area or land may be served by the pump station and force mains, the District may require a larger capacity than necessary to serve the initial development. Where such larger capacity is required, the District may enter a pro rata share of the costs to the owner or developer or the District may refuse a tap fee until the property owner shows proof of payment to the owner or developer that his pro rata share has been paid.
  
- D. In those instances where pump stations and force mains are required, the wastewater system shall be designed where possible to permit an eventual connection into a gravity system with a minimum of expense. Where practicable, easements shall be provided and lines constructed to tie into the gravity system. The District may require deposits from the property owners requiring said force system, where deemed necessary, to pay for the eventual construction of gravity lines.
  
- E. 1. If an owner or developer desires to enter into a recovery agreement with the District, he shall provide a complete detailed summary of all construction costs to the District within one hundred twenty (120) days after the date of preliminary acceptance notice by the District.

The owner or developer and the Manager shall jointly determine the service



area of the facilities constructed by the owner or developer and shall jointly determine a per-front-foot, per-lot or per-acre recovery charge for said service area. In the event the owner or developer and the Manager fail to agree, the determination of the Manager shall be final for the purpose of review by the District's Board of Directors.

2. The amount of the recovery charge shall be computed by the following formula:

$$X = \frac{a(1 + (b + .03)5)}{C}$$

X Unit recovery charge (per front foot, per lot or per acre)

a - total construction cost

b New York prime interest rate prevailing at the first business day of the year

C = the number of equal or nearly equal units upon which recovery is based, whether front-feet, lots or acres served by the facilities.

~~3-~~ Unless the Board of Directors approves otherwise, according to all applicable Rules and Regulations, State and Federal laws and only upon proper legal notice in an open and public meeting, the right of an owner or developer to reimbursement under the provisions of a recovery agreement shall not extend beyond a period of ten (10) years from the date of the execution of the agreement.

F. All costs incidental to or resulting from the procurement by the District of any required easement or right-of-way, whether obtained by dedication, contract, condemnation or otherwise, shall be borne by the owner or developer.

#### 2-402. Installation Costs

All costs and expenses incidental to the installation and connection of service lines from the collection line to the premises shall be borne by the owner of such premises. The owner shall indemnify the District for any loss or damage to the District that may directly or indirectly be occasioned by the installation of such service line.

#### 2-403. Connection Charge

In each lot, area, territory, subdivision or addition, inside or outside the District boundaries, for which a request for wastewater treatment system of the District shall be made, there is and shall be a connection charge for each service line in said areas. The connection charge shall consist of a tap fee and may also include recovery agreement charges.

#### 2-404. Tap Fee

A tap fee shall be assessed for each new connection to the wastewater system of the District to partially defray the costs of capital improvement of such system. Such charge shall be collected prior to issuance of a building permit, in amounts as in effect when the tap fee is taken out.

2-405. Recovery Agreement Charge

A recovery agreement charge may be assessed for each connection to a collection line or use of pumping facility, where such line or facility is the subject of a recovery agreement between the District and the person who constructed such line or facility. Consistent with such agreements, such charge shall be in an amount which represents a pro rata share of the cost of construction of the line or facility and shall be collected prior to issuance of a building permit. Recovery agreements existing on the effective date of these Rules and Regulations shall remain in full force and effect.

2-406. Basis for Rates and Charges

- A. The cost for residential wastewater service shall be a flat amount, determined by the Board of Directors according to all applicable Rules and Regulations, State and Federal laws and only upon proper legal notice in an open and public hearing, which may be expected to change from time to time.
- B. All non-residential customers shall be billed based on actual water consumption for each billing period.

PART 5 INDIVIDUAL WASTEWATER DISPOSAL SYSTEMS

2-501. Conditions for Use

- A. Where a collection line is not available to premises under the provisions established in this Regulation and if the Board approves, the wastewater disposal facilities of such premises shall be connected to an individual wastewater disposal system complying with the provisions of this Regulation and the El Paso County State Individual Sewage Disposal System Regulations as established by the Colorado Department of Public Health & Environment (CDPHE).
- B. The individual wastewater disposal system will be limited to the treatment of domestic wastewater only. Any use of industrial waste streams will be prohibited.
- C. The type, capacity, location and layout of an individual wastewater disposal system shall comply with all standards of CDPHE. No permission shall be granted for any individual wastewater disposal system employing subsurface soil absorption facilities where the area of the lot does not meet the regulations imposed by CDPHE. No septic tank or existing cesspool shall be permitted to discharge into any natural waterway or surface drainage.
- D. Before commencement of construction of an individual wastewater disposal system on public or private property within the District or in any area under the jurisdiction of the District, the owner shall first obtain written approval signed by the Manager and by a representative of CDPHE.

#### 2-502. Privy Vaults Prohibited

It shall be unlawful for any person to construct or maintain a privy vault or receptacle for wastewater disposal or similar device within the limits of the District and, in all instances where such devices are now in use, the owner or occupant of such premises shall discontinue the use thereof and install a proper service line or individual wastewater disposal system in accordance with the provisions of this Regulation.

#### 2-503. Removal of Contents

The contents of privy vaults, septic tanks or cesspools within the limits of the District shall be removed therefrom, and the same shall not be transported through any street, alley or public place within the District, except in a sanitary manner, through or by means of airtight tanks if soft and mixed with matter, and if solid or dry in tight covered tanks, in such manner as shall prevent the escape of any noxious gasses or offensive odors, and preserve such contents from sight or exposure during transportation. All tools, appliances and vehicles used in such cleaning and removal shall be kept and maintained in sanitary condition and shall be subject to inspection and licensing by CDPHE.

#### 2-504. Cessation of Use When Required

When a collection line becomes available to a property served by an individual wastewater disposal system, and upon receipt of official notice from the Manager to connect to the wastewater system of the District, a direct connection shall be made by a master plumber to the collection line in compliance with this Regulation and the official notice, and any septic tanks, cesspools and similar individual wastewater disposal systems shall be cleaned and filled with suitable material with approval of CDPHE.

### PART 6 PROHIBITIONS AND LIMITATIONS ON WASTEWATER DISCHARGE

#### 2-601. Wastewater Treatment Discharge Required

It shall be unlawful for any person to discharge into any natural waterway or any surface drainage within the District, or in any area under the jurisdiction of the District, any wastewater unless suitable treatment of such wastewater has been provided in accordance with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] Section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403).

#### 2-602. General Prohibitions of Wastewater

The general prohibitions of this Regulation are:

- A. The introduction of pollutants into the POTW that will interfere with its operation.
- B. The introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving water, or otherwise be

incompatible with the POTW.

- C. The introduction of pollutants into the POTW will adversely affect POTW personnel who may be affected by wastewater and sludge in the course of their employment and the public.
- D. The introduction of pollutants into the POTW will prevent the reuse and recycling of wastewater and sludge from the POTW.
- E. The introduction of pollutants into the POTW will prevent the District from complying with its NPDES permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject.

2-603. Specific Prohibitions of Wastewater Discharge

It shall be unlawful for any person to discharge or deposit or cause or allow to be discharged or deposited into the wastewater treatment system of the District any wastewater which contains the following:

- A. Storm Water Drainage from ground, surface, roof headers, catch basins, unfloored area drains (e.g., commercial car washing facilities) or any other source.
- B. Other Water, including but not limited to, underground drains, sump pump discharges, natural springs and seeps, water accumulated in excavations or any other water associated with construction.
- C. Inert Suspended Solids or other inert particulate matter such as, but not limited to, fullers earth, lime slurries and paint residues, resulting in wastewater with a settleable-solids concentration greater than twenty-five(25) milliliters per liter.
- D. Unusual Concentrations of Dissolved Solids that may, alone or in conjunction with discharges from other users, cause the District's effluent to exceed water quality criteria for the pollutant in question.
- E. Oil and Grease in concentration which may or will cause obstruction to the flow in a collection line or otherwise interfere with the proper operation of the wastewater treatment system. Best Management Practices (BMP) for oil and grease shall be implemented for all food preparation facilities and industrial or commercial users having a process flow that contains Petroleum Based oil products and grease. BMP will be developed on a site-specific basis. Major areas that will be addressed are pretreatment, spill prevention, training and source control.
- F. Explosive Mixtures consisting of liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater treatment system or to the operation of the system. At no time shall two (2) successive readings on an explosion hazard meter at the point of discharge into the wastewater system, or at any point in the POTW, be more than five percent (5%), nor may any single reading be over ten percent (10%) of the lower explosive limit (L.E.L.) of the meter. Prohibited materials include, but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides. Under certain conditions, such as treated groundwater from an underground storage tank remediation, these

materials may be discharged in small amounts with prior written authorization of the Manager. Waste streams at the point of discharge are prohibited if they have a closed cup flashpoint of less than sixty degrees centigrade (60°C) (140°F) using test methods specified in 40 CFR Part 261.21.

- G. Noxious Material consisting of noxious or malodorous solids, liquids or gases, which either singly or by interaction with other wastes can create a public nuisance or hazard to life or are or may be sufficient to prevent entry into any portion of the wastewater system for its maintenance and repair.
- H. Improperly Shredded Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the wastewater system, with no particle greater than one-half inch (1/2") in any dimension.
- I. Radioactive Wastes or Isotopes of such a half-life or concentration that they do not meet regulations set forth by CDPHE in the latest edition of Rules and Regulations Pertaining to Radiological Control.
- J. Solid, Viscous or Liquid Wastes which will or may cause obstruction to the flow in a collection line or otherwise interfere with the proper operation of the wastewater treatment system. Prohibited materials include, but are not limited to: grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing fuel or lubrication oil and similar substances.
- K. Toxic Substances in amounts which exceed pretreatment standards, and chemical elements or compounds, or other taste- or odor-producing substances, or any other substances which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the treatment system of which will be transmitted through the system to receiving water.
- L. Substances which are not amenable to treatment of prescribed reduction by the treatment process employed by the District or are amenable to such a limited degree of reduction that a discharge of such wastewater would result in effluent discharge from the treatment works that does not meet requirements of state, federal and other agencies having jurisdiction over discharge or application to receiving water and/or lands.
- M. Wastes With Color not removable by the treatment process, which consequently imparts color to the plants effluent thereby violating the District's NPDES permit.
- N. Corrosive Wastes which will cause corrosion or other deterioration of the Wastewater treatment system. All wastewater discharged into the wastewater system must have an instantaneous pH value in the range of five and one-half (5.5) to ten (10) standard units inclusive.
- O. Spent process chemicals, solutions or materials, hazardous waste as

defined by the Federal Resource Conservation and Recovery Act; and other materials normally used in industrial/commercial/laboratory operations unless specifically authorized in writing by the Manager and after suitable treatment as approved by the Manager has been affected.

- P. Hospital Wastes: Hospitals, clinics, offices of medical doctors and convalescent homes shall not dispose of laboratory pathological wastes, surgical operating room wastes, delivery room wastes by discharge to the public sewer.
- Q. Biocides as determined by the Manager in concentrations exceeding two hundredths.
- R. Any pollutant, including oxygen demanding pollutants (e.g., BOD) released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.
- S. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- T. 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.
- U. Any trucked or hauled wastes or pollutants, except for campers and recreational vehicles and only at discharge points designated by the District.
- V. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the District's treatment plant exceeds 40C (104F) unless the Approval Authority, upon request of the District, approves alternate temperature limits.
- W. Sludges, screenings or other residues from the pretreatment of industrial wastes.

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

2-604. Wastewater Discharge Limitations

- A. It shall be unlawful for any significant industrial user to discharge or deposit or cause or allow to be discharged or deposited any waste or wastewater which fails to comply with the limitations imposed by this Section.
- B. Consistent with the provisions of the Act, no discharger in the wastewater treatment system shall augment his use of process water or otherwise dilute his discharge as partial or complete substitute for adequate treatment to achieve compliance with these standards.

- C. Local Limitations. For any industrial user, the following table sets forth the discharge limits on the daily maximum concentration (milligrams/liter) of pollutants, as measured by a sample taken during the user's operating day, unless elsewhere specified in this Article or in the significant industrial user's wastewater discharge permit.

POLLUTANT	LOCAL LIMIT (in mg/L)
Arsenic, Total	0.10
Cadmium, Total	0.08
Chromium, Total	2.55
Chromium, Hexavalent	0.43
Copper, Total	2.32
Cyanide, Total	3.76
Iron, Total	6.85
Lead, Total	0.74
Manganese, Total	2.25
Mercury, Total	0.08
Molybdenum, Total	0.37
Nickel, Total	2.03
Selenium, Total	0.18
Silver, Total	1.17
Zinc, Total	15.78
Chloride, Total	1312.74
Sulfate, Total	1134.29

The above limits apply at the point where the wastewater is discharged to the POTW.

- D. The above concentration-based limits may be expressed as a mass-based limit with the total mass allocated not to exceed eighty-five percent (85%) of the Maximum Allowable Industrial Loading (MAIL) determined in the Local Limits calculations. If the mass allocated becomes more than eighty-five percent (85%) of the MAIL then the mass allocations must be re-evaluated.
- E. The manager may develop Best Management Practices (BMP's), by ordinance or in individual wastewater discharge permits, to implement Local Limits and the requirement of Sections 2-602 and 2-603.
- F. National Categorical Limitations. Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I Subchapter N, Parts 405-471. Compliance with National Categorical Pretreatment Standards for existing sources subject to such standards or for existing sources which hereafter become subject to such standards shall be within three (3) years following promulgation of the standards unless a shorter compliance time is specified in the standards or by the Manager. New sources, as defined in 40 CFR 403.3(k) shall be installed and have in operating condition and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed ninety (90) days), new sources

must meet all applicable pretreatment standards.

- G. For pollutants listed herein or regulated in National Categorical Pretreatment Standards, the Manager may designate in the Significant Industrial User's Wastewater Discharge Permit, or in other formal notification, more stringent limitations for such pollutants if such are necessary to protect wastewater operations or facilities or to meet the District's permit requirements. For pollutants not listed herein and not regulated by National Categorical Pretreatment Standards, the Manager may designate in the Significant Industrial User's Wastewater Discharge Permit, or in other formal notification, prohibitions, limitations or other standards as appropriate governing such pollutants.

2-605. Point of Discharge, Limitations

- A. It shall be unlawful for any person to discharge any substance directly into a manhole or other opening in the wastewater treatment system other than through an approved service line.
- B. Liquid wastes from septic tanks, chemical toilets, and trailers, campers or other recreational vehicles which have been collected and/or held in tanks or other containers shall not be discharged into the wastewater system except at locations authorized by the Manager to collect such wastes within the District.
- C. It shall be unlawful for any person to discharge cooling waters or process waters into a storm sewer or natural outlet unless such person has a valid COPS Permit.

2-606. Disposal Limitations

- A. It shall be unlawful for any person to dispose of waste at the disposal facilities of the District where such wastes have been collected and/or held in a tank or other container and where such wastes fail to comply with any limitation set out in Part 6.
- B. The District shall endeavor to identify and compile a record of those sources which produce or may produce wastes which are or may be in violation of the limitations imposed by this Section and any such record shall be available to any person during normal business hours. However, the limitations imposed by this Section shall apply without regard to the existence, substance or availability of any such record.

PART 7 CONTROL OF PROHIBITED WASTES

2-701. Regulatory Actions, Specific Powers of Manager

- A. If wastewaters containing any substance described in Part 6 of this Regulation are discharged or proposed to be discharged into the wastewater system of the District or to any wastewater system tributary thereto, the Manager may take any action necessary to:
  - 1. Prohibit the discharge of such wastewater.
  - 2. Require a discharger to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances in conformity with this Regulation.



3. Require treatment, including storage facilities or flow equalization necessary to reduce or eliminate the objectionable characteristics or substance so that the discharge will not violate this Regulation.
4. Require the person making, causing or allowing the discharge to pay any additional cost or expense incurred by the District for handling and treating excess loads imposed on the wastewater treatment system, including any fines or legal expenses associated with alleged or actual violations of the District's COPS Permit attributed to an unpermitted user discharge.
5. Obtain timely and factual reports from the facility responsible for such discharge; or
6. Take such other or further remedial action as may be desirable or necessary to achieve the purposes of this Regulation.

2-702. Regulatory Actions, General Powers of Manager

In addition to his authority to prevent or eliminate discharges through enforcement of discharge limitations and prohibitions, the Manager shall have the following authorities:

- A. Endangerment to Health and Welfare of the Community: The Manager, after informal notice to the affected discharger, may immediately and effectively halt or prevent any discharge of pollutants into the wastewater collection system of the District, by any means available (to him), including physical disconnections from the wastewater system, whenever it reasonably appears that such discharge presents an imminent endangerment to the health or welfare of the community.
- B. Endangerment to Environment or Treatment Works: The Manager, after written notice to the discharger, may halt or prevent any discharge of pollutants into the wastewater collection system of the District, by any means available (to him), including physical disconnection from the wastewater system, whenever such discharge presents an endangerment to the environment or threatens to interfere with the operation of the District's plant.
- C. The discharges referred to above may be halted or prevented without regard to the compliance of the discharge with other provisions of this Regulation.

2-703. Submission of Plants, Pretreatment Facilities

Where pretreatment or equalization of wastewater flows prior to discharge into any part of the wastewater treatment system is required, plans, specifications and other pertinent data or information relating to such pretreatment or flow-control facilities shall first be submitted to the Manager for review and approval. Such approval shall not exempt the

user from compliance with any applicable code, rule, regulation or order of any governmental authority. Such approval shall not be construed as or act as a guaranty or assurance that any discharge is or will follow any applicable code, rule, regulation, or order of any governmental authority. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to and prior approval of the Manager.

2-704. Pretreatment Facilities Operations

If pretreatment or control of wastewater flow is required, such facilities shall be maintained in good working order and operated as efficiently as possible by the owner or operator at his own cost and expense, subject to the requirements of this Code and all other applicable codes, laws, rules and regulations.

The Manager may require the owner or operator of such facilities to submit a documented plan to the Manager describing how such equipment will be operated and maintained. Such approval shall not be construed as or act as a guarantee or assurance that any discharge is or will follow any applicable code, rule, regulation, or order of any governmental authority.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the manager, shall be located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired by the user at their expense. District policy mandates all interceptors must be completely pumped out when the interceptor contains a total of twenty-five percent (25%) grease, oils and solids.

2-705. Admission to Property

Whenever it shall be necessary for the purposes of this Regulation, the Manager or his representative, upon the presentation of credentials, may enter upon any property or premises at reasonable times, including at any time during the operating day of the user, for the purposes of:

- A. Inspecting on a regular basis or for cause to assure compliance with the requirements of this Article. An inspection shall be completed with reasonable promptness. If any samples are taken, an equal quantity shall be given, if requested, to the owner, agent or operator.
- B. Copying any records required to be kept under the provisions of this Regulation.
- C. Inspecting any monitoring equipment, or methods of discharge, or methods of monitoring; and/or
- D. Sampling any discharge of wastewater into the wastewater treatment system.

The occupant of such property or premises shall render all proper assistance

in such activities.

2-706. Protection from Accidental Discharge

Each industrial user shall provide adequate protection as approved by the Manager from accidental discharge of prohibited materials or other wastes regulated by this Regulation. Facilities and procedures to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or operator's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Manager for review and shall be approved by him before installation of the accidental discharge protection. Review and approval of such plans and operation procedures shall not relieve the industrial user from the responsibility to modify his facility as necessary to meet the requirements of this Regulation.

2-707. Report Required for Slug Discharge

If a facility has an accidental slug discharge, the owner or user of the facility responsible for such discharge shall immediately notify the Manager so that corrective action may be taken to protect the wastewater treatment system. In addition, a written report addressed to the Manager detailing the date, time and cause of the accidental discharge and corrective action taken to prevent future discharges, shall be filed by the responsible person within five (5) days of the occurrence of the non-complying discharge.

2-708. Failure to Report Accidental Discharge

It shall be unlawful for any person to fail to report any accidental discharge which violates the prohibitions and limitations of this Regulation.

2-709. Workplace Notices

A notice or notices shall be permanently posted in an unobstructed, prominent place or places within the working areas of significant industrial users, significant commercial users and significant waste generators which advise employees of whom to call in the event of a dangerous chemical discharge or potential discharge. These users shall insure that all employees who may cause or suffer to cause such a discharge to occur are advised of the emergency notification procedures.

2-710. pH Recording Meters

- A. Significant industrial users which discharge process wastewaters determined by the Manager to contain pollutants necessitating continuous pH adjustment shall, after notification by the Manager, install a continuous recording pH meter as approved by the Manager. Such a meter shall be installed, operated and maintained at the user's own cost and expense. Such records generated by this meter shall be retained for three (3) years and shall be made available to the Manager upon request.
- B. The Manager may order other significant users of the District's wastewater treatment system to install and maintain similar equipment as necessary to ensure compliance with this Article.

## 2-711. Hazardous Chemical Handling; Submission of Plans

Whenever it shall be deemed necessary by the Manager to protect the Wastewater System, Industrial Users may be required to submit documented plans describing the handling of materials regulated by Part 6 of this Regulation for the Manager's approval. Such plans may include, but not be limited to, description of plant or process closure procedures, spill prevention procedures, solvent management procedures, hazardous wastes handling, storage and disposal procedures. Such approval shall not exempt the user from compliance with any applicable code, rule, regulations or order of any government authority. Such approval shall not be construed as or act as a guarantee or assurance that any discharge or materials handling procedure is or will follow any applicable code, rule, regulations or order of any government authority.

## PART 8 INDUSTRIAL WASTEWATER MONITORING AND REPORTING

### 2-801. Discharge Points

- A. Every significant industrial user shall file an Industrial Wastewater Discharge Questionnaire on forms provided by the Manager. Unless otherwise required by the Manager, discharge questionnaires shall be filed not later than thirty (30) days after receipt of the report forms from the Manager. The Manager may require any other industrial user to discharge or propose to discharge into the wastewater treatment system to file such periodic reports.
- B. The Industrial Wastewater Discharge Questionnaire shall indicate the status of the user and shall include but, in the discretion of the Manager, shall not be limited to, nature of process, volume, rates of flow, mass emission rate, production quantities, hours of operation, concentrations of controlled substances or other information which relates to the generation of waste. Such reports may also include the chemical constituents and quantity of liquid materials stored on site even though they are not normally discharged.
- C. Every significant industrial user shall file an amended Industrial Wastewater Discharge Questionnaire two (2) weeks prior to any planned significant change in operations, wastewater constituents or wastewater characteristics. If a significant change occurs unknowingly or is unplanned, such amended discharge questionnaire shall be filed within seven (7) days after such change becomes known. A significant change shall mean a change which will be in effect for a period of fourteen (14) days or more and shall include, but is not limited to:
  - 1. Change in number of shifts, an additional processing operation, any new regulated substances used which may be discharged.
  - 2. A twenty-five percent (25%) increase or decrease in the wastewater flow or production volume.
  - 3. Any other change which may alter the average normal wastewater characteristics by a factor of one point five (1.5) or more.

D. Baseline Monitoring Reports (BMR). Within one hundred, eighty days (180) days after the effective date or a categorical Pretreatment Standard, or one hundred, eighty days (180) days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical Pretreatment Standards and currently discharging to or scheduled to discharge to the POTW shall be required to submit to the Manager a report which contains the information listed in Paragraphs 1 through 7 of this section. Where reports containing this information already have been submitted to the Director or Regional Administrator in compliance with the requirement of 40 CFR 128.140(b)(1977), the industrial user will not be required to submit his information again. At least ninety (90) days prior to commencement of discharge, New Sources, and sources that become industrial users after the promulgation of an applicable categorical Standard, shall be required to submit to the Manager a report which contains the information listed in Paragraphs 1 through 5 of this Section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New Sources shall give estimates of the information requested in paragraphs 4 and 5 of this section:

1. Identifying information. The user shall submit the name and address of the facility including the name of the operator and owners.
2. Permits. The user shall submit a list of any environmental control permits held by or for the facility.
3. Description of operations. The user shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operations carried out by such industrial user. This description should include a schematic process diagram which indicates points of Discharge to the POTW from the regulated processes.
4. Flow measurement. 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:
  - a. Regulated process streams, and
  - b. Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e).

The Manager may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

5. Measurement of Pollutants

- c. The user shall identify the Pretreatment Standards applicable to each regulated process.
- d. In addition, the user shall submit the results of sampling and

analysis identifying the nature and concentration (or mass, where required by the Standard or Manager) of regulated pollutants in the Discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations.

- e. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, twenty-four (24) hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The Manager may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.
  - f. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
  - g. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Manager.
  - h. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator.
  - i. The Manager may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
  - j. The baseline report shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
3. Certification. A statement, reviewed by an authorized representative of the industrial user (as defined in 40 CFR 403.121) and certified to 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 for the industrial user to meet the Pretreatment Standards and requirements.

4. Compliance Schedule. If additional pretreatment or O and M is required to meet the Pretreatment Standards, the shortest schedule by which the industrial 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. Where the industrial 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 paragraph D of this section, the information required by Paragraphs D(6 and 7) of this section shall pertain to the modified limits.

- b. 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 paragraph D of this section, any necessary amendments to the information requested by paragraphs D(6 and 7) of this section shall be submitted by the user to the Manager within sixty (60) days after the modified limit is approved.

E. 90-Day Compliance Reports: Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to Pretreatment Standards and Requirements shall submit to the Manager a report containing the information described in this section. For industrial users subject to equivalent mass or concentration limits established by the Manager in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant per unit of production (or other measure of operation), this report shall include the user's actual production.

F. Self-Monitoring Compliance Report: Any user subject to a National Categorical Pretreatment Standard, shall submit to the Manager during the months of June and December, unless required more frequently in the Colorado Pretreatment Regulations Section 4.3.13.D(1)(d) or by the Manager, a self-monitoring report on forms provided by the Manager, indicating the nature and concentration, of pollutants in the effluent which are limited by such Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the Manager or the Pretreatment Standard necessary to determine the compliance status of the user.

G. Should the Manager deem it necessary to assure compliance with provisions of this Article, any nonresidential user of the District's wastewater

treatment system may be required by the Manager to submit a wastewater discharge questionnaire on forms provided by the Manager. Any user subject to this reporting requirement shall submit a completed report no later than thirty (30) days after receipt of the notification and appropriate forms.

- H. Any holder of a significant Industrial Wastewater Discharge Permit or commercial user discharge permit shall submit to the Manager such additional reports as specified as conditions of the user's permit or otherwise deemed necessary by the Manager.
- I. All reports and questionnaires required to be submitted by the above provisions shall bear the signature of an authorized representative of the discharging entity attesting to the accuracy of said document. Such reports and records shall be retained by the user for a minimum period of three (3) years and shall be made immediately available upon request of the Manager.
- J. If sampling performed by an industrial user indicates a violation, the user shall notify the Manager within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis for the pollutant that was in violation and submit the results of the repeat analysis to the Manager within thirty (30) days after becoming aware of the violation, unless otherwise notified in writing by the Manager. The industrial user is not required to resample if the user is adhering to an approved compliance schedule.
- K. Industrial users shall follow the notification requirement as set forth under 40 CFR 403.12(p) and the CDPHE Pretreatment Regulations 4.3.130(9) for the discharge into the POTW of a substance, which if otherwise disposed of, would be a hazardous waste under 40 CFR 261.
- L. All industrial users shall promptly notify the District in advance of any substantial change in the volume or character of pollutants in their discharge, or any change at its facility affecting the potential for a slug discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under Section K, above.
- M. A wastewater discharge permit application charge, as provided in the wastewater tariffs, shall be payable by the applicant at the time the application is submitted. Checks shall be made payable to the order of Cherokee Metropolitan District.
- N. The Manager shall evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Manager may issue a significant industrial user wastewater discharge permit subject to the terms and conditions provided.

#### 2-802. Records and Monitoring

- A. All industrial users who discharge or propose to discharge wastewaters to the wastewater treatment system shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of



information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documents associated with Best Management Practices undertaken. 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. The user shall maintain such records of production and related factors, effluent flows and amounts or concentrations of controlled substances as are necessary to demonstrate compliance with the requirements of this Ordinance and any applicable State or Federal pretreatment standards or requirements.

- B. All such records shall be retained by the user for a minimum period of three (3) years and shall be made immediately available upon request of the Manager at any time during said three (3) year period or so long as actually retained.
- C. Should the Manager deem it necessary to fulfill the purposes of this Regulation, the owner or operator of any premises or facilities discharging industrial wastewater into the wastewater system shall install at his own expense suitable monitoring equipment which isolates appropriate wastewater discharges into the wastewater system and facilitates accurate observation, sampling and measurement of appropriate discharges. Such equipment shall be maintained in proper working order and always kept safe and accessible.
- D. Where practical, the monitoring equipment shall be located and maintained on the industrial user's premises outside of the building. When such a location would be impractical or cause undue hardship to the user, the Manager may allow such facility to be constructed in the public street or easement area, with the approval of the agency having jurisdiction over such street or easement and located so that it will not be obstructed by public utilities, landscaping or parked vehicles.
- E. When more than one user can discharge into a common service line, the Manager may require installation of separate monitoring equipment for each user. When there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the Manager may require that separate monitoring facilities be installed for each separate discharge.
- F. Whether constructed on public or private party, the monitoring facilities shall be constructed in accordance with the Manager's requirements and all applicable construction standards and specifications.
- G. To fulfill the purposes of this Regulation, the Manager may order other nonresidential users of the District's POTW to maintain similar records and/or install and maintain similar facilities or equipment as noted above.

#### 2-803. Inspection, Sampling and Analysis

- A. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and always maintained in good working order. 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.

- B. The user must collect wastewater samples using twenty-four hour (24-hour) flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Manager. Where time-proportional composite sampling or grab sampling is authorized by the District, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four hour (24-hour) period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited by the laboratory. Composite samples for other samples parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the District, as appropriate. In addition, a grab sample may be required to show compliance with Instantaneous Limits.
- C. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

Laboratory analysis of industrial wastewater samples shall be performed in accordance with 40 CFR Part 136 and 40 CFR Section 403.12(g).

(1) Sampling of industrial wastewater for the purpose of determining compliance with respect to Part 6, prohibitions and limitations will be performed by the District at such intervals as the Manager may designate. However, it is the goal of this Section that the Manager conduct sampling or cause such sampling to be conducted for all significant industrial users at least one (1) time per year.

- E. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 2-801(O) and (E) [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical data are available, the manager may authorize a lower minimum. For the reports required by Section 2-801(F) [40 CFR 403.12 (e) and (h)], the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

2-804. Violations by Failure to Report: It shall be unlawful for any person to fail to report to the Manager any discharge which violates the requirements, prohibitions or limitations of this Article.

2-805. Notification: The Manager shall attempt to notify in writing any user whom Manager has cause to believe is subject to a national categorical pretreatment standard; general pretreatment standards; or other applicable requirement promulgated by the U. S. EPA under the provisions of section 204 (b) or 405 of the Act, or under the provisions of sections 3001, 3004, or 4004 of the Solids Waste Disposal Act. Failure of the Manager to notify users shall not relieve said users from the responsibility of complying with applicable requirements.

2-806. Disclosure and Availability to the Public. Except as otherwise provided in Section 2-807, all records, reports, data or other information supplied

by any person because of any disclosure required by this Chapter shall be available for public inspection.

#### 2-807. Confidentiality of Trade Secrets

- A. The provisions of Section 2-806 shall not be applicable to any information designated as a trade secret by the person supplying such information. Materials designated as a trade secret may include but shall not be limited to processes, operations, style of work or apparatus or confidential commercial or statistical data.
- B. Information designated as a trade secret pursuant to subsection A of this Section shall remain confidential and shall not be subject to public inspection. Such information shall be available only of officers, employees or authorized representatives of the District charged with enforcing the provisions of this Regulation.
- C. It shall be unlawful for any officer, employee or authorized representative of the District to divulge in any manner or to any extent not authorized by judicial order or other provision of law information supplied pursuant to any requirement of this part when such information has been designated as a trade secret pursuant to subsection A of this section. In addition to any other penalties that may be imposed, any officer, employee or authorized representative of the District who violates the provisions of this subsection shall be subject to discharge from the employ of the District.
- D. Effluent data obtained by sampling any waste streams from any user by self- monitoring, monitoring by the District, or monitoring by any state or federal agency, shall not be considered a trade secret or otherwise confidential. All such effluent data shall be available for public inspection.

### PART 9 INDUSTRIAL DISCHARGE PERMIT SYSTEM

#### 2-901. Wastewater Discharge Permits Required

All significant industrial users proposing to connect to or discharge into any part of the wastewater treatment system shall obtain a discharge permit. All existing significant industrial users connected to or discharging into any part of the wastewater system shall obtain a wastewater discharge permit within ninety (90) days from notification by the Manager that such a permit is required. A separate permit is required for each facility on a separate platted lot with a separate service connection.

#### 2-902. Application for Discharge Permit

- A. Users seeking a wastewater discharge permit shall complete and file with the Manager an application on the form prescribed by the Manager. The User will have thirty (30) calendar days to complete and return the application to the District. In support of this application, the user shall be required to submit the following information:
  - 1. Name, address and user classification number of the applicant.

2. Average daily discharge rate of wastewater.
  3. Wastewater constituents and characteristics including, but not limited to, those set forth in Part 7 of this Regulation as determined by an analytical laboratory approved by the Manager.
  4. Time and duration of discharge.
  5. Average and thirty (30) minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any.
  6. Site plans, floor plans, mechanical and plumbing plans and details to show all service lines and appurtenances by size, location, elevation.
  7. Description of activities, facilities and plant processes on the premises, including all materials and types of materials which are or could be discharged into the wastewater system.
  8. Each product produced by type, amount and rate of production.
  9. Number and type of employees, and hours of work.
  10. Any other information deemed by the Manager to be necessary to evaluate the permit application.
  11. A certification statement as set forth in 40 CFR Part 403.6(a) (2) (ii).
  12. The signature of the authorized representative of the user.
- B. There shall be and there is hereby established a wastewater discharge permit application charge of fifty dollars (\$50.00) for each permit application. Each charge shall be payable by the applicant at the time the application is submitted.
- C. The Manager shall evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Manager may issue a wastewater discharge permit subject to the terms and conditions provided herein.

2-903. Issuance of Discharge Permit

- A. The Manager shall issue a wastewater discharge permit to the applicant if the following conditions are met:
1. The proposed discharge of the applicant follows the prohibitions and limitations of Part 6 of this Regulation.
  2. The proposed discharge of the applicant would permit the normal and efficient operation of the wastewater treatment system.
  3. The proposed discharge of the applicant would not result in a violation by the District of the terms and conditions of its NPDES permit or pass through of any toxic materials to the environment.

- B. If the Manager finds that the condition set out in subsection A(1) of this Section is not met, the Manager may issue a wastewater discharge permit to the applicant if the conditions set out in subsections A(2) and A(3) of this Section are met and if the applicant submits, and the Manager approves, a schedule setting out the measures to be taken by the applicant and the dates such measures will be implemented to insure compliance with the provisions of this Regulation.

2-904. Denial of Hearing, Discharge Permit

- A. In the event an application for a wastewater discharge permit is denied, the Manager shall notify the applicant in writing of such denial. Such notification shall state the grounds for such denial with that degree of specificity which will inform the applicant of the measures or actions which must be taken by the applicant prior to issuance of a permit.
- B. Upon receipt of notification of denial of a permit application, the applicant may request and shall be granted a hearing to be held by the  
  
Manager. At such a hearing the applicant shall have the burden of establishing that the conditions set out in 2-903 of this Regulation have been met and that a permit should be issued.
- C. The Manager may conduct the hearing and take the evidence or may designate a representative to:
  - 1. Issue in the name of the Manager notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
  - 2. Take the evidence.
  - 3. Transmit a report of the evidence and hearing, including transcripts and other evidence, to the Manager together with recommendations for action.
- D. Testimony taken at any hearing shall be recorded electronically. The transcript as recorded shall be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.
- E. Upon review of the evidence by the Manager, the Manager shall make written findings of fact. Thereupon the Manager may issue a wastewater discharge permit, or direct that such permit shall not be issued, or give such other or further orders and directives as are necessary and appropriate.
- F. Any party to the hearing aggrieved or adversely affected by an order of the Manager may appeal such an order to the Board of Directors.

2-905. Conditions of Discharge Permit

Wastewater discharge permits shall be expressly subject to all provisions of this Ordinance and all other regulations, user charges and fees established by the District. The conditions of wastewater discharge permits shall be

uniformly enforced in accordance with this Regulation and applicable state and federal regulations. Permit conditions may include the following:

- A. The unit charge or schedule of user charges and fees for the wastewater to be discharged to the system.
- B. Reporting requirements to indicate chemicals purchased, used, disposed and method of disposal, including a description of and limitations placed upon the discharge point.
- C. Limits on rate, time and characteristics, including average and maximum wastewater constituents and characteristics, of discharge or requirements for flow regulations and equalization.
- D. 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.
- E. Development and implementation of waste minimization plans to reduce the number of pollutants discharged to the POTW.
- F. A statement that compliance with the individual 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 individual wastewater discharge permit.
- G. Requirements for installation of inspection and sampling facilities and specifications for monitoring programs and/or record keeping.
- H. Requirements for maintaining and submitting technical reports and plant records relating to wastewater discharges, and quantities or general characteristics of wastewater tank contents.
- I. Daily average and daily maximum discharge rates or other appropriate conditions, when substances subject to limitation and prohibition, including BMPs based upon applicable pretreatment standards, are proposed or present in the user's wastewater discharge.
- J. Compliance schedules, requirements for the installation of facilities or implementation of procedures to prevent and/or control slug discharges of regulated materials at the user's premises.
- K. Other conditions to ensure compliance with this Regulation, and state and federal laws, rules, and regulations.
- L. Upon request by the Manager, all records kept pursuant to this Section shall be submitted to the Manager for review.

#### 2-906. Duration of Discharge Permit

- A. Permits shall be issued for a specified time, not to exceed five (5) years. A permit may be issued for a period of less than one (1) year or may be stated to expire on a specific date. An expired permit will continue to be effective and enforceable until a new permit is issued if:

1. The industrial user submitted a complete permit application at least ninety (90) days prior to the expiration date of the existing permit, and
  2. The failure to issue a new permit before expiration of the previous permit was not due to any act or omission attributable to the industrial user.
- B. The terms and conditions of the permit may be subject to modification and change by the Manager during the life of the permit, as limitations or requirements as identified in Part 6 are modified and changed. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any such change or new condition in the permit shall include a reasonable time schedule for compliance.
- C. Annual permit renewal charges shall be paid as required by the Wastewater tariffs.

2-907. Applicant to be Notified of Proposed Permit Conditions; Right to Object

- A. Upon completion of his evaluation, the Manager shall notify the applicant of any permit conditions which he proposes.
- B. The applicant shall have fourteen (14) days from the date of the notification to file written objections with the Manager to any permit conditions. The Manager may, but shall not be required to, schedule a meeting with the applicant's authorized representative within fifteen (15) days following receipt of the applicant's objections, and attempt to resolve disputed issues concerning permit conditions.
- C. If the applicant files no objection to permit conditions proposed or if a subsequent agreement is reached concerning same, the Manager shall issue a wastewater discharge permit to applicant with conditions incorporated.

2-908. Transfer of Discharge Permit

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

2-909. Revocation of Discharge Permit

Any violation of the conditions of a permit or of this Ordinance or of applicable State and Federal regulations shall be reason for revocation of such permit. Upon revocation of this permit, any wastewater discharged from the affected user shall be considered prohibited and illegal. Grounds for revocation of a permit include, but are not limited to, the following:

- A. Failure of a user to accurately report the wastewater constituents and characteristics of his discharge.

- B. Failure of a user to report significant changes in operations or wastewater constituents and characteristics.
- C. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring.
- D. Falsification of records, reports or monitoring results relating to chemical materials.
- E. Tampering with monitoring equipment, or
- F. Violation of the conditions of the permit.

2-910. Regulation of Waste Received from Other Jurisdictions

- A. If another municipality, or User located outside of the District, contributes wastewater to the POTW, the manager shall enter an Intergovernmental Agreement (IGA) with the contributing entity. If the entity with whom the District has an IGA contract with additional entities, each sub-entity shall abide by these requirements. It is the responsibility of the original entity that the District has entered the IGA with, to ensure that all sub-entities have adopted an IGA and the required regulations.
- B. Prior to entering an agreement required by Paragraph A above, the Manager shall request the following information from the contributing entity:
  - 1. A description of the quality and volume of wastewater discharged to the POTW by the contributing entity.
  - 2. An inventory of all industrial users located within the contributing entity that are discharging to the POTW.
  - 3. Such other information as the Manager may deem necessary.
- C. An Intergovernmental Agreement, as required by Paragraph A, above, shall contain the following conditions:
  - 4. A requirement for the contributing entity to adopt a sewer use regulation which is at least as stringent as this regulation and Local Limits, including required Baseline Monitoring Reports (BMR's) which are as stringent as those set out in Section 2-604-C of this regulation. The requirement shall specify that such regulation and limits must be revised as necessary to reflect changes made to the District's ordinance or local limits.
  - 5. A requirement for the contributing entity to submit a revised user inventory on at least a bi-annual basis.
  - 6. A provision specifying which pretreatment implementation activities, including individual wastewater control mechanism issuance, inspection and sampling, and enforcement, will be conducted by the contributing entity; which of these activities will be conducted by the District; and which of these activities will be conducted jointly by the contributing entity and the District.



7. A requirement for the contributing entity to provide the District with access to all information that the contributing entity obtains as part of its pretreatment activities.
8. Limits on the nature, quality and volume of the contributing entity's wastewater at the point where it discharges into the District's collection system.
9. Requirements for monitoring the contributing entity's discharge.
10. A provision ensuring the District access to the facilities of industrial users located within the contributing entity's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Manager.
11. A provision specifying remedies available for the breach of the terms of the intergovernmental agreement.

2-911. Liquid Waste Haulers

No liquid waste disposal facilities are available within the District. No liquid waste hauler permits are issued.

2-912. Non-significant Industrial User Control Mechanisms

- A. A Manager may issue any industrial user (who is not otherwise a significant industrial user) who is discharging, or proposes to discharge, wastewater containing substances regulated under Part 6 of the Article, an Authorization to Discharge Industrial Wastewater, upon finding that all the following conditions are met:
  1. The actual or proposed discharge of the applicant follows the prohibitions and limitations of Part 6 of this Article.
  2. The actual or proposed operation and discharge of the applicant would permit the normal and efficient operation of the wastewater treatment system; and
  3. The actual or proposed discharge of the applicant would not result in a violation by the District of the terms and conditions of its COPS Permit or pass through any toxic materials to the environment.
- B. If the Manager finds that the condition set out in subsection A1 of this Section is not met, the Manager may issue an Authorization to Discharge to the Applicant if the conditions set out in Subsections A2 and A3 of the Section are met and if the applicant submits, and the Manager approves, an expeditious schedule setting out the measure to be taken by the applicant and the dates that such measures will be implemented to insure compliance with the provisions of this Article.
- C. Such Authorization to Discharge may contain conditions for discharging such as requirements for treatment, limitations and prohibitions, monitoring, sampling, and analysis requirements, reporting and record-keeping requirements, conditions for accessible inspections, and other conditions to ensure compliance with this Article.

PART 10 ENFORCEMENT

2-1001. Informal Enforcement Processes

Minor administrative or discharge violations will normally be corrected by using an informal enforcement action. However, when it is expected that informal actions will not achieve immediate compliance by IUs, these actions will not be considered as sole responses. Informal enforcement actions include, but are not limited to:

A. Consent Orders

The District may enter Consent Orders, assurances of voluntary compliance, establishing an agreement with any user responsible for noncompliance through an informal meeting. Such a meeting will determine

specific action to be taken by the user to correct the noncompliance within the time specified by the document. Although the meeting is informal, it does not preclude formal enforcement procedures.

B. Notice of Violation

The Notice of Violation (NOV) is an official written communication from the District to the violating User which informs the User that a violation of the Ordinance and/or discharge permit has occurred. Within 15 days of the receipt of this NOV an explanation of the violation and a list of corrective actions shall be submitted to the District. 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.

2-1002. Formal Enforcement Actions

Significant administrative or discharge violations, or the failure of a user to comply with informal enforcement responses, will lead to the use of formal administrative actions. Types include:

A. Administrative Order with Compliance Schedules

If continued discharge to the District's system by a user will not cause a significant discharge violation of the District's NPDES Permit, the District may issue the violating user a compliance schedule and/or other requirements for corrective action. The compliance schedule is a formal plan indicating the tasks that must be completed by the User and the dates by which the tasks must be completed to eliminate the cause of the violation. Other requirements may include orders for the submittal of more information, increased sampling, or management practices designed to minimize the number of pollutants discharged to the sewer system. If the compliance schedule is not met, additional enforcement actions will be taken.

B. Orders to Show Cause

Prior to taking formal enforcement action and/or discontinuing service, the District may issue an order for the user to appear at a hearing to show cause as to why additional enforcement action should not be taken.

The hearing notice is usually served personally by a District employee or sent by certified mail at least ten (10) days before the hearing. Upon review of the evidence at the hearing, the District's Manager or Board may order additional formal actions brought against the violating user. The show cause hearing is not a prerequisite to taking a formal enforcement action or to discontinuing sewer service.

C. Administrative Order with Monetary Penalties

The District may assess monetary penalties of at least two hundred dollars (\$200.00) (and not to exceed the amount of one thousand dollars (\$1,000.00) a day for each violation by industrial users of pretreatment standards and requirements. Each day on which noncompliance shall occur or continue may be considered a separate and distinct violation.

D. Revocation of Permit/Termination of Service

The District has the authority to modify, suspend, or revoke a user's wastewater discharge permit, terminate wastewater treatment service, or both, during its term for causes including the following:

1. Violation of any term or conditions of this Regulation or the Permit.
2. Obtaining a Permit by misrepresentation or failure to disclose fully all relevant facts in either the Permit or any required report.
3. Promulgation of more stringent pretreatment standards by agencies having authority over receiving waters.
4. Change in the processes used by the Permittee or changes in the discharge volume or character.
5. Changes in the design or capability of the District's POTW.
6. Changes in the District's Wastewater Rules and Regulations or the National Industrial Waste Pretreatment Regulations.
7. Failure to make timely payment of fees and charges prescribed by the District's Rules and Regulations, or the conditions of the Permit.

To terminate service, a written termination order requiring immediate termination of the discharge will be served against the user. If the user fails to voluntarily comply with the order or prevents it from being served, the District will take all necessary steps, including seeking injunctive relief or severing the sewer connection, to prevent or minimize any damage that the discharge might cause. Once service has been terminated, the User will be required to submit a detailed written statement that describes the cause of the harmful discharge and outlines measures that will be taken to alleviate the problem and prevent recurrence. Upon verifying that the problem has been resolved, the District can reinstate the user's permit and resume service.

2-1003. Civil Judicial Enforcement

A. Injunctive Relief

Whenever an industrial user has violated or continues to violate the provisions of this Regulation or permit or order issued hereunder, the

District, through counsel may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the industrial user.

B. Civil Penalties

1. Any industrial user who has violated or continues to violate this Ordinance or any order or permit issued hereunder, shall be liable to the POTW for a civil penalty of not more than one thousand dollars (\$1,000.00), plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above-described penalty and damages, the POTW may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling, monitoring and analysis expenses.
2. The District shall petition the court to impose, assess, and recover such sums. In determining amount of liability, the court shall consider all relevant circumstances, including, but not limited to, the extend of harm caused by the violation, the magnitude and duration, any economic benefit gains through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.

2-1004. Criminal Enforcement

- A. Any industrial user who willfully or negligently violates any provision of the Regulation or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than one year or both. In the event of a second conviction, the user shall be punishable by a fine not to exceed three thousand dollars (\$3,000.00) per violation per day or imprisonment for not more than three (3) years or both.
- B. Any industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Ordinance, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than one year or both.

2-1005. Public Notice of Significant Violations

On or before the first day of March of each year, the Manager shall publish, in a newspaper of general circulation that provides meaningful public notice within the authority served by the POTW, a list of the user which, at any time during the previous twelve (12) months, were in Significant Noncompliance with Applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other industrial user that violates paragraphs C, D and H of this section) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six-month (6-month) period

exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Part 6.

- B. 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-month (6-month) period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined in Part 6 multiplied by the applicable criteria (1.4 for BOD, TSS, Fats, oils and grease, and 1.2 for all other pollutants except pH).

Any other violation of a Pretreatment Standard or Requirement as defined in Part 6 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the manager determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the public.

- C. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment or has resulted in the manager's exercise of its emergency authority to halt or prevent such a discharge.
- D. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.
- E. Failure to provide within forty-five (45) 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,
- F. Failure to accurately report noncompliance.
- G. Any other violation(s) which may include a violation of Best Management Practices, with the Manager determines will adversely affect the operation or implementation of the local pretreatment program.

#### 2-1006. Notification

The Manager shall attempt to notify in writing any user whom he has cause to believe is subject to a National Categorical Pretreatment Standard; General Pretreatment Standards; or other applicable requirements promulgated by the U.S. EPA under the provisions of section 205(b) or 405 of the Act, or under the provisions of sections 3001, 3004, or 4004 of the Solid Waste Disposal Act. Failure of the Manager to notify users shall not relieve said users from the responsibility of complying with applicable requirements.

#### 2-1007. Affirmative Defenses

##### A. Upsets

1. Defined: An upset is defined as an exceptional incident which causes temporary and unintentional non-compliance with the

discharge limitations or prohibitions applicable to the user and which is beyond the reasonable control of the user. Upsets do not include incidents of non-compliance caused by:

- a. Operational error.
  - b. Improperly designed treatment facilities.
  - c. Inadequate treatment facilities.
  - d. Lack of adequate preventative maintenance.
  - e. Careless or improper operation of processes and treatment facilities.
  - f. A reduction, loss or failure of the user's treatment facility including, but not limited to, a power outage.
2. Claims of an upset shall constitute an affirmative defense to a charge that a user has violated discharge limitations or prohibitions if and only if the following requirements are satisfied:
- a. The user must be able to identify the specific cause of the claimed upset.
  - b. The user must establish prudent operation and maintenance of the facility at the time of the claimed upset.

The user must demonstrate compliance with operation and maintenance procedures at the time of the claimed upset, and the user must establish that notice to the WWTF of the incident was affected within twenty-four (24) hours, and that said notice described the discharge and its cause, the period of noncompliance, and the steps being taken at the time of notification to prevent a recurrence of the incident.

3. The burden of proving that an upset has occurred shall be on the user.

#### B. Bypass

Bypass which exceeds applicable pretreatment standards is prohibited unless all the following conditions are met:

1. The bypass was unavoidable to prevent loss of life, personal injury or severe property damage.
2. There were no feasible alternatives to bypass, such as use of auxiliary treatment facilities, retention wastes, maintenance or during normal periods of equipment downtime, discontinuance of the process generating the wastewater.
3. The industrial user submitted notices which:
  - a. Were made, if possible, ten (10) days before the date of the bypass.

- b. If after a bypass, within twenty-four (24) hours, orally notified the District of an unanticipated bypass that exceeds applicable pretreatment standards or requirements. A written explanation for the bypass, description of it, and correction measures shall be submitted within seven (7) days. This written report may be waived by the District if the oral report is adequate.

ARTICLE 3 WATER CODE  
PART 1 WATER DIVISION

3-101. Responsibility of Water District

The Water District shall be responsible for the water supply system serving the District and such other areas as authorized by the Board of Directors.

3-102. Responsibility of the Manager

The Manager of the Water District shall be responsible for the management of the water system of the District and all the appertaining property. He shall see that such system and such property are kept in good working order and repair. He shall ensure proper compliance with all local, state, and federal regulations for the collection, transmission, treatment and distribution of water and shall perform all other duties in connection with such system as may be required of him by the Board of Directors.

3-103. Adoption of Rules and Regulations

Rules and regulations adopted by the Manager may consist of, but shall not be limited to, standards and requirements for installation, construction, maintenance, repair or replacement of property appertaining to the water system, standards and requirements for providing water service to the public and standards and requirements for ensuring the potable and palatable quality of water. In establishing such rules and regulations, the Manager shall seek to provide for the safe and efficient operation of the water supply system, for a water supply sufficient to satisfy the public needs, and for water quality, by protecting the water supply and the public from polluting or unsanitary substances and conditions.

PART 2 WATER SERVICE

3-201. Application for Service

- A. Any person desiring to connect a service line to the water supply system of the District shall make an application to the District for water service. The application for service shall be supplemented by any plans, specifications or other information deemed necessary by the Manager to determine compliance with all regulations or rules concerning the water system. The Manager or designee and water treatment and distribution ORC shall review and approve or disapprove the application for complying with or failing to comply with all regulations or rules concerning the water system of the District. Upon approval of such an application, all applicable fees and charges shall be paid.
- B. No premises shall be supplied with water from the water system unless the same shall be designated by official number and such number placed and maintained conspicuously thereon.



3-202. Policy for Service Outside District

- A. No water service will be furnished outside the District except where the Board of Directors has expressly authorized such a service according to all applicable Rules and Regulations, State and Federal laws and upon proper legal notice in an open and public meeting.
- B. All provisions of this Regulation apply to those areas outside the boundaries of the District, except those areas covered by a contract which expressly establishes other rules for the area served under the contract.

3-203. Application for Service Outside District

Any person desiring to connect a service line which is located outside the boundaries of the District to the water supply system shall comply fully with all rules and regulations of the District. Such a person shall then make an application to the District for water service. The application for service shall be supplemented by any plans, specifications or other information deemed necessary by the Manager to determine compliance with all rules and regulations concerning the water use system. The Manager and water treatment and distribution ORC shall review and approve or disapprove the application as complying or failing to comply with all rules and regulations concerning the water system of the District.

3-204. Special Contract Service

The District may provide by contract for the use of and connection to the water supply system of the District by governmental institutions, municipal corporations or other similar users. Such contracts shall expressly provide for compliance by such users with regulations and rules of the District concerning the water supply system. Such contracts shall be further subject to such other terms and conditions as the Board of Directors shall see fit to impose. Such contracts, and the terms conditions and/or renewals thereof, existing on the effective date of this Regulation shall remain in full force and effect.

PART 3 CONNECTION AND INSTALLATION

3-301. Connections

The owner of any house or other building occupied for business or residence purposes, situated within the District and abutting any street, alley or right-of-way in which there is now located, or may in the future be located, a water distribution main of the District, is hereby required at such owner's expense to connect such building by means of a service line directly with the distribution main in accordance with the provisions of this Ordinance. The point or points at which connection is made to the distribution main shall be determined by the Manager.

3-302. Connection Requirements

No existing wells will be allowed to supply water for human consumption. Existing wells must be disconnected from existing buildings or homes but may be used for irrigation.

3-303. Violation for no Connection

It shall be unlawful for any person who owns any house or other building occupied for business or residence purposes situated within the District to fail to connect such house or building to a water supply system in accordance with the requirements of this Part.

3-304. Connection Permits

No connection to the water supply system of the District shall be made without first obtaining permission issued by the District.

3-305. Unauthorized Connections Prohibited

It shall be unlawful for any unauthorized person to uncover, make any connection with or opening into, use, alter or disturb any distribution main or appurtenance thereof without first obtaining written permission from the Manager. Any such connection shall be made in compliance with the provisions of this Ordinance.

3-306. Connection to System, Exclusion of Liability

The District shall not be subjected to any liability for any deficiency in the installation, which is not discovered by inspection, nor shall the owner of the premises be absolved from liability for such deficiency and any resulting damage or from responsibility to correct such deficiency.

3-307. Excavations for Installation

All excavations for water service installation or repair shall be performed in accordance with the Code of the District and the rules and regulations of the District as applicable. Such excavations shall meet all applicable safety standards, including any requirements as to barricades and lights. Streets, sidewalks, parkways and other public property disturbed in the course of work shall be restored in a manner satisfactory to the District.

3-308. Exceptions for Separate Service Lines for Buildings

- A. A separate and independent service line shall be provided for every building.
- B. A separate and independent service line shall be provided for every unit a multi-unit commercial or industrial building for new construction beginning September 13, 2004.
- C. Where one building stands at the rear of another or an interior lot which cannot be subdivided, and where no service line is available nor can be constructed to the rear building through an adjoining alley, court, yard or driveway, the service line of the front building may be extended to the rear building and the whole considered as one water service.

- D. Multi-family or commercial or industrial complexes having more than one building on a single-platted lot owned by one person may have the individual buildings connected to a single common service line, unless and until such lot is re-subdivided or the buildings otherwise become separately owned in which case independent connections shall be made.
- E. The District does not assume any obligation nor acquire any liability for damage to the connecting property or any portion thereof caused by or resulting from any such connection to the water supply system as aforementioned.

3-309. Conformance to Rules and Regulations for Service Lines

The size, slope, alignment and materials of construction of a service line, and the methods to be used in excavating, placing of the pipe, jointing, testing, backfilling, and inspection of trench shall all conform to the requirements of the Building and Plumbing Codes and Water Service Standard Specifications and other applicable rules and regulations of the District.

3-310. Standards for Service Lines

- A. All service lines for connection to the water supply system of the District shall be installed in accordance with the provisions of this Ordinance and of Water Service Standard Specifications.
- B. All service lines and pipes appurtenant thereto which are laid in streets, alleys or other public grounds shall be of type "K" copper.
- C. All service lines shall be laid at such depth that the top of any such line throughout its length is not less than five feet (5') below the finished surface of the ground.
- D. All service lines shall be connected to a curb stopcock so that water may be shut off from the service line at any time. Such stop cock shall be level with the adjacent ground surface and shall be protected by an adjustable iron box or cylinder not less than five feet (5') in length.
- E. A water pressure regulator shall be installed on each service line connected to a distribution main owned by the District.

3-311. Maintenance of Service Lines

Responsibility for the maintenance and repair of the service line and appurtenances thereto, from and including the connection from the stopcock to the premises served, shall be borne by the owner of such premises. The owner shall keep the service line and all pipes and fixtures on his premises in good repair to prevent waste of water. Where more than one premise is connected to a single service line, the owners of the respective premise shall be jointly and severally responsible for maintenance and repair of the service line.

3-312. Manner of Extensions in Mains and Lines

Distribution mains to supply and distribute water to and throughout areas or additions shall be extended by the owner or developer of premises to be served by such lines from the existing distribution main to the point or points of

the property line of such premises farthest from the existing distribution main. Such an extension requirement may be waived by the Manager if he determines that extension to the farthest point from the existing distribution main is not necessary for the efficient expansion of the water supply system. In any event, distribution mains shall be extended by the owner or developer of premises to be served by such mains to a point which permits the shortest possible service line between the distribution main and the property line of the premises served thereby. Thereafter said distribution mains shall be extended to adjoining premises in compliance with the latest edition of Standard Specifications for Water Main Installations as promulgated, supplemented and amended by the Manager. Extensions shall not be made for remote or isolated service unless the applicant requesting such service shall provide for the cost of such extension to the point of service and such extension is approved by the Manager.

3-313. Compliance with Subdivision Regulations for Mains and Lines

No water distribution main or service line shall be laid or placed in any proposed addition to or subdivision within the District until said addition or subdivision is platted and approved.

3-314. Conditions for Use, Existing Lines

Existing service lines and/or distribution mains may be used in connection with the new buildings only when they are found by the Manager to meet all the requirements of the Regulation.

3-315. Requirements for Commencement and Completion of Construction

Construction of any building or facility to be served by a connection with the water supply system of the District shall be commenced within one hundred twenty (120) days from the date of approval or payment of the charges set out in this Section and such construction shall be pursued to completion without suspension or abandonment. Failure to comply with the above requirements shall result in cancellation of the connection permit and the return of the connection charge less expenses incurred by the District to determine such noncompliance.

3-316. Disconnection

- A. For the purposes of this Section, "customer" shall mean the person designated on the District's records as the person responsible for payment of charges incurred for the use at his premises of the water supply system of the District.
- B. The District shall disconnect the service line of premises from the distribution main of the District upon request of the customer. Such disconnection shall be accomplished in a manner which ensures against leakage of water.
- C. If the premises of a customer are disconnected from the water supply system of the District, such customer shall be responsible for all costs of such disconnection. In no event shall taps serving the premises of any customer be transferred to another premises.
- D. If a customer desires to install a new service line for premises for which an existing service line is available, the new service line shall not be connected until the existing service line is disconnected from the

distribution main.

- E. If a previously used service line is not used for a continuous period of one (1) year or more, the District may, at the customer's expense, shut off such service at the customer's stopcock; provided, however, the shut off may be delayed if the customer states in writing that the service line will be in regular use within a specific time agreed to by the District. If a customer shall fail or refuse to pay the cost of such shut off within thirty (30) days after billing, then, in addition to other remedies that may be available to the District, such cost may be assessed against the property formerly served in the same manner as development charges may be assessed against the property.
- F. If a previously used service line is not used for a continuous period of five (5) years or more, such service line shall be deemed to be abandoned, unless a letter of agreement is entered into between the customer and the District. When a service line is deemed to be abandoned, there shall be no further obligation on the District to provide water to that service line. The obligation to serve shall not again arise except upon reapplication.

#### PART 4 COSTS AND CHARGES

##### 3-401. Cost of Water Facilities

- A. A property owner or developer shall be responsible for the cost and construction of all water distribution mains, up to and including twelve inches (12") in diameter, and the appurtenances thereto, including any required fire hydrants necessary to serve the property or development upon approval by the District of the plans and specifications of such facilities and appurtenances. The District shall inspect and approve the actual construction prior to connection of such facilities.
- B. When an owner or developer finds it necessary to construct water supply and distribution facilities through or adjacent to unserved or undeveloped lands, such owner or developer shall pay the entire cost of such facilities. However, the District may agree in writing with such owner or developer to assist in the collection of pro ratas share of the actual cost of such facilities from the owner of such unserved or undeveloped lands at the time of connection to the facilities and refund such cost to the owner or developer.
- C. If water pumping facilities are required, the cost of such facilities shall be the responsibility of the owner or developer of the property served. Where it appears that more area or land may be served by the water pumping facilities, the District may require a greater pumping capacity than necessary to service the initial development. Where such greater capacity is required, the District shall agree in writing with the owner or developer to assist in the collection of a pro rata share of the actual cost of such facilities from future users at the time of connection to the water system and shall refund such share of the cost to the owner or developer.
- D. Recovery Agreements
  - 1. An owner or developer who is a party to a recovery agreement with the District shall provide a complete detailed summary of all construction costs to the District within ninety (90) days after completion of

construction. Failure to provide such construction cost information shall relieve the District of responsibility to assist in the collection of a pro rata share from subsequent connectors; provided, nothing contained herein shall relieve a subsequent connector from the obligation to pay a reasonable cost of construction, such reasonable cost to be determined by the Manager based on the best information available to him at the time.

2. The owner or developer and the Manager shall jointly determine the service area of the facilities constructed by the owner or developer and shall jointly determine a recovery charge, which normally shall be on a per-front foot basis. If the owner or developer and the Manager fail to agree, the determinations of the Manager shall be subject to review by the Board of Directors.
3. Unless the Board of Directors approves otherwise, the right of an owner or developer to reimbursement under the provisions of a recovery agreement shall not extend beyond a period of ten (10) years from the date of the execution of the agreement.

#### 3-402. Installation Cost

All costs and expenses incidental to the installation and connection of a service line from the distribution main to the premises shall be borne by the owner of such premises. The owner shall indemnify the District for any loss or damage to the District that may directly or indirectly be occasioned by installation of such service line.

#### 3-403. Connection Charge

In each lot, area, territory, subdivision or addition, inside or outside the corporate limits of the District, for which a request for water service connection or addition to the water supply system of the District shall be made, there is and shall be a connection charge for each service line in said area. The connection charge shall consist of a tapping charge and a water development charge (tap fee charge).

#### 3-404. Tap Fee Charge

- A. A tap fee charge shall be assessed for each new connection to the water supply system of the District to partially compensate the District for the base water supply required for each service. The fees and charges provided herein shall only be increased by the same percentage as the average residential charge for water service is increased and to be effective upon such an increase.
- B. A tap fee charge shall be assessed for each service line and shall be collected prior to issuance of a building permit, in amounts as follows:

**Cherokee  
Metropolitan District  
In-District Tap Fee  
Schedule**

Single Family Residential, Commercial, Industrial				
Tap Size	Water		Wastewater	Estimated Total
	Infrastructure Fee	Development	Infrastructure Fee	
0.75"	\$8,750	\$6,300	\$6,000	\$21,050
1"	\$11,700	\$11,200	\$10,650	\$33,550
1.5"	\$17,550	\$25,200	\$24,000	\$66,750
2"	\$23,400	\$44,800	\$42,650	\$110,850
Tap fees for meters larger than 2" to a single user assessed based on projected water use				
Cost of meter and installation included in water infrastructure fee for meters 2" and less				
Irrigation meters assessed water fees only				

Individually Metered Townhomes and Multiplexes (0.75" Meter)				
Tap Size	All Fees Assessed Per Unit			
	Water		Wastewater	Estimated Total per unit
	Infrastructure Fee (Includes Meter)	Development	Infrastructure Fee	
0.75"	\$3,240	\$5,400	\$4,450	\$13,090

Apartments Not Individually Metered (0.75" Unit Connection)				
Tap Size	All Fees Assessed Per Unit			
	Water		Wastewater	Estimated Total per unit
	Infrastructure Fee	Development	Infrastructure Fee	
0.75"	\$2,000	\$4,050	\$3,850	\$9,900
Cost of each building meter to be billed to Developer at time of installation				

C. The charges referred to in this Section shall be applicable to any increase in the size of existing service lines. A charge shall be assessed for any such increase in the amount representing the difference between the charge imposed for the existing tap size and the charge imposed for the size of the proposed tap. Such a charge shall be collected prior to issuance of a tapping permit.

D. Payment of tap fee charges provided herein shall be payable in full in cash before the building permit is issued or as directed by the Board of Directors.

**3-405. Credit for Charges**

If a property owner or developer, with the approval of the Manager, connects a new building or structure to a previously existing service

line, without changing the size of such service line, such owner or developer shall not be required to pay a water development charge.

3-406. Minimum Monthly Charge

A. For premises located within the boundaries of the District, the monthly minimum rates and charges for water supplied to users shall be as follows:

	<b>Water Meter Size</b>	<b>Service Charge</b>
	<b>(inches)</b>	<b>(per month)</b>
	5/8" & 3/4"	\$22.00
<i>One unit = 748 gallons</i>	1"	\$39.11
<i>748 gallons = 100 cf</i>	1 1/2"	\$88.00
<i>7.48 gallons = 1 if</i>	2"	\$156.44
	3"	\$352.00
	4"	\$625.78
	6"	\$1,408.00

B. For premises located without the boundaries of the District, the monthly rates and charges for water supplied to users and measured by meter for each month shall be determined by the Manager.

3-407. Special Rates and Charges

A. Discounts. None.

B. Surcharges. For premises located within and without the boundaries of the District which utilize pumping facilities to accomplish adequate water service, a surcharge may be imposed in an amount which represents the costs of operation and maintenance of such facilities.

3-408. Charges for Temporary Service

A. The District may establish temporary water service to supply water for use in connection with the construction, alteration or repair of buildings or other similar activities. Any person desiring such a service shall make application to the District.

B. Water service furnished by the District pursuant to this Section shall be metered to measure the amount of water consumed unless the Manager determines that such amount may be otherwise adequately determined. A water meter shall be furnished by the District.

C. Persons furnished water service pursuant to this Section shall pay costs incidental to such service and shall pay user charges for water consumed in amounts as the Board of Directors shall designate by Resolution.



## PART 5 REGULATIONS FOR USE OF WATER

### 3-501. Determination of Use by Board of Directors

To maintain adequate water pressure and water supply and/or proper water quality, the Board of Directors may restrict or deny the use of water by any user. Such restrictions may include, but shall not be limited to, designation of the type and number of uses of water which shall be permitted and/or any other restriction which the Board of Directors may deem necessary.

### 3-502. Restrictions of Use First Applied to Outside Users

If the Board of Directors determines that, owing to shortages of water caused by dry spells, adverse climatic conditions or other causes, restrictions as to the use of water are necessary to preserve an adequate supply of water, such restrictions may be applied first to users outside the boundaries of the District as the Board of Directors may direct.

### 3-503. Certain Uses Prohibited

It shall be unlawful for any person to directly or indirectly sell or otherwise dispose of water service furnished by the District for the use of such person or to do any other act except in accordance with the service contract or in accordance with the Rules and Regulations of the District, or in accordance with specific written permission from the Manager.

### 3-504. Unlawful to Steal Water

It is unlawful for any person to take or use any water from the water supply system of the District, or to aid or abet any person in such taking or using, otherwise than in compliance with this Ordinance.

### 3-505. Evidence of Unlawful Taking

Occupancy of any premises for which the District supplies water for any purpose for any length of time greater than three (3) days, without entering into a water service agreement with the District, shall be prima facie evidence of the unlawful taking or use of water by the owner of such premises.

## PART 6 WATER METERS

### 3-601. Required Meters

Except as otherwise provided by contract or by Resolution of the Board of Directors, the District shall install a water meter at the premises of each user of the water supply system of the District. Such a meter shall be capable of measuring the consumption of water at such premises, which measurement shall be recorded at periodic intervals as necessary for the purpose of determining the amount of applicable user charges. One or more meters shall be installed at each of such premises for each user charge rate at which such user receives service at such premises.

3-602. Installation and Maintenance of Meters

All water meters shall be furnished and installed by the District at the expense of the District and the District shall retain ownership of such meters. The District shall perform all necessary maintenance and/or repair of meters, including replacement of meters; provided, however, that the property owner shall be responsible for protecting the meter against freezing and damage.

3-603. Installation and Location of Metering Facilities

- A. The owner or developer of each premises served or to be served by the water supply system of the District shall provide and install sufficient and proper meter loops and other necessary facilities for the installation of a water meter. Such facilities shall be provided and installed at the expense of such owner or developer and in accordance with all applicable ordinances of the District and rules and regulations of the District. No meter shall be installed until such facilities have been inspected and approved by the District.
- B. The location of meter installation facilities and other metering equipment upon the premises shall be designated by the Manager. Such a location shall provide for adequate clearance to ensure that the meter and appurtenant facilities and equipment are readily accessible for the purposes of reading, testing, maintaining and repairing the meter. The location of water and appurtenant facilities shall be such as to prevent obstruction of or interference with traffic, streets, driveways, sidewalks, hallways or other passageways, or the opening or closing of doors or windows, and to provide for protection from hazard.

3-604. Unlawful Acts

It shall be unlawful:

- A. for any person to install a bypass without the written authorization of the Manager.
- B. for any customer or the user at any premises knowingly to receive water service by means of a bypass which has not been authorized in writing by the Manager or knowingly to receive water service by means of an authorized by-pass which is not approved or intended for water service.
- C. for any person to tamper with a water meter or other water utility equipment without the express written authorization of the Manager.
- D. for any customer or the user at any premises knowingly to receive water service by means of tampering which has not been authorized in writing by the Manager.
- E. for any person to engage in unauthorized metering.
- F. for any customer or the user at any premises knowingly to receive water service by means of unauthorized metering which has not been expressly authorized in writing by the Manager.

3-605. Restitution

As a condition of granting probation, deferred prosecution, deferred sentence or suspended sentence, the District may recommend that any person who is charged with or found guilty, as the case may be, of violating any of the provisions of the previous Section pay as restitution estimated or actual user charges for the period during which the violation existed, the cost of repairing or replacing any damaged utility equipment, and any other costs incurred by the District related to the violation including, but not limited to, costs of investigation, disconnection, reconnection, and service calls.

3-606. Evidence of Violations

Proof of the existence of any bypass, tampering or unauthorized metering, as prohibited by this Part 6, shall be deemed prima facie evidence that the customer had knowledge of the bypass, tampering or unauthorized metering if it is proved that said customer-controlled access to the water meter or other utility equipment where the by-pass, tampering or unauthorized metering is proved to exist.

3-607. Interruption of Service on Account of Tampering, Bypassing or Unauthorized Metering

Tampering, bypassing or unauthorized metering, as defined in this Section at any premises is subterfuge. Such tampering, bypassing or unauthorized metering shall be grounds for immediate disconnection of service without notice to the customer or user at such premises, and service shall not be reconnected until all deficiencies in piping, connections, meters and/or water facilities of the premises have been repaired, corrected or otherwise altered to conform to the requirements of all applicable ordinances, rules and regulations and until the requirements of this Section are met.

3-608. Reconnection Charges for Tampering, Bypassing or Unauthorized Metering

In order for water service to be reconnected to premises where tampering, by-passing, or any other unauthorized metering has incurred, the customer or user of the premises shall pay the following charges to the District prior to reconnection:

1. A service charge calculated to compensate the District for all reasonable expenses incurred on account of the tampering, bypassing, or unauthorized metering including, but not limited to, costs of investigation, disconnection, reconnection and service calls, but in no event less than one hundred dollars (\$100.00).
2. The cost of repairing or replacing any damaged utility equipment, and
3. The actual or estimated user charges not previously billed to the customer because of the tampering, bypassing, or unauthorized metering.

3-609. Estimated User Charges for Defective Meters

- A. If a meter is found not to register, to register intermittently or inaccurately, or to partially register for any period the amount of water consumed at the premises of any user of the water supply system, the District may estimate charges for the water consumed by averaging the

amounts registered over similar periods, over corresponding periods in previous years, or on such other basis as may be reasonable. If the owner or occupant of the premises in which such defective meter is found to exist is negligent in the maintenance of the meter, i.e., frozen, cut lines, the owner or occupant shall be liable for the replacement of such meter.

- B. In the event a defective meter has resulted in the overpayment of user charges by the owner or occupant of the premises in which such defective meter is found to exist, the excess amount, as determined based on estimated user charges in the manner provided in Subsection A of this Section, shall be refunded or credited to such owner or occupant.

PART 7 CONTROL AND PROTECTION OF WATER SYSTEM

3-701. Unlawful Acts

It shall be unlawful:

- A. For any person to interfere in any manner with any distribution main, meter, corporation or any other appurtenance connected to the water system or comprising a part without permission therefore obtained from the Manager.
- B. For any person to damage, impair or deface any part, appliance or appurtenance of the water supply system of the District.
- C. For any person to excavate or obstruct any line or main belonging to the District, or to do any act or thing to divert, damage, drain or otherwise to impede or hinder or tend to impede or hinder the water supply of the District without permission obtained from the Manager.
- D. For any person to damage, tamper, meddle or interfere in any way with any of the works, reservoirs, drains, trenches, mains, lines, filters, valves, gauges, devices, grounds, enclosures, buildings, structures or other property or works of the District used directly or indirectly for or in connection with the water supply system of the District.
- E. For any person to enter without authority or to trespass upon any property or works of the District used directly or indirectly upon any property or works of the District used directly or indirectly for or in connection with the water supply system of the District.

ARTICLE 4 CROSS CONNECTION PROGRAM

PART 1 PURPOSE

4-101. Purpose of Cross Connection Program

The purpose of this Regulation is to protect the Cherokee Metropolitan District's (CMD) public water system from contaminants or pollutants that could enter the distribution system by backflow from a customer's water supply system through the service connection.

References to 'public water system' or 'District' and like verbiage throughout this Regulation will be synonymous with the 'Cherokee Metropolitan District's (CMD) public water system.'

4-102. Authority

The authority to implement this program is contained in the following statute, legislation and regulations and acts:

- A. Article 1-114 and Article 1-114.1 of Title 25 of the Colorado Revised Statutes (CRS)
- B. Section 39 of 5 CCR 1002-11, Colorado Primary Drinking Water Regulations
- C. Colorado Plumbing Code

The Cherokee Metropolitan District:

Has the authority to survey all service connections within the distribution system to determine if the connection is a cross-connection;

Has authority to require customers to install, maintain, test, and inspect backflow prevention assemblies and/or backflow prevention methods;

Has authority to control all service connections within the distribution system if the connection is a cross-connection;

May control any service connections within the distribution system in lieu of a survey if the service connection is controlled with an air gap or reduced pressure zone backflow prevention assembly;

May collect fees for the administration of this program;

Shall maintain records of cross-connection surveys and the installation, testing and repair of all backflow prevention assemblies installed for containment and containment by isolation purposes, and except as otherwise provided herein, shall administer, implement, and enforce the provisions of this Regulation.

#### 4-103. Applicability

This Regulation applies to all commercial, industrial, and multi-family residential service connections within the Cherokee Metropolitan District's system and to any persons outside the District who are, by contract or agreement with CMD, users of the public water system. This Regulation does not apply to single-family residential service connections unless the public water system becomes aware of a cross-connection or a degree of hazard at the single-family connection.

#### 4-104. Definitions

Active Date means for most backflow prevention assemblies or methods that are in service year-round, the active date will be January 1. For service connections that are seasonal in nature, the active date will be the first day that the connection is pressurized, restored after the winter season or water service is provided (i.e., irrigation systems).

Air Gap means a physical separation between the free-flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel installed in accordance with standard AMSE A112.1.2.

Backflow means the undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the public water systems distribution system from any source or sources other than its intended source.

Backflow Contamination Event means backflow into a public water system from an uncontrolled cross connection such that the water quality no longer meets the Colorado Primary Drinking Water Regulations or presents an immediate health and/or safety risk to the public.

Backflow Prevention Assembly means any mechanical assembly installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the mechanical assembly is appropriate for the identified contaminant at the cross connection and is an in-line field-testable assembly.

Backflow Prevention Method means any method and/or non-testable device installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the method or non-testable device is appropriate for the identified

contaminant at the cross connection.

Certified Cross-Connection Control Technician means a person who possesses a valid Backflow Prevention Assembly Tester certification from one of the following approved organizations: American Society of Sanitary Engineering (ASSE) or the American Backflow Prevention Association (ABPA). If a certification has expired, the certification is invalid.

Containment means the installation of a backflow prevention assembly or a backflow prevention method at any connection to the public water system that supplies an auxiliary water system, location, facility, or area such that backflow from a cross connection into the public water system is prevented.

Containment by Isolation means the installation of backflow prevention assemblies or backflow prevention methods at all cross connections identified within a customer's water system such that backflow from a cross connection into the public water system is prevented.

Controlled means having a properly installed, maintained, and tested or inspected backflow prevention assembly or backflow prevention method that prevents backflow through a cross connection.

Cross Connection means any connection that could allow any water, fluid, or gas such that the water quality could present an unacceptable health and/or safety risk to the public, to flow from any pipe, plumbing fixture, or a customer's water system into a public water system's distribution system or any other part of the public water system through backflow.

Days means calendar days.

Degree of Hazard means the classification of a cross connection based on the potential that a backflow event would pose an unacceptable health and/or safety risk to the public.

Multi Family Connection means a single residential connection to the public water system's distribution system from which three or more separate dwelling units are supplied water.

Multi Family Residential Premises means a common wall premises for the purpose of multi-family residential dwelling. This may be described as a condominium, townhouse, duplex, stacked housing or other name form for multi-family housing, permanent or transient. This also includes service buildings appurtenant to a residence including garage, cottages, and other minor buildings where a Cherokee Metropolitan District's water meter is being utilized on a single platted lot and each dwelling unit in a Mobile Home Park.

Non Single-Family Residential Connection means any connection to the Water Distribution System, which in the sole discretion of the Cherokee Metropolitan District, does not meet the definition of a Single Family Residential Connection. For the purposes of administering CDPHE Rule 11.39, Multi-Family Connections are

always considered Non Single-Family Residential Connections.

Single Family means:

A single living unit that is supplied by its own separate service line or.

Multiple living units where each individual living unit is supplied by a separate service line.

Two separate single living units supplied by a common service line.

Uncontrolled means not having a properly installed and maintained and tested or inspected backflow prevention assembly or backflow prevention method, or the backflow prevention assembly or backflow prevention method does not prevent backflow through a cross connection.

Water Supply System means a water distribution system, piping, connection fittings, valves and appurtenances within a building, structure, or premises. Water supply systems are also commonly referred to as premise plumbing systems.

#### 4-105. Requirements

Cherokee Metropolitan District requires protection of the water distribution system through installation of approved backflow prevention assemblies or methods. Where backflow prevention is required, water service will not be provided to any premises until an approved backflow prevention assembly or method has been installed and tested. See the table below to determine the applicable criteria based upon the proposed connection type:

Connection Type	Backflow Prevention Required?	Type of Backflow Prevention Required
Single-Family-Residential	No, unless a Degree of Hazard exists	Degree of Hazard Based
Non-Single-Family-Residential Fire	Yes	Degree of Hazard Based
New Non-Single-Family-Residential Domestic and Irrigation	Yes	RP
Existing Non-Single-Family-Residential Domestic	Yes, if a Degree of Hazard exists	RP or Approved Air Gap
Existing Non-Single-Family-Residential Irrigation	Yes	RP or Approved Air Gap

No water service connection shall be installed or maintained by the Cherokee Metropolitan District (CMD) unless the water supply is protected as required by federal, state, county, local and CMD regulations. Service of water to any premises shall be discontinued by the District if a backflow prevention device



required by the regulations is not installed tested and maintained, or if it is found that a backflow prevention device has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

The customer's system should be opened for inspection at all reasonable times to authorized representatives of the District to determine whether cross-connections or other structural or sanitary hazards, including violations of these regulations, exist. When such a condition becomes known, the Manager shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition in conformance with state and District statutes relating to plumbing and water supplies and the regulations adopted pursuant thereto.

After sixty (60) days and no response from a customer for a survey to be scheduled, the service may be suspended until such a time a survey can be performed.

Commercial, industrial, and multi family service connections shall be subject to a survey for cross connections. If a cross connection has been identified an appropriate backflow prevention assembly and or method shall be installed at the customer's water service connection within one hundred twenty (120) days of its discovery. The assembly shall be installed downstream of the water meter or as close to that location as deemed practical by the public water system. If the assembly or method cannot be installed within one hundred twenty (120) days the public water system must take action to control or remove the cross connection, suspended service to the cross connection or receive an alternative compliance schedule from the Colorado Department of Public Health and Environment.

In no case shall it be permissible to have connections or tees between the meter and the containment backflow prevention assembly.

In instances where a reduced pressure principal backflow preventer cannot be installed, the owner must install approved backflow prevention devices or methods at all cross-connections within the owner's plumbing system.

Backflow prevention assemblies and methods shall be installed in a location which provides access for maintenance, testing and repair.

Reduced pressure principal backflow preventers shall not be installed in a manner subject to flooding.

Provisions shall be made to provide adequate drainage from the discharge of water from reduced pressure principal backflow prevention assemblies. Such discharge shall be conveyed in a manner which does not impact the waters of the state.

All assemblies and methods shall be protected to prevent freezing. Those assemblies and methods used for seasonal services may be removed in lieu of being protected from freezing. The assemblies and methods must be reinstalled and then tested by a certified cross-connection control technician upon reinstallation.

Where a backflow prevention assembly or method is installed on a water supply system using storage water heating equipment such that thermal expansion causes an increase in pressure, a device for controlling pressure shall be installed.

All backflow prevention assemblies shall be tested at the time of installation and on an annual schedule thereafter. Such tests must be conducted by a Certified Cross-Connection Control Technician.

The public water system shall require inspection, testing, maintenance and as needed repairs and replacement of all backflow prevention assemblies and methods, and of all required installations within the owner's plumbing system in the cases where containment assemblies and or methods cannot be installed.

All costs for design, installation, maintenance, testing, and inspection and as needed repair and replacement are to be borne by the customer.

The following approved devices can be used for backflow prevention:

- Air gap
- Double-check valve assembly
- Reduced pressure principal backflow assembly
- Vacuum breaker

The Colorado Department of Public Health and Environment (CDPHE) accepts the use of backflow preventers that have received approval by either University of Southern California Foundation of Cross-Connection Control and Hydraulic Research or the American Society of Sanitary Engineers (ASSE).

Existing connections for domestic and/or irrigation use. Any user at a premise where a non-single family residential connection exists and where any of the high hazards listed below exist on the premises, shall install an RP or approved air gap immediately following the meter, and generally before the first branch line leading off the service line:

- Agricultural commerce
- Auto repair shop
- Auxiliary water source
- Blood banks
- Boiler
- Bulk fill water stations
- Car wash
- Chemical processes (including temperature maintenance)

- Chiller
- Cleaning company (carpet or use of soaps and chemicals)
- Cooling tower
- Construction company (utilizing water for construction purposes)
- Dental facility
- Display fountain
- Double wall heat exchanger
- Dry cleaning/laundry
- Facilities with restricted access
- Fire suppression
- Graywater system
- Green house
- Hair salon
- Hospitals
- Hot tub
- Hydronic cooling
- Hydronic heating
- Ice machines
- Industrial
- Irrigation
- Laboratories
- Livestock facility
- Manufacturing facility
- Medical facility and clinics
- Mitigation company (filling tanks and trucks for cleaning purposes)
- Mortuaries
- Onsite storage tanks
- Pet store
- Pool
- Reclaimed water system
- Restaurants
- Solar panels
- Veterinary
- Other high hazards, as determined by Cherokee Metropolitan District

No grandfather clauses exist except for fire sprinkler systems where the installation of a backflow prevention assembly or method will compromise the integrity of the fire sprinkler system.

For new buildings, all building plans must be submitted to the Cherokee Metropolitan District and approved prior to the issuance of water service. Building plans must show:

- (a) Water service type, size, and location
- (b) Meter size and location
- (c) Fire sprinkler system service line, size, and type of backflow prevention assembly. All

fire sprinkling lines shall have a minimum protection of an approved double check valve assembly for containment of the system. All glycol (ethylene or propylene), or antifreeze systems shall have an approved reduced pressure principal backflow preventer for containment.

Dry fire systems shall have an approved double check valve assembly installed upstream of the air pressure valve. In cases where the installation of a backflow prevention assembly or method will compromise the integrity of the fire sprinkler system, the public water system can choose to not require the backflow protection.

The public water system will measure chlorine residual at location representative of the service connection once a month and perform periodic bacteriological testing at the site. If the public water system suspects water quality issues the public water system will evaluate the practicability of requiring that the fire sprinkler system be periodically flushed.

During construction, the potable water system must be protected from backflow and potential contamination. At any premises where a permanent backflow prevention device would be required, but cannot be installed immediately, a temporary backflow prevention device must be used until the permanent device is installed.

#### 4-106. Inspection, Testing and Repair

Backflow prevention assemblies shall be tested, and methods inspected by a Certified Cross-Connection Control Technician upon installation and tested/inspected at least annually, thereafter. Records of all tests must be provided to Cherokee Metropolitan District within five (5) days of completion. The tests shall be made at the expense of the customer.

Any backflow prevention assemblies or methods that are non-testable, shall be inspected at least once annually by a certified cross-connection control technician. The inspections shall be made at the expense of the customer.

As necessary, backflow prevention assemblies or methods shall be repaired and retested or replaced and tested within twenty (20) days of discovery at the expense of the customer whenever the assemblies or methods are found to be defective.

Any repairs or replacements that extend beyond twenty (20) days maybe cause for monetary assessments and/or suspension of water service.

Should an existing non-lead-free assembly need to be removed for repair or other reasons, it must be replaced with a lead-free assembly.

Testing gauges shall be tested and calibrated for accuracy at least once annually and a copy of the calibration test submitted to Cherokee Metropolitan District.

4-107. Reporting and Recordkeeping

Copies of records of test reports, repairs and retests, or replacements shall be kept by the customer for a minimum of three (3) years.

Copies of records of test reports, repairs and retests shall be submitted to the Cherokee Metropolitan District by mail, facsimile, e-mail, or hand delivered to the main office, 6250 Palmer Park Blvd. Colorado Springs, CO 80915, by the testing company or testing technician.

Information on test reports shall include, but may not be limited to,

- (d) Assembly or method type
- (e) Assembly or method location
- (f) Assembly make, model and serial number
- (g) Assembly size
- (h) Test date
- (i) Test results including all results that would justify a pass or fail outcome
- (j) Certified cross-connection control technician certification agency
- (k) Technician's certification number
- (l) Technician's certification expiration date
- (m) Test kit type and calibration date

4-108. Right of entry

A properly credentialed representative of the Cherokee Metropolitan District has the legal right of entry to survey all buildings and premises for the presence of cross-connections for contamination risk to and for determining compliance with this section. This right of entry shall be a condition of water service to protect the health, safety, and welfare of customers throughout the public water system's distribution system.

4-109. Compliance

Customers shall cooperate with the installation, inspection, testing, maintenance, and as-needed repair and replacement of backflow prevention assemblies and with the survey process. For any

identified uncontrolled cross-connections, the public water system shall complete one of the following actions within one hundred twenty (120) days of its discovery:

- (i) Control the cross connection
- (j) Remove the cross connection
- (k) Suspend service to the cross connection

The public water system shall give notice in writing to any owner whose plumbing system has been found to present a risk to the public waters system's distribution system through an uncontrolled cross connection. The notice and order shall state that the owner must install a backflow prevention assembly or method at each service connection to the owner's premises to contain the water service. The notice and order will give a date by which the owner must comply.

In instances where a backflow prevention assembly or method cannot be installed, the owner must install approved backflow prevention assemblies or methods at all cross-connections within the owner's water supply system. The notice and order will give a date by which the owner must comply.

#### 4-110. Violations and Penalties

Annual test reports received by Cherokee Metropolitan District after the required annual test date may be assessed on the following:

An assessment of fifty (\$50.00) dollars, per device, may be imposed on to the water bill, if the test report is not received within thirty (30) days of the due date. A notice of violation will be issued and an additional one hundred (\$100.00) dollars assessment, per device, may be imposed on to the water bill, if the test report is not received within sixty (60) days of the due date. The water service may be terminated if the test report is not received within ninety (90) days of the due date.

Assemblies that have failed testing will need to be repaired, replaced, or retested within twenty (20) days of notice of failure. If the assemblies are not repaired, replaced, or retested within twenty (20) days of notice this will be deemed a violation of Cherokee's Cross Connection Program Regulation and maybe assessed the following:

A notice of violation will be issued and an assessment of fifty (\$50.00) dollars, per device, maybe imposed on to the water bill if the test report is not received within twenty (20) days of the due date. An additional one hundred (\$100.00) dollars assessment, per device, may be imposed on to the water bill if the test report is not received within forty (40) days of the due date. The water service may be terminated if the test report is not received within sixty (60) days of the due date.

Any violation of the provisions of this Regulation shall, upon conviction,

be punishable as provided in all applicable statutes, laws, and regulations.

#### 4-111. Hydrant Meters and Backflow Device Assembly Rentals

Assemblies are to be returned by renters to Cherokee Metropolitan District (CMD) for inspection and testing every six (6) months.

Assemblies are to be inspected and tested upon their return to CMD.

Renters of CMD hydrant assemblies shall be responsible for all costs to repair or replace assemblies.

Assemblies cannot be altered in any form. Altering of assemblies will constitute a fine of up to ten thousand (\$10,000.00) dollars, plus labor charges and possible civil charges filed.

#### 4-112. Privately Owned Hydrant Meters

Privately owned hydrant meters used within the Cherokee Metropolitan District must have no less than a Reduced Pressure Zone (RPZ) device in line with a hydrant meter.

An air gap alone will not be recognized as an adequate backflow method.

The privately owned RPZ's must have a copy of the current 'Testing Certification' present on site and a copy must be supplied to CMD.

Cherokee personnel shall be granted access to the above-mentioned device for inspection at any time.

Denied access to inspect device may be grounds for denial of use of CMD's water supply.

#### 4-113. Conflict With Other Codes

If a dispute or conflict arises between the Colorado Plumbing Code as adopted herein, and any plumbing, mechanical, building, electrical, fire or other code adopted by the state, then the most stringent provisions of each respective code shall prevail.

ARTICLE V PARKS AND OPEN SPACES

PART 1 DEFINITIONS

**5-101. Definitions**

Amplified sounds mean music or speech projected or transmitted by electronic equipment including amplifiers, loudspeakers, microphones, bull horns or similar devices which are intended to increase the volume, range, distance, or intensity of speech.

Assault means an unlawful attempt coupled with a present ability to commit a bodily injury on the person of another.

Baseball Fields. Two non-regulation sized ball fields located adjacent to each other north of the Pavilion in Eastridge Park.

Carelessly. A person acts carelessly in a circumstance when he fails to perceive a substantial risk that the result will occur.

Deface. Alter the appearance of something by removing, adding to, distorting, or covering all or a part of the thing.

District Park(s). A park under the jurisdiction of the Cherokee Metropolitan District which has access to the common areas of its buildings and facilities.

Eastridge Park. The largest, most prominent park in the District which includes a roofed Pavilion, softball fields, and Dog Park.

Facilities means and includes those buildings under the management of Cherokee Metropolitan District.

Glass Containers. Bottles, jars, or containers made of glass.

Includes or including means including but not limited to. It in no way means to exclude.

Knowingly. A person acts knowingly with respect to conduct or to a circumstance, and his conduct is of that nature or that the circumstance exists.

On, when used in conjunction with public places such as streets, lawns, premises, or structure which is in contact with the public place or street.

Pavilion. Located at Eastridge Park, a roofed, cemented platform consisting of picnic tables, electrical outlets, and restroom and used to accommodate reserved parties and get-togethers for District's guests.



Reckless. A person acts recklessly to a result or circumstance when he is aware of and consciously disregards a risk that will result when the circumstance exists. The risk must be to such a degree that it constitutes a willful deviation from the stand or conduct that would be observed.

## PART 2 STATEMENT OF PURPOSE

### 5-201. Statement of Purpose

- A. The General Manager of the Cherokee Metropolitan District may adopt rules and regulations consistent with the provisions of this ordinance for the administration of the District's parks system. Rules and regulations adopted by the General Manager shall pertain to, but shall not be limited to, the public's general use and enjoyment of its parks and related facilities.
- B. The General Manager shall seek to establish standards that will assure safe and efficient operation of the parks system which will allow all users of the park system to equally enjoy the District's facilities that will not have adverse effects on surrounding neighborhoods and/or users or will not otherwise endanger persons or property or constitute a nuisance.
- C. The parks and recreation areas are located throughout the District and are referred to as "the Parks."
- D. To ensure the District's customers and guests enjoy these areas, the District has adopted rules ("Parks Rules") in this Regulation.
- E. The parks and open spaces within the District are overseen by the Cherokee Metropolitan District Board of Directors and designated staff. Board meetings are held the third Tuesday of each month beginning at 5:30 p.m. in the District's Board Room or as otherwise scheduled.
- F. Parks and open spaces are under the supervision of the Cherokee Ridge Golf Course and maintained by Park Maintenance Staff. The parks (not the Golf Course) adhere to the watering conservation schedule for Cherokee's service area.
- G. The parks' maintenance and capital construction projects are funded by a minimal monthly fee charged to the District's customers.

## PART 3 PARKS OPERATIONS

### 5-301. Parks Operations

- A. Eastridge Park is open to the public from dawn to dusk seven days a week. All other parks within the District are required to observe the same hours of operation. Failure to observe these hours of operation could result in a person(s) being removed from the premises and/or charged with trespass.
- B. The Dog Park is open to the public from dawn to dusk. Failure to observe these hours of operation could result in the patron being removed from the premises and/or charged with trespassing.

#### PART 4 PARKS RESERVATIONS

##### 5-401. Parks Reservations

- A. Pavilion reservations are on a first-come, first-served basis. A damage deposit (refundable contingent upon tidy cleanup) and reservation are required to reserve the Pavilion. A Park Reservation Permit, with further instructions to reserve the Pavilion, is available for printing on the District's website, <http://www.cherokeemetro.org>.
- B. Reservation fees are subject to change at any time at the discretion of the Board of Directors.
- C. The Pavilion can comfortably accommodate a gathering of up to 50 attendees. Larger parties over fifty (50) are discouraged by the management and may be subject to removal from the premises.
- D. Barbecue pits are available for use, and cleanup after each use is required. Open fires are prohibited, and violators will be escorted from the premises.
- E. A unisex restroom is available for customer use during the customer's hours of reservation.
- F. **By using or participating in activities on District property, a patron is required to release and agree to indemnify and hold harmless the Cherokee Metropolitan District and its representatives and agents from all claims or liability for damages and/or injuries incurred by the party and such minor child(ren), in connection with the District event, activity or property.**

#### PART 5 BALL FIELD RESERVATIONS

##### 5-501. Ball Field Reservations

- A. Two ball fields located on the northeast corner of Shawnee Drive and Constitution Avenue are available for reservation. They are reserved on a first-come, first-served basis and charged a per-hour nominal fee.
- B. The Ball Field Reservation Permit and reservation instructions can be printed from the District's website. A port-a-potty facility is available on the premises and is within walking distance of the ball fields.
- C. **By using or participating in activities on District property, a patron is required to release and agree to indemnify and hold harmless the Cherokee Metropolitan District and its**

representatives and agents from all claims or liability for damages and/or injuries incurred by the party and such minor child(ren), in connection with the District event, activity or property.

PART 6 PARK RULES

5-601. Park Rules

- A. Interference. The attempt to use or interfere with the use of any table or space which at the time is reserved for another party is prohibited.
- B. Fighting or Brawling. It is prohibited for any person to intentionally, knowingly, or recklessly harass, annoy, or alarm, to strike, shove, kick or cause bodily injury to another person on the District's premises. This includes engaging in acts that alarm or seriously annoy another person and that serve no legitimate purpose.
- C. Destructive Activities. Riding bicycles, skateboards, or rollerblades in the Pavilion or on playground equipment is prohibited.
- D. Drug Use. Drug use of any illegal substance, including Cannabis, is strictly prohibited.
- E. Solicitation. No forms of solicitation are allowed on public property of the District.
- F. Open Flames Outside of Designated Grilling Structures. Absolutely no open flames are allowed outside of standard grilling structures.
- G. Glass Containers. Glass containers, including bottles, jars, or containers made of glass are prohibited within all District parks.
- H. Defacing Property. Marking, injuring, or disturbing structures, rocks, buildings, signs, fences, benches, or any other part of District property is not permitted and violators will be escorted from the premises and/or charged with trespass.
- I. Destroying Vegetation. It is a violation to destroy, injure, cut any tree, plant shrub, or flower or to remove wood, turf, grass, soil, rock, or gravel from any park.
- J. Fireworks: Fireworks are prohibited within all District parks, including flying model rockets or any explosive devices.

- K. Littering. Littering is prohibited. Garbage, cans, bottles, papers, yard clippings, or other trash or other refuse generated on private property must not be brought on to District property and must be deposited elsewhere.
- L. Refuse. Refuse which has been collected during the specific event and after the event MUST be deposited in District-provided trash receptacles located on the property. Failure to clean up after a reserved event, including ball field use, WILL result in loss of reservation deposit.
- M. Parking. Ample parking is provided near the Pavilion and adjacent to the ball fields and next to the Dog Park. Parking and travel beyond designated, paved parking areas, including all motorized vehicles (except for motorized wheelchairs) are not permitted on the grass or sidewalks of the park. Any motorized vehicles traveling off designated paved parking areas will be reported to law enforcement.
- N. Overnight Parking. Overnight parking, between the hours of 8 p.m. and 8 a.m., is prohibited within the District's parks and Dog Park. Vehicles in violation may be towed away at the owner's expense.
- O. Washing or Repairing Vehicles or Machinery. All autos, trucks, bicycles, or any other conveyance are prohibited to be washed, repaired, cleaned, or serviced on the District's premises.
- P. Camping. All overnight camping, including sleeping bags, tents, pickups, and any other sleeping arrangements are prohibited. Violators will be escorted from the District's property and/or charged with trespassing.
- Q. Foul Language. It shall be unlawful for any person to play, transmit, or verbalize foul, vulgar or profane language within the premises of the District's park. This includes but, is not limited to, broadcast, shared, or openly transmitted music or speech, amplified or otherwise. Persons broadcasting or verbalizing any such music or speech shall be subject to removal from the District's park and/or charged with trespass.

Additionally, the repeated operation or maintenance of any device, instrument, or person, which endangers the comfort, health, civility, or peace of residents in the adjoining or adjacent neighborhoods shall be a public nuisance.

- O. Music Volume. It shall be unlawful for any person to recklessly make, cause, or permit excessive and unusually loud noise which may either annoy or disturb the comfort, health, peace, or safety of the public within hearing distance of or attending the District's parks' premises, parking lot, open lawns, adjacent fields, or neighboring homes.

The repeated operation or maintenance of any device, or instrument which causes discomfort or annoyance to reasonable persons of normal sensitivity or which endangers the comfort, health, or peace of residents in the neighboring adjoining or adjacent area shall be a public nuisance.

Any District official who hears a potential noise disturbance in a District park will assess the noise according to the following standards:

- i. The primary means of detection are the District official's normal hearing faculties so long as his hearing is not enhanced by any mechanical device such as a hearing aid.
- ii. The District official must have a direct line of sight and hearing to the section of the park property of the source of noise so he/she can identify the offending source of noise and distance involved.
- iii. If he/she is unable to have a direct line of sight and hearing to the source of noise, then he/she must confirm the source of noise by approaching the section of the park from which the source of noise originates and then obtain a direct line of sight and hearing to identify the same noise that was originally heard.
- iv. The District official is not required to determine the word or phrases being said or the name of the song or artist producing the noise. The detection of a rhythmic bass reverberating the noise is sufficient to constitute an audible noise.
- v. A District official is a member of the Board of Directors, the General Manager, the District's Superintendent or any of its Parks or Golf personnel. When the noise disturbance is detected, the following steps will be taken:
  - a. request the person creating the noise to reduce the noise level to avoid creating a nuisance, and/or
  - b. dispatch a law enforcement officer to address the noise disturbance and issue citations and/or remove the patron as necessary.

P. Control of Animals. All dogs, cats, and other animals are to be always kept on a leash, not to exceed 15 feet in length, and under full control of its owner. The exception of this regulation is when the patron is utilizing the Dog Park, where dogs can roam free without a leash. However, they must be under full control of their owner (see 4-407. Dog Park Operations).

Q. Certain Activities Prohibited. Carnival rides, miniature trains, petting zoos, water/splash rides, riding horses and other animals

are prohibited in the parks without the express written consent of the General Manager. No cattle, sheep, goats, horses, pigs, or any other animal shall graze in any park except in areas designated and posted specifically for such use or with the express written consent of the General Manager. No sexual activity allowed at any time on any District property.

- R. Unpermitted Commercial Activity. Private commercial activity is not permitted on public property, without express written consent of the General Manager.
- S. Abandonment. Persons shall not leave or deposit dogs, cats, fowl, fish, or other animals, whether dead or alive, in any District park or community building.
- T. Smoking. Smoking is not permitted in or within 15 feet of the Pavilion.

**By using or participating in activities on District property, a patron is required to release and agree to indemnify and hold harmless the Cherokee Metropolitan District and its representatives and agents from all claims or liability for damages and/or injuries incurred by the party and such minor child(ren), in connection with the District event, activity or property.**

#### PART 7 DOG PARK OPERATIONS

##### 5-701. Dog Park Operations

- A. The Dog Park is located on the northwest corner of Shawnee Drive, south of Constitution Avenue. Its hours of operation are from dawn to dusk.
- B. Only dogs, with owners, are permitted in the Dog Park. All other animals are strictly prohibited.
- C. Dogs must remain within the fenced enclosure if they are not on a leash.
- D. Female dogs which are in heat are not permitted within the Dog Park.
- E. Owners must watch and have control of their dogs and have a leash available to always use.
- F. Owners must stop their dogs from digging and are responsible for filling any holes their dog creates.
- G. Owners shall immediately pick up their dog's excrement and deposit it in an appropriate trash receptacle.
- H. Water is provided to the dogs within the fenced area. Glass containers are not allowed in the Dog Park.

- I. No bicycles, skateboards, rollerblades or motorized vehicles of any kind are allowed in the Dog Park.
- J. Smoking is prohibited in the Dog Park.
- K. **By using or participating in activities on District property, a patron is required to release and agree to indemnify and hold harmless the Cherokee Metropolitan District and its representatives and agents from all claims or liability for damages and/or injuries incurred by the party and such minor child(ren), in connection with the District event, activity or property.**

## PART 8 PENALTIES AND VIOLATIONS

### 5-801. Penalties and Violations

Cherokee Metropolitan District is a public entity with the authority to establish Rules and Regulations for the peaceful, public use of its facilities properties. Violations of the Park Rules and Regulations may make the person or organization in violation ineligible for future use of all Parks and subject such persons to legal remedies as deemed necessary and appropriate by the District.

District officials or peace officers are authorized to enforce Park Rules and Regulations.

Depending on the severity of the offense, action taken on behalf of the District for violations may include one or more of the following:

1. Notification of parents or guardian;
2. Suspension from the Parks indefinitely or for an extended period of time;
3. Criminal and civil complaints as necessary, which will include notification to the El Paso County Sheriff's Office, removal, trespass actions, and prosecution and/or other legal remedies.

Penalties may be assessed to the individual or responsible party for violations of these Rules and Regulations.