

**FOURTH AMENDED AND RESTATED  
TODD CREEK VILLAGE METROPOLITAN DISTRICT  
RULES AND REGULATIONS**

Approved:     October 13, 2022

**TODD CREEK VILLAGE METROPOLITAN DISTRICT  
RULES AND REGULATIONS**

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## **ARTICLE 1 – PURPOSE AND SCOPE OF RULES AND REGULATIONS**

### **1.1 General Purpose and Authority**

The purpose of these Rules and Regulations is to provide for the orderly construction, management, operation and control of the public utility systems, facilities and improvements of the Todd Creek Village Metropolitan District (the “District”), including additions, extensions and connections thereto. The District is a governmental entity and political subdivision of the State of Colorado and a body corporate with all powers of a public or quasi-municipal corporation which are specifically granted or implied for carrying out the objectives and purposes of the District.

These Rules and Regulations are promulgated and adopted pursuant to the provisions of Section 32-1-1001(1)(m), Colorado Revised Statutes, as the same may be amended from time to time. The Board of Directors of the District (the “Board”) has determined to adopt these Rules and Regulations in order to assist the District, the public and the District’s Manager, Consultants and Contractors in implementing the decisions and policies of the Board. Any Person desiring to use the District’s facilities shall comply with these Rules and Regulations. The District’s Manager, Consultants and Contractors shall utilize these Rules and Regulations as a tool for assuring proper treatment of Persons within the District and fair responses to issues which confront the District. The District’s Manager or Consultants shall provide copies of these Rules and Regulations to any Person who requests them. No Person shall be entitled to any exemption from the applicability of these Rules and Regulations due to the failure of that Person to become familiar with policies and standards of the District contained herein, as such policies may be amended or supplemented from time to time.

### **1.2 Public Health, Safety and Welfare**

It is hereby declared that the Rules and Regulations hereinafter set forth serve a public interest and are necessary for the protection of the health, safety, prosperity, security, and general welfare of the public and the Customers of the District.

### **1.3 Scope of Rules and Regulations**

These Rules and Regulations shall be treated and considered as a new and comprehensive regulations, governing the operations and functions of the District and shall supersede all previous versions of Rules and Regulations as well as informal practices and policies of the District, which practices, and policies may be in conflict with the provisions hereof.

### **1.4 Rules and Regulations of Other Governmental Entities**

No Person or entity shall discharge any Pollutant in violation of any applicable regulation, including maximum Pollutant levels, established by any local, state or federal agency, including but not limited to the Colorado Department of Health and Environment, the Water Quality Control Commission, and the Environmental Protection Agency, as the same may be amended from time to time. If, as a result of any such violation, the District is subject to any civil or criminal liability,

any fines, fees, or penalties or other costs assessed against the District and any costs incurred by the District to defend against such liability shall be owed and paid to the District by such violator.

Developers, Owners and Customers shall abide by all applicable local, state and federal laws, policies, codes, rules and regulations, as the same may be amended from time to time.

### **1.5 Limitation of Liability of District**

Service from the District is a privilege. As partial consideration for said privilege, the Developer, Owner and Customer agree that except as provided by the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S., as the same may be amended from time to time (“Colorado Governmental Immunity Act”), no claim for damage shall be made against the District for any reason including, but not limited to the following: blockage in the Sewer System causing the backup of effluent; damage caused by testing of lines; breakage of any Main; interruption of Service and the conditions resulting from; breaking of any Main Service Line, valve, or meter; failure of the water supply; shutting off or turning on of water; making of connections or extensions; damage caused by water running or escaping from open or defective faucets and appliances; burst Service Lines and other facilities not owned by the District; damage to water heaters, boilers, or other appliances resulting from shutting water off, or for turning it on, or from inadequate or sporadic pressures; or from inadequate water delivery, wastewater treatment or interruption of any services brought about by circumstances beyond its control; or for doing anything to the District Facilities deemed necessary by the District or its agents. Except if required and as provided by the Colorado Governmental Immunity Act, the District shall have no responsibility for notification to Developer, Owner and/or Customer of any of the foregoing conditions. The District reserves the right to temporarily discontinue service to any property at any time for any reason deemed necessary or appropriate by the District. The District shall have the right to revoke service to any property for violations of these Rules and Regulations as provided in Section 9.2.2.6 of these Rules and Regulations.

Nothing in these Rules and Regulations may be deemed a waiver by the District of any rights under Colorado Law, including but not limited to, the Colorado Governmental Immunity Act. No act or inaction by the District shall be construed as a waiver in whole or in part of the protections provided by the Colorado Governmental Immunity Act unless expressly and formerly resolved by the Board.

### **1.6 Rules of Construction**

The Rules and Regulations of the District are promulgated pursuant to statute in the exercise of the Board’s discretion to provide a tool for the District’s Manager and for the orderly provision of essential services. These Rules and Regulations shall be liberally construed to affect the general purposes set forth herein, and each and every part hereof is separate and distinct from all other parts. Nothing contained herein shall be so construed as to prejudice or affect the right of the District to secure the full benefit and protection of any law now in effect or any law which may subsequently be enacted pertaining to the affairs of the District. Nothing set forth in or omitted from inclusion in these Rules and Regulations shall be construed to alter, waive or deviate from any grant of power, duty, responsibility, or limitation or restriction imposed or conferred upon the

District by statutes now existing or amended in the future or under any contract or agreement existing between the District and any other governmental entity. The Board reserves the right, now or in the future, to construe any provision hereof in its sole discretion in order to effectuate lawful purposes of the District and to attempt to ensure orderly and non-discriminatory treatment of all Persons or entities subject to these Rules and Regulations.

The Rules and Regulations constitute guidelines for the benefit of the District and must be complied with by all Consultants, Contractors, Developers, Owners and Customers absent receipt of a proper written waiver from the District. No Person shall obtain, by virtue of the Rules and Regulations, any right or cause of action against the District or its Manager or Consultants arising as a result of the enforcement or lack of enforcement of the Rules and Regulations by the District. Nothing herein shall be deemed to be a waiver of any immunity granted to the District under Colorado law.

### **1.7 Conflicts**

In case of any conflict between any provision of these Rules and Regulations, the District shall be entitled to resolve such conflict in its own favor at the District's sole discretion, it being the intention of the Board that these Rules and Regulations shall be construed or interpreted by the District in such manner so as to maximize the ability of the District to govern and manage the District and its services and facilities.

The District has attempted to articulate herein its rules, regulations and policies for the provision of public services and facilities, and for management and operation of the District. From time to time, the Board may adopt policies reflected in the minutes of meetings for the District or reflected in resolutions of the Board. To the extent any policy found in minutes of District meetings pre-dates and conflicts with any resolution of the Board, the resolution shall be deemed to supersede the minutes, unless the Board determines otherwise after such conflict is brought to the attention of the Board. To the extent policies found in minutes of meetings post-date resolutions of the District and conflict with such resolutions, the policy stated in the minutes shall be binding unless the Board determines otherwise after such conflict is brought to the attention of the Board. The District shall have the right, at all times, to repeal and re-enact resolutions of the Board unless any resolution specifically states that it is not subject to repeal and such statement is found to be enforceable.

To the extent that any of the District's Rules and Regulations are inconsistent with any valid and applicable regulations promulgated by any state, or federal agency, the regulations of the state or federal agency shall govern.

### **1.8 Amendment, Modification, Waiver or Suspension**

These Rules and Regulations may be amended, modified, waived or suspended, from time to time, by the District, as it deems appropriate. Neither notice of such amendments, modifications, waivers or suspensions nor public hearing shall be required to be provided by the District prior to exercising its amendment, modification, waiver or suspension powers. The District has the power to revise its Rules and Regulations from time to time by formal action of the District and has



authority to waive the application of its Rules and Regulations to its own activities, or to the activities of others. Any formal action of the Board to revise, amend or modify these Rules and Regulations shall be deemed incorporated herein notwithstanding whether such revision, amendment or modification is codified herein. Supplemental policies of the District may be adopted from time to time in order to assist the District and its Consultants and Contractors in managing the affairs of the District. When possible, copies of such policies and amendments shall be attached hereto as appendices. The District shall have the sole authority to amend, waive, suspend or modify these Rules and Regulations. Any Person claiming the benefit of such a waiver, suspension or modification shall be required to obtain a written waiver signed by the District's Manager. No refusal, failure or omission of the District or its agents to apply or enforce these Rules and Regulations shall be construed as an alteration, waiver, or deviation from any grant of power, duty or responsibility, or any limitation or restriction upon the District by virtue of statutes now existing or subsequently amended, or under any contract or agreement existing between the District and any other entity. Any express waiver shall not be deemed an amendment of these Rules and Regulations. However, an express waiver or variance from these Rules and Regulations by the District shall supersede these Rules and Regulations regarding the subject matter of the express waiver. No waiver shall be deemed a continuing waiver.

### **1.9 Severability**

The invalidity or unenforceability of any portion or previous version of these Rules and Regulations shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from these Rules and Regulations and the balance of these Rules and Regulations shall be construed and enforced as if these Rules and Regulations did not contain such invalid or unenforceable portion or provisions.

## **ARTICLE 2 – DESCRIPTION OF DISTRICT AND POWERS**

### **2.1 Description of the District**

The District is a quasi-municipal corporation and political subdivision of the State of Colorado that was organized with the authority to provide certain services to Developers, Owners and Customers within the Service Area of the District. The District derives its power from the Special District Act, Sections 32-1-101 et seq., Colorado Revised Statutes, and the Service Plan, as the same may be amended from time to time.

### **2.2 Rates, Fees and Charges**

The District has the power to charge various rates, fees, tolls, charges and penalties for services and facilities provided by the District. Additional provisions regarding rates, fees and charges are contained in Article 8 of these Rules and Regulations.

## **2.3 Penalties and Perpetual Lien**

Reasonable penalties may be fixed for any delinquency including interest on delinquent fees and reasonable attorney's fees and costs of collection pursuant to state law. The District expressly reserves the right to impose all penalties permitted under state law as appropriate. The failure of a Developer, Owner or Customer to pay fees imposed by the District creates a right in the District to claim a perpetual lien on the affected property and to foreclose on that lien. The District expressly imposes a perpetual lien pursuant to state law for failure to pay or for delinquent payment of any rate, fee, toll, charge, or penalty assessed by the District pursuant state law. The District exercises such powers for the overall benefit of the District and reserves the right to exercise its discretion on a case-by-case basis in determining whether to claim a lien and foreclose it. Additional provisions regarding violations, enforcement and penalties are contained in Article 9 of these Rules and Regulations.

## **2.4 Public Right to Information**

The District fully complies with the inspection of public records as permitted by §24-72-203, C.R.S. (Revised Policy adopted at the December 14, 2017 Board Meeting.)

It is the policy of the District that all public records shall be open for inspection by any person at reasonable times, except as otherwise provided by law. Public records are defined by Colorado Open Records Act (CORA) as all writings made or maintained by the District, regardless of the format or medium of the records, subject to certain exceptions. By action of the Board of Directors, the District has designated an official Custodian of Records responsible for the maintenance, care and keeping all records of the District. The official Custodian of Records shall have authority to designate such agents as the official Custodian of Records shall determine appropriate to perform any and all acts necessary to enforce and execute the provisions of this policy. Upon receipt, requests by a citizen, entity, Federal or State agency, District members, subpoena, Administrative or Court Order, or other legal process, to inspect and/or copy any District record (collectively referred to as "Records Request") should be immediately sent to the Custodian of Records.

## **ARTICLE 3 – DEFINITIONS**

Unless the context specifically states otherwise, the meaning of the following terms when used herein shall be as set forth below:

**3.1 Actual Cost** – All direct costs applicable to the construction of a given facility, main or service line, including construction, engineering, inspection, plan approval fees, etc.

**3.2 Agreement** – Shall mean any agreement entered into by and between the District and any Developer, Owner or Customer related to the construction of District Facilities or provision of Service, including, but not limited to Tap Purchase Agreements and Facilities Development Agreements.

**3.3 Applicant** – Shall mean any Person who applies to the District for Service or for Connection or disconnection to or from the District’s Facilities, or who applies for a main line extension or other such service or who attempts to have real property included within or excluded from the District Service Area.

**3.4 Board or Board of Directors** – Shall mean the duly elected and/or appointed Board of Directors of the District which acts as the governing body of the District.

**3.5 Contractor** – Shall mean any Person who performs work or furnishes materials to property within the District’s Service Area or undertakes to construct, alter, move, demolish, repair, replace, excavate or add to any District Facilities or Service Lines.

**3.6 Consultant** – Shall mean any Person who provides advice within a field of specialized knowledge or training and performs professional, executive or managerial services for the District.

**3.7 Customer** – Shall mean any Person who is connected to or physically using the District’s Potable Water System, Non-Potable Water System and/or Sewer System or authorized to connect to the District’s Potable Water System, Non- Potable Water System and/or Sewer System under a Tap Certificate issued by the District.

**3.8 Dedication** – Shall mean the conveyance to the District by deed of title to real property or other assets.

**3.9 Developer** – Shall mean any Person who is engaged in development, redevelopment or subdivision of real property within the District’s Service Area.

**3.10 District** – Shall mean the Todd Creek Village Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado.

**3.11 District Engineer or Engineer** – Shall mean the Person who, or duly authorized representative thereof, that has contracted to do engineering work for the District.

**3.12 District Facilities** – Shall mean the District’s Potable Water System, Non-Potable Water System and/or Sewer System and all improvements and appurtenances thereto constructed by or for the District and which have been accepted by and are owned by District.

**3.13 Employee** – Shall have the same meaning as “public employee” in Section 24-10-104(4), Colorado Revised Statutes as it may be amended from time to time.

**3.14 Facilities Development Agreement** – Shall mean any agreement entered into by and between the District and any Developer, Owner or Customer related to the development of property within the District’s Service Area.

**3.15 Failure to Connect Fee** – Shall mean the fee paid to the District if the Tap is not connected to the District’s Facilities within twenty-four (24) months of the payment of the Tap Fees.

**3.16 Groundwater** – Shall mean nontributary groundwater as defined by C.R.S. 37-90-103(10.5); and not nontributary groundwater as defined by C.R.S. 37-90-103(10.7). Together, Groundwater means the legal right as adjudicated in a final court decree to withdraw water from the groundwater basin of sedimentary rock formations in the Dawson (Upper and Lower), Denver, Arapahoe and Laramie-Fox Hills, within the Denver Basin.

**3.17 Industrial Wastes** – Shall mean the liquid by-products from industrial and manufacturing processes as distinct from normal or special wastewater.

**3.18 Inspector** – Shall mean the Manager, Engineer or other person designated by the District, or their designee, to perform facility and infrastructure inspections pursuant to these Rules and Regulations.

**3.19 Main** – Shall mean any Potable Water Main, Non-Potable Water Main and/or Sewer Main.

**3.20 Manager** – Shall mean any Person, or duly authorized representative thereof, retained by the Board to administer and supervise the affairs of the District.

**3.21 Non-Potable Water** – Shall mean water not safe for human consumption or water that does not meet the requirements set forth in the State of Colorado Primary Drinking Water Regulations, as the same may be amended from time to time.

**3.22 Non-Potable Water Main** – Shall mean a District owned water pipeline within the Service Area, carrying Non-Potable Water only and used primarily for irrigation, installed in rights-of-way, parcels, easements or other property interests approved by the District.

**3.23 Non-Potable Water Service Line** – Shall mean the service line extending from the Non-Potable Water Main to the structure it serves. The Customer and/or Owner shall be responsible for the maintenance and replacement of the service line and related appurtenance, including the curb stop box or meter pit, valve and yoke, from the Non-Potable Water Main to the structure to which the service line is attached, provided, however that any repairs or replacements to that portion of the service line that is located outside of the Customer and/or Owner’s property Shall be performed by the District or at the District’s direction and the cost thereof shall be paid by the Customer and/or Owner. Notwithstanding the Customer and/or Owner’s responsibility for repairs or replacements as set forth above, the District has the exclusive right to operate the curb stop valve.

**3.24 Non-Potable Water System** – Shall mean the District’s Non-Potable Water distribution system, all sources, facilities, mains, valves, stub-ins/stub-outs, pumps, conduits, pipes, fire hydrants, tanks, receptacles, fixtures, equipment, and all other appurtenances which are

owned by the District and used to convey and store Non-Potable Water use within the Service Area of the District.

**3.25 Normal Wastewater** – Shall mean domestic quality water which has been used and discharged into the Sewer System and which contains animal or vegetable matter in suspension or solution from residences, commercial buildings, institutions and/or industrial establishments and which can be treated without pre- treatment or use of an interceptor and within normal operating procedures, and which, when analyzed shows by weight a daily average of not more than 300 parts per million of suspended solids and not more than 250 parts per million Biochemical Oxygen Demand (“BOD”).

**3.26 Person** – Shall mean any individual, firm, company, society, corporation, association, organization, partnership, group, government or subdivision thereof or other entity.

**3.27 Pollutant** – Shall mean dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, chemical waste, biological nutrient, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, or any industrial, municipal, or agricultural waste.

**3.28 Potable Water** – Shall mean water which meets the State of Colorado Primary Drinking Water Regulations, as the same may be amended from time to time, for human consumption.

**3.29 Potable Water Main** – Shall mean a District owned water pipeline within the Service Area, carrying potable water only, installed in rights-of-way, parcels, easements or other property interests approved by the District.

**3.30 Potable Water Service Line** – Shall mean the service line extending from the Potable Water Main to the structure it serves. The Customer and/or Owner shall be responsible for the maintenance and replacement of the service line and related appurtenance, including the curb stop box or meter pit, valve and yoke, from the Potable Water Main to the structure to which the service line is attached, provided, however that any repairs or replacements to that portion of the service line that is located outside of the Customer and/or Owner’s property shall be performed by the District or at the District’s direction and the cost thereof shall be paid by the Customer and/or Owner. Notwithstanding the Customer and/or Owner’s responsibility for repairs or replacements as set forth above, the District has the exclusive right to operate the curb stop valve.

**3.31 Potable Water System** – Shall mean the District’s potable water distribution system, all sources, facilities, mains, valves, stub-ins/stub-outs, pumps, conduits, pipes, tanks, receptacles, fixtures, equipment, and all other appurtenances which are owned by the District and used to convey and store potable water for public consumption or use within the Service Area of the District.

**3.32 Prohibited Wastes** – Shall mean toxic or non-biodegradable waste or any wastes which make the effluent not within state standards after conventional treatment or which may reasonably be anticipated to have a deleterious effect upon the Sewer System or any Persons or

property, including, but not limited to, any storm water, surface water, ground water, roof runoff, sub-surface drainage, cooling water or untreated industrial process waters.

**3.33 Property Owner or Owner** – Shall mean the Person owning the fee interest in real property within the Service Area of the District.

**3.34 Rules and Regulations** – Shall mean the Rules and Regulations adopted by the District including all amendments, policies and resolutions.

**3.35 Sampling** – Shall mean the periodic collection of samples for analysis.

**3.36 Septic System** – Shall mean a facility constructed on a property to dispose of wastewater without connection to the District's Sewer System.

**3.37 Service** – Shall mean the provision of Potable Water, Non-Potable Water and/or Sewer service by the District to a Developer, Owner and/or Customer.

**3.38 Service Area** – Shall mean the legal boundary within which the District provides service as approved in the District's Service Plan and as may be amended from time to time pursuant to state law.

**3.39 Service Line** – Shall mean the Potable Water Service Line, the Non-Potable Water Service Line and/or the Sewer Service Line.

**3.40 Service Plan** – Shall mean the Amended and Restated Service Plan for Todd Creek Farms Metropolitan District No. 1, approved August 23, 2000 and any amendments thereto.

**3.41 Sewer Main** – Shall mean a District owned pipeline within the Service Area conveying wastewater or special wastewater that is installed in rights-of-way, parcels, easements or other property interests approved by the District.

**3.42 Sewer Service Line** – Shall mean the service line extending from the Sewer Main to the structure it serves. The Customer and/or Owner shall be responsible for the maintenance and replacement of the sewer service line and related appurtenances from the Sewer Main to the structure to which the sewer service line is attached, provided, however that any repairs or replacements to that portion of the service line that is located outside of the Customer and/or Owner's property shall be performed by the District or at the District's direction and the cost thereof shall be paid by the Customer and/or Owner.

**3.43 Sewer System** – Shall mean the wastewater treatment plant, all sewer mains, manholes, cleanouts and/or lift stations and related appurtenances owned and operated by the District.

**3.44 Sewage** – Shall mean Normal Wastewater, Special Wastes and/or Prohibited Wastes.

**3.45** **Shall** is mandatory; **May** is permissive.

**3.46** **Special Wastes** – Shall mean any waste or wastewater which does not conform to the definition for Normal Wastewater, but which can be treated after pre- treatment or by utilization of special operating procedures.

**3.47** **System** – Shall mean the District Facilities, Service Lines and all other facilities and appurtenances related to the District's Potable Water System, Non-Potable Water System and/or Sewer System whether owned by the District or any other Person.

**3.48** **Tap or Connection** – Shall mean the physical connection of, or the act of connecting, a service line to the Potable Water System, the Non-Potable Water System or the Sewer System, either directly to a main or a stub-in/stub-out or indirectly through a private line, which service line extends beyond the property line to the structure intended to be served, whether or not actually connected to the structure.

**3.49** **Tap Certificate** – Shall mean the District's written authorization for Connection to a Potable Water Main, Non-Potable Water Main, Sewer Main and/or other facilities of the District under the conditions expressed in writing by the District and granting an Applicant a revocable license to use the Potable Water System, Non-Potable Water System and/or Sewer System under the conditions expressed.

**3.50** **Tap Fee** – Shall mean the fee paid to the District pursuant to a Tap Purchase Agreement or otherwise for the privilege of connecting to District Facilities. A separate Tap Fee is charged for Connection to the Potable Water System, Non- Potable Water System and Sewer System.

**3.51** **Tap Purchase Agreement** – Shall mean any agreement entered into by and between the District and any Developer, Owner or Customer related to the purchase of one or more Taps by payment of Tap Fees.

**3.52** **Wastewater** – See Normal Wastewater.

**3.53** **Water Dedication** – Shall mean conveyance to the District by deed of title to groundwater and or surface water.

**3.54** **Water Dedication Agreement** – Shall mean an agreement between the District and Developer/Owner whereby commitment to Water Dedication required for new connections and any associated Will Serve Letter.

**3.55** **Will Serve Letter** – Shall mean a conditional agreement by the District to provide Service to a particular property or properties within the District's Service Area.

## **ARTICLE 4 – OWNERSHIP, CONSTRUCTION, OPERATION, MAINTENANCE AND INSPECTION OF FACILITIES**

### **4.1 Policy**

The District is responsible for the operation and maintenance of the District Facilities in a sound and economical manner; it shall not be liable or responsible for inadequate treatment of said Wastewater, Potable Water or Non-Potable Water or interruption of service brought about by circumstances beyond its control.

### **4.2 District Facilities**

#### **4.2.1 Ownership of District Facilities**

The District shall own the District Facilities provided that the District Facilities not constructed by the District have been finally accepted by the District as further described in Section 4.2.4 of these Rules and Regulations. The District shall be permitted to convey, transfer, or otherwise dispose of any District Facilities for any reason as determined in its sole discretion.

#### **4.2.2 Ownership of Water and Return Flows**

Unless otherwise agreed to in writing by the District, the District shall have sole dominion and control of all water supplied through the Potable Water System and/or Non-Potable Water System, subject to reasonable use thereof by its Customers in compliance with these Rules and Regulations. Such dominion and control shall continue without interruption as to all wastewater, return flows, runoff, sewage or tailwater attributable to or originating in water supplied through the Potable Water System and/or Non-Potable Water System. Unless otherwise agreed to in writing by the District, the District shall have the exclusive right to recapture such return flows or claim credit therefrom for exchange, sale, replacement, augmentation, substitute supply or any other lawful purpose, and the District's dominion and control over water shall continue to attach to all such return flows even after they return to the ground. All return flows from water supplied through the Potable Water System and/or Non-Potable Water System remain the property of the District, unless otherwise agreed to in writing by the District.

To the extent that the Developer has conveyed water rights to the District by written agreement, the District shall at all times retain control of such water rights and have the ability to determine all matters relating to control of such water rights, including, but not limited to the yield of all water, water rights and augmentation plans that are offered to the District for any purpose.

#### **4.2.4 Inspection, Approval and Acceptance of District Facilities**

Upon completion of construction of facilities constructed by the Developer and/or Owner pursuant to Section 4.2.3 of these Rules and Regulations, the Developer or Owner shall apply to the District for initial acceptance and inspection of such facilities. The Owner or Developer shall warrant the constructed facilities for a period of one year from the date of initial acceptance by the District.



After expiration of the one-year warranty period, the Owner or Developer shall apply to the District for final acceptance of such facilities. The District shall deliver a letter of final acceptance for the improvements to the Developer upon the District's receipt of the following: (1) a certificate from a licensed engineer in the State of Colorado certifying that the facilities substantially meet applicable standards and specifications of the District as contained in the FACILITIES CONSTRUCTION AND TECHNICAL STANDARDS, the Service Plan, or as contained in plans which have been approved by the District's Engineer or Operator, in writing; (2) a complete set of electronic (portable document format (pdf) and AutoCAD (latest version)) and 22" by 34" Mylar reproducible "as-built" drawings of the facilities, which are certified by a professional engineer registered in the State of Colorado showing accurate size and location of all facilities, which drawings shall be in form and content reasonably acceptable to the District; and (3) satisfactory completion of the requirements set forth in Section 4.2.4.1, below.

#### **4.2.4.1 Conveyance of Facilities**

The facilities shall not be deemed accepted by the District until all requirements set forth in this Section 4.2.4.1 have been met to the District's full and complete satisfaction. Until such time, the Developer or Owner shall be and shall remain responsible and liable for the facilities in all respects.

##### **4.2.4.1.1 Bill of Sale**

At no cost to the District, the Developer shall convey the facilities to the District by means of a bill of sale in a form acceptable to the District.

##### **4.2.4.1.2 Easement**

Concurrent with the conveyance of a bill of sale for the facilities, and at no cost to the District, the Developer shall grant to the District a permanent, non-exclusive easement for the property on which or in which the facilities lie. Such easement shall be in a form acceptable to the District.

The Developer shall use its best efforts to obtain the easements required herein from all Owners. If, after use of its best efforts, the Developer is unable to secure the required easements, the Developer may request that the District obtain the required easements; however, any and all costs associated with the District's work to obtain such easements shall be paid by the Developer. If at any time prior to the District's receipt of the required easements the funds on deposit are depleted, the District shall request additional funds from the Developer prior to work resuming. Any remaining funds on deposit with the District after the easements have been obtained shall be refunded to the Developer in full.

##### **4.2.4.1.3 Fee Simple Absolute**

In lieu of an easement pursuant to Section 4.2.4.1.2, above, and at no cost to the District, the Developer may grant to the District title to the property on which or in which the facilities lie

in fee simple absolute by means of a special warranty deed, which grant shall be free and clear of all liens and encumbrances on the property.

#### **4.2.4.1.4 Dedications by Plat**

In the event the Developer desires to dedicate an easement or ownership interest to, for, on, over, through or under any tract or parcel to the District by plat, the District shall be a signatory on the plat or shall provide a separate letter of acceptance for the tract or parcel. In no event shall the Developer unilaterally dedicate or transfer an easement or ownership interest to, for, on, over, through or under any tract or parcel to the District by plat.

#### **4.2.4.1.5 Ingress and Egress to Facilities**

At no cost to the District, the Developer shall convey any necessary licenses or easements, whichever the District shall require in its sole discretion, to permit ingress and egress by the District and its agents to the area.

#### **4.2.4.1.6 Title Insurance Policy**

The Developer agrees to provide the District with a title commitment for the area being conveyed to the District. At the District's election, the Developer shall provide the District, at the Developer's sole cost and expense, a title insurance policy in the District's name to insure the District from any defects in title.

### **4.2.5 Operation and Maintenance**

The District shall be responsible for the maintenance, operation, repair and replacement of the District Facilities constructed by or for the District, provided that District Facilities not constructed by the District have been granted final acceptance by the District as further described in Section 4.2.4 of these Rules and Regulations. Until such time as final acceptance has been granted for facilities, the Developer and/or Owner shall be responsible for the maintenance, operation, repair and replacement of the facilities. All repair or replacement work that is covered under the warranty shall be performed by the Developer and/or Owner with District oversight and inspection.

## **4.3 Septic Systems**

### **4.3.1 Ownership and Construction**

In areas of the District's Service Area where Septic Systems are allowed, the Developer, Owner and/or Customer shall own and be responsible for the permitting, construction, installation, connection, maintenance, repair and/or replacement of the Septic System in conformity with these Rules and Regulations and all other applicable laws. To the extent that an existing Septic System fails, and a District Sewer Main is within four hundred (400) feet of the premises where such Septic System is located, the District may compel, in accordance with § 32-1-1006(1)(a)(I), C.R.S., the owner of the Septic System to connect to the District's Sewer Main rather than repairing or

replacing the Septic System. All costs and expenses incident to the construction, installation, connection, maintenance, repair and/or replacement of Septic System shall be borne by the Developer, Owner and/or Customer.

#### **4.3.2 Indemnification**

The Developer, Owner and Customer shall indemnify the District for any loss or damage that may directly, or indirectly, be occasioned by the construction, installation, connection, maintenance, repair and/or replacement of a Septic System.

#### **4.3.3 Inspection**

The District will have the right, but not the obligation, to inspect the individual Septic Systems during construction as well as during operation to ensure compliance. All maintenance and inspection deficiencies shall be reported to Tri-County Health Department for enforcement.

The Developer and/or Owner shall cause the individual Septic System to be inspected and pumped at a minimum of every four (4) years or more often as controlling regulations or usage demands.

#### **4.3.4 Operation and Maintenance**

Developers, Owners and/or Customers maintaining individual Septic Systems shall comply with the maintenance requirements for individual Septic Systems as promulgated by Tri-County Health Department and the State of Colorado. Leaks, stoppage, or breaks in such Septic Systems will be repaired by the Owner within reasonable period of the time after notification of such condition by the District or discovery of such condition by the Owner.

#### **4.3.5 Special Maintenance by District**

If the District, in its sole discretion, believes that an emergency exists related to a Septic System or that satisfactory progress toward repairing a leak, stoppage, or break in a Septic System has not been completed within a reasonable time period, the District shall have the express right to enter onto the Owner's property and affect any necessary repairs or remediation and to collect its associated costs including but not limited to legal, engineering and accounting fees from the Owner or Customer and shall be entitled to place a lien against the property, to secure payment of such costs.

### **4.4 Service Lines**

#### **4.4.1 Ownership**

The Developer, Owner and/or Customer shall own and be responsible for the construction, installation, connection, maintenance, repair and/or replacement of the Service Line and related appurtenances from the Main to the structure to which the Service Line is attached in conformity

with these Rules and Regulations, provided, however that any repairs or replacements to that portion of the Service Line that is located between the Meter and the main shall be performed by the District or at the District's direction and the cost thereof shall be paid by the Customer and/or Owner. All costs and expenses incident to the construction, installation, connection, maintenance, repair and/or replacement of Service Lines shall be borne by the Developer, Owner and/or Customer.

After inspection and approval of Service Line construction, ownership of the meter and curb valves, as well as calibration and maintenance responsibilities for the same shall be assumed by the District. Only District personnel shall be authorized to access meters. Installation of meters for homes that do not have working meters shall be an emergency installation, for the District may charge an average billing rate based on the average monthly rate for the calendar year. Any cost associated with the repair or replacement of the curb valve, meter pit lid, meter pit dome, and/or attachments to the meter shall be the responsibility of the Developer, Owner and/or Customer. The Developer, Owner and/or Customer shall ensure that the curb valve box, meter pit and lid stay visible and accessible.

#### **4.4.2 Indemnification**

The Owner shall indemnify the District for any loss or damage that may directly, or indirectly, be occasioned by the construction, installation, connection, maintenance, repair and/or replacement of a Service Line both during construction and perpetually thereafter.

#### **4.4.3 Construction**

A separate and independent Service Line shall be provided for every building, including each unit of a duplex or townhouse and, except as otherwise provided herein or as otherwise agreed to in writing by the District, and shall be installed at the expense of the Developer or Owner.

Each commercial structure hereafter constructed shall have an individual Service Line and Connection for each.

Service Lines shall be constructed and installed in accordance with the specifications set forth in the FACILITIES CONSTRUCTION AND TECHNICAL STANDARDS, as the same may be amended from time to time, which are available upon request from the District. The Owner or Developer shall pay the Actual Cost of all Service Lines. The District may, at its sole discretion, oversee installation of service lines prior to the commencement of Service.

#### **4.4.4 Inspection**

All newly installed Service Lines shall be inspected by the District's Inspector and any changes ordered by said Inspector shall be completed and re-inspected before any backfilling done. Notice of no less than forty-eight (48) working hours is required for inspections and inspections will generally only occur Mondays through Fridays, which are not holidays, during normal business hours. No Service Line shall be activated by the District until after inspection and approval by the District.

All repairs and/or replacements of Service Lines are also subject to inspection and approval by the District.

Non-compliance with this Section may result in uncovering Service Lines and re-inspection at the expense of the Owner or Developer.

#### **4.4.5 Operation and Maintenance**

The Owner shall be responsible for maintaining the Service Line and related appurtenances from the Main to the structure to which the Service Line is attached in conformity with these Rules and Regulations, provided, however that any repairs or replacements to that portion of the Service Line that is located outside of the Customer and/or Owner's property shall be performed by the District or at the District's direction and the cost thereof shall be paid by the Customer and/or Owner. Leaks, stoppage, or breaks in such Service Line will be repaired by the Owner within reasonable period of the time after notification of such condition by the District or discovery of such condition by the Owner.

If the District, in its sole discretion, believes that an emergency exists related to a Service Line or that satisfactory progress toward repairing a leak, stoppage, or break in a Service Line has not been completed within a reasonable time period, the District shall have the express right to enter onto the Owner's property and affect any necessary repairs or remediation and collect its costs including but not limited to legal, engineering and administrative fees from the Developer, Owner and/or Customer and shall be entitled to place a lien against the property, to secure payment of such costs. Permission to enter onto the property and affect repairs and remediation and agreement to reimburse the District for costs is expressly given in partial consideration for the provision of Service by the District.

#### **4.5 Relationship with Other Governmental Entities**

The District has entered into agreements with other governmental entities which relate to its provisions of Service and may from time to time enter into additional agreements of this nature. The District's s, Developers, Owners and Customers are hereby put on the notice of the existence of such agreements and advised that pursuant to such agreements additional fees, rates, tolls, charges and penalties may be assessed to the District's Developers, Owners and Customers by the governmental entities that are a party to those agreements.

#### **4.6 Compliance Inspections**

In addition to the inspection of newly installed or repaired/replaced facilities as discussed in Sections 4.2.4, 4.3.3, 4.4.4 of these Rules and Regulations, the District reserves the right to work within all properties, including reasonable access to all District meters and facilities within the Developer, Owner or Customer's structure upon notice provided by the District, at any reasonable time to inspect any facility related to the provision of Service by the District for compliance with these Rules and Regulations or other applicable laws and charge the Developer, Owner and/or Customer an Inspection Fee or Re-Inspection Fee as set forth in the SCHEDULE OF FEES,

RATES AND CHARGES, as the same may be amended from time to time, which is available upon request from the District.

#### **4.7 Right of Entry**

Duly authorized representatives of the District, including, but not limited to the Engineer, Consultants, Employees and other personnel authorized by the District bearing proper credentials and identification, shall be permitted, and are hereby expressly granted the right, to work within all properties for the purpose of inspection, observation, measurement, sampling, testing, repairs or any other reasonable purpose in accordance with the provisions of these Rules and Regulations, including, for example, inspection of a water meter within a residence. As partial consideration for the provision of service by the District, the Developer, Owner and/or Customer grants the aforementioned duly authorized representatives of the District the express right to work within private property for the purposes stated herein.

Except in the case of emergency, the District shall attempt to provide the Developer, Owner and/or Customer with forty-eight (48) hours' notice of entry.

#### **4.8 Entry by Third Parties onto District Property, Easements, Rights-of-Way**

In the event that a third party seeks to enter onto a portion of the District's property, easement, or right-of-way for an authorized purpose, the third party shall provide the District with ten (10) days' notice of its intent to enter and shall obtain confirmation from the District that such entry is authorized. In the case of an emergency, the third party seeking to enter onto a portion of the District's property, easement, or right-of-way for an authorized purpose shall provide notice to the District of its intent to enter as soon as possible. Even in cases of emergency, the District reserves the right to refuse entry to a third party.

#### **4.9 Contractor Qualifications and Requirements**

##### **4.9.1 Liability Insurance**

All Contractors performing work on or furnishing materials for, or in any way related to, District Facilities shall purchase and maintain, for the full period of any project, comprehensive general liability/auto liability and other insurance sufficient to protect the District from all claims arising out of the Contractor's performance or work on the project, or the performance or work of any subcontractor or anyone else for whose acts the Contractor may be liable.

Insurance shall provide coverage for injury, sickness or disease and death arising directly or indirectly out of or in connection with the performance of work on the project, in such amounts as the District requires, or if the District has not so specified, in a commercially reasonable amount. Coverage for property shall be set at the limit provided by the District, for all damages arising out of injury to or destruction of property of others, arising directly or indirectly out of or in connection with performance of work on the project.

Each Contractor's insurance coverage shall be sufficiently broad to enable the Contractor to fully indemnify the District and its directors, employees, agents, Consultants and Engineer (including their officers, directors, employees and agents) against any and all claims arising out of the work performed by the Contractor. The indemnification obligations of Contractors shall not be limited by the limits of any required policy of insurance.

#### **4.9.2 Confined Space Program**

Any Contractor or other entity that contracts with the District or otherwise wishes to access the District's confined spaces, shall, as a condition to entry into any of the confined spaces, and to providing services to the District, meet the following requirements:

- a. Acknowledge that the subject facilities are a confined space; and
- b. Agree to abide by the Occupational Safety and Health Administration (OSHA) regulations for "permit-required confined space" and "non-permit confined space", including the establishment of an OSHA required "permit-required confined space program" (the "Permit Space Program"); and
- c. Release and indemnify the District in connection with the confined space access.

The District also requires that such Contractor provide the District with a copy of the Contractor's written Permit Space Program that complies with the OSHA regulations.

In addition, as part of the District's confined space requirements, such Contractor shall consult with the District's Engineer regarding any hazards confronted or created in "permit-required confined spaces."

### **ARTICLE 5 – GENERAL USE OF SYSTEM**

#### **5.1 Who May Use**

Services will be furnished to property within the Service Area subject to the District's Rules and Regulations, the availability of facilities and capacity and subject to fees, rates, tolls, charges and penalties imposed by the District. If requested by the District, any Applicant for Service shall furnish satisfactory evidence regarding the status of title to the property to be served. A tax receipt or certification received and signed by the County Treasurer shall be satisfactory evidence.

#### **5.2 Authority to Uncover, Use or Alter District Facilities**

No Person who is not authorized by the District shall uncover, make any Connection with, or opening into, use, alter or disturb any of the District Facilities without first obtaining a written permit from the District. Authorized persons include the District's maintenance Contractor, Engineer and licensed Contractors with written permits.

### **5.2.1 Construction**

The District has sole authority to plan, finance, design and construct or acquire all District Facilities. The District will only construct facilities or portions thereof when the Board has made a determination that such construction is economically feasible and will not compromise Service to its existing Customers and Owners.

The Developer and/or Owner may be required to plan, finance, design and construct certain facilities as a condition of Service to their property. For all new connections the Developer and/or Owner shall be required to make a Water Dedication free and clear of all liens and encumbrances, decreed or un-decreed, of all Denver Basin Groundwater underlying the property, through a Water Dedication Agreement as a condition of Service to their property. Such facilities shall be constructed pursuant to an Agreement with the District and in accordance with plans and specifications approved by the District's Engineer, and in accordance with the FACILITIES CONSTRUCTION AND TECHNICAL STANDARDS, as the same may be amended from time to time, which are available upon request from the District. The Owner or Developer shall pay the Actual Cost of all such facilities and shall construct such facilities pursuant to an Agreement with the District and in accordance with plans and specifications approved by the District's Engineer, and in accordance with the FACILITIES CONSTRUCTION AND TECHNICAL STANDARDS, as the same may be amended from time to time, which are available upon request from the District.

### **5.3 Inclusion into District Service Area**

Except as otherwise authorized in writing by the Board, Service will be furnished only to Persons whose property is included within the Service Area of the District. Inclusions into the Service Area will be processed in accordance with the Service Plan.

An Applicant for inclusion of property shall file a formal application for inclusion within the District's Service Area on forms prescribed by the District, accompanied by a non-refundable payment for legal fees and administrative costs and a properly executed Agreement in the form provided by the District. The Board reserves the right to impose such additional terms and conditions on the inclusion of property as it deems to be in the best interests of the District.

A Person owning land within or without the Service Area boundaries of the District, who desires service, must include all of their land contiguous to the parcel upon which service is desired into the Service Area of District, unless the District permits otherwise. No Person receiving service within the District may enlarge or extend any portion of the total facility receiving service (including buildings, parking and landscape areas, etc.) into an area lying outside the Service Area boundaries of the District without first including such area into the District's Service Area.

### **5.4 Service Outside of the District Service Area**

The District shall have no obligation to provide service outside its Service Area, but it may determine to provide service outside the Service Area of the District in its sole discretion upon terms and conditions the Board deems to be in the best interests of the District and its Customers.



## **5.5 Requirements for Service**

In addition to any other requirements for Service set forth in these Rules and Regulations, the requirements set forth in this Section shall be met prior to a receiving Service from the District. Acceptance of Service by any Developer, Owner or Customer shall constitute such Developer, Owner or Customer's agreement to be bound by the terms of these Rules and Regulations

### **5.5.1 Filing of Application for Service**

An Application for Service must be filed with the District on forms provided by the District and accompanied by all applicable fees and charges prior to a Developer, Owner or Customer taking any action to Tap or make a Connection to the System. Only after (1) approval of the Application by the District and (2) satisfaction of any applicable condition as described in Section 5.5.2 of these Rules and Regulations may a Tap or Connection to the System be made by the Applicant. Any violation of this Section will be subject to the provisions of Article 9 of these Rules and Regulations.

### **5.5.2 Conditions of Service**

#### **5.5.2.1 Construction, Extension and Oversizing of Facility/Line**

As a condition of receiving Service, the Developer, Owner or Customer may be required to construct, extend or enlarge Potable Water, Non-Potable Water and/or Sewer lines or facilities in order to serve a particular property or properties. In addition, as a condition of receiving Service, the Developer, Owner or Customer may be required, in the District's sole discretion, to construct Potable Water, Non-Potable Water and/or Sewer lines or facilities beyond the capacity required to serve a particular property or properties or extend such lines or facilities beyond the location required to serve a particular property or properties in order to effectively provide service to additional properties within the District's Service Area at a later date.

##### **5.5.2.1.1 Cost Recovery**

The part of the costs of a facility or line to be installed within, or for, a particular property or properties; but which the District has also assigned a transmission function which results in the need for oversizing or extension as described in Section 5.5.2.1 of these Rules and Regulation, which are eligible for a credit or reimbursement to the Developer, Owner or Customer shall be determined on a case-by-case basis in the sole discretion of the District and shall be described in an Agreement with the District.

#### **5.5.2.2 Conveyance of Property Rights**

As a condition of receiving Service, the Developer, Owner or Customer may be required, in the District's sole discretion, to convey right-of-way, parcels, easements or other property interests to the District or other governmental entities in order to ensure that the District can provide Service. Right-of-way, parcels, easements or other property conveyed to the District must be conveyed free and clear of all liens and encumbrances and must be of adequate size to suit the

District's purposes. Any costs related to securing right-of-way, parcels, easements or other property conveyed to the District in the necessary condition will be borne by the Developer, Owner, or Customer.

#### **5.5.2.3 Conveyance of Water Rights**

All Groundwater rights and/or surface water rights associated with property in need of a new connection shall enter a Water Dedication to the District concurrently with and as a condition to the connection. Administratively, the District shall establish the required deed form and title assurances for the Water Dedication to the District

#### **5.5.2.4 Tap Purchase Agreement/Facilities Development Agreement**

As a condition of receiving Service, the Developer, Owner or Customer shall be required to enter into a Tap Purchase Agreement, Facilities Development Agreement or other Agreement with the District. When a Developer, Owner or Customer enters into a Tap Purchase Agreement with the District, the Tap Fees owed to the District pursuant to such agreement shall be due and payable to the District no later than the date of the final plat for the subject property. Failure to make full and timely payment of all Tap Fees owed to the District, in accordance with this Section 5.5.2.3, shall render the Tap Purchase Agreement null and void, unless otherwise amended pursuant to mutual agreement of the parties thereto. If the property is already platted at the time of entering into the Tap Purchase Agreement, each individual Tap Fee shall be due to the District at the time of closing on the sale of the respective lot to another Owner or issuance of a building permit. The District shall also be entitled to charge a fee and/or deposit to the entity or individual entering into the Tap Purchase Agreement for the purpose of reimbursing the District for the costs associated with legal and staff time spent reviewing and preparing the Tap Purchase Agreement.

#### **5.5.3 Denial or Revocation of Application**

The District reserves the exclusive right to deny an Application for Service when, in the opinion of the District, the Service applied for would create an excessive seasonal, or other, demand on the District Facilities, or is otherwise not in the best interests of the District. Denial may also be based upon an unresolved obligation between the District and the Applicant, inadequate documentation of rights-of-way, parcels, easements or other property interests for facilities that serve the property, or any other reason as determined by the District. The District reserves the right to revoke Service for any violation of these Rules and Regulations.

#### **5.5.4 Approval of Application**

The District's approval of an Application for Service may be in the form of a Will Serve Letter or other written instrument. After the District has approved the Application for Service, the Developer, Owner or Customer must apply to the relevant government authority for the applicable building permits prior to commencing construction activity.

### **5.5.5 Tap Certificate**

After obtaining the applicable building permits from the relevant government authorities, but prior to commencing construction activity, the Developer, Owner or Customer must pay the applicable Tap Fee to the District. Upon payment to the District of the applicable Tap Fee and all other applicable fees by the Developer, Owner or Customer, the District shall issue a Tap Certificate. If the Developer, Owner or Customer commences construction activity prior to payment of the applicable Tap Fee to the District, and the construction activity proceeds beyond laying the foundation for the improvements, the District reserves the right to assess a penalty on the Developer, Owner or Customer.

### **5.6 Non-Transferability of Rights/Limitation on Assignment**

No Taps may be sold or assigned to another property without the express written consent of the District and subject to such terms and conditions as the District may impose.

### **5.7 Separate Tap Certificates**

#### **5.7.1 Limitation of Service**

No Developer, Owner or Customer who has been issued a Tap Certificate shall supply or allow Service to be supplied, for use on any property or building not covered by that Tap Certificate or another validly issued Tap Certificate.

#### **5.7.2 Group Billing**

The District may establish group billing for multiple, noncontiguous premises with separate meters and whose accounts are paid by a single entity. Each meter within the group will be assessed fees, rates, charges, and penalties shown on the SCHEDULE OF FEES, RATES AND CHARGES, as the same may be amended from time to time, individually. A statement (in summary or detail) for all the meters within the group will be sent to one paying agent indicating the total amount due. A single due date for each bill group will be established by the District and will apply to all premises in the group. Any penalty, delinquency charge or suspension of service related to a single meter within the billing group will be applied to the entire billing group, notwithstanding the fact that the penalty, delinquency charge or suspension stems from circumstances relating to a single meter or account.

### **5.8 Change to Property, Buildings, Use of Property, Equipment or Service**

#### **5.8.1 Moved or Destroyed Buildings**

When buildings are moved or destroyed or Taps are otherwise disconnected, the Developer, Owner or Customer must physically disconnect its Service Line from the Main in accordance to these Rules and Regulations. All reconnections of Service Lines shall be made pursuant to these Rules and Regulations.

#### **5.8.1.1 Reconnection within Two (2) Years**

A Developer, Owner or Customer may reconnect a Service Line to the District's Main within a period of two (2) years from the date a building is moved or destroyed, or a Tap is otherwise disconnected without re-applying for Service as described in Section 5.5 of these Rules and Regulations.

#### **5.8.1.2 Reconnection after Two (2) Years**

Upon full payment of all applicable Tap Fees, the Taps and associated ability to connect to the District's system shall be available for two (2) years unless otherwise provided for in an agreement, as defined in Article 3.2 of these Rules and Regulations. If the Developer, Property Owner or Customer fails to connect to the District's system and is not receiving service as of the end of the two (2) year connection period or the period provided for by an agreement, this failure to connect shall constitute a "disconnection." The Developer, Property Owner or Customer thereafter has the option of paying the required Failure to Connect Fees as defined in Article 3.14 of these Rules and Regulations until such time as they do connect to the District's system and paying a required "reconnection fee" equal to the difference between the Tap Fee that was originally paid and the then current Tap Fee as promulgated by the District. If the Developer, Property Owner or Customer does not elect this option of paying the Failure to Connect Fees, then, in accordance with the Rules and Regulations, they forfeit the Tap Fee that was originally paid and will be responsible for paying the then current Tap Fee in order to connect to the District's system.

### **5.8.2 Change to Use of Property, Equipment or Service**

No change in a Developer, Owner or Customer's equipment, Service, change in nature of use of water, or use of property, including but not limited to the addition of an accessory dwelling or ancillary structure, which receives Service from the District shall be made without the prior notification of and approval by the District. Any such change by the Developer, Owner or Customer shall require an inspection of the property and evaluation of the Tap Fees and monthly service charges paid. Any addition of an accessory dwelling or ancillary structure that receives Service from the District made prior to the effective date of these Rules and Regulations shall be subject to inspection by the District. If the District's inspection of such addition reveals any violation of these provisions, such violations may result in the assessment of additional fees, rates, tolls, charges and penalties or revocation of service as provided in Articles 8 and 9 of these Rules and Regulations.

Any change in manner or change in use of water that requires payment of Tap Fees in excess of those currently paid on the property, such amounts shall be paid to the District before the change occurs. Failure to report such a change to the District shall be considered an unauthorized connection subject to the Unauthorized Connection Fee and penalties of the District. If the re-evaluation results in a conclusion that the Tap Fees, if assessed currently, would be in an amount less than that previously paid for the property in question, such determination shall not result in a refund or credit of any kind to the Developer, Owner or Customer.

Single Family Residences with detached accessory dwelling units, or similar structures, shall require a written Tap Fee Agreement prior to connection to the District's facilities. Accessory dwelling units may be subject to additional fees, rates, or charges in accordance with the District's current Schedule of Fees, Rates and Charges.

The District may also require, at the Developer, Owner or Customer's sole expense, physical changes in the facilities through which the Service connects to the property in order to accommodate Developer, Owner or Customer's proposed change. The Developer, Owner or Customer shall not change the grade over District Facilities or property without prior written approval from the District, which may be granted or withheld in the sole discretion of the District. Any violation of these provisions may result in the assessment of additional fees, rates, tolls, charges and penalties or revocation of service as provided in Articles 8 and 9 of these Rules and Regulations.

## **5.9 Prohibited Acts**

### **5.9.1 Unauthorized Persons**

No unauthorized Person shall connect to or disconnect from, cover, uncover, use, alter, disturb, or open District Facilities without first obtaining a Tap Certificate or other written authorization from the District. This includes, but is not limited to, the curb stop box or meter pit.

### **5.9.2 Unauthorized Connection to System**

No unauthorized Person shall be allowed to connect onto or disconnect from the System or to enlarge or otherwise add to or change equipment, Service or use of property without prior written approval of the District. All requests for a connection/reconnection of Service may be granted or denied by the District at its sole discretion. All requests for connections/reconnections of Service from the District shall be inspected and approved only by District personnel, regardless of the circumstances concerning the connection/reconnection. A connection and/or a reconnection is each a separate, distinct function and shall require additional inspections by District personnel. The District may assess applicable fees, rates, tolls, charges and penalties as specified in Article 8 of these Rules and Regulations.

All Developer, Owner, or Customer's System connections, regardless of request, will be subject to inspection by the District as specified in Articles 4.6 and 4.8 of these Rules and Regulations to determine whether unauthorized connections exist.

Upon the discovery of any unauthorized connections, including but not limited to bypass of a meter during construction, the Developer, Owner or Customer may be subject to the provisions of Article 9 of these Rules and Regulations.

### **5.9.3 Unauthorized Connection to Hydrants**

Any Person involved in the unauthorized use of hydrant water shall pay for all water taken, together with the costs incurred by the District to discover and correct the unauthorized use, and

any penalties as specified in Article 9 of these Rules and Regulations. Any person or entity involved in previous unauthorized use of hydrant water will be ineligible for new hydrant water use permits until the District is fully compensated for past hydrant water use and penalties for unauthorized use have been paid. Any unauthorized use may result in suspension of all permits issued to the particular permit holder.

#### **5.9.4 Prohibited Use of System**

Prohibited uses of the System includes, but is not limited to, an unauthorized draw from or discharge in to the System, an unauthorized connection or disconnection of Service Lines, or tampering with or in any way modifying any part of the District Facilities or modifying Service Lines in any way that violates these Rules or Regulations.

#### **5.9.5 Illegal Acts**

No person shall maliciously, willfully, or negligently, break, damage, destroy, cover, uncover, deface, tamper, or refuse “right of entry” as specified in Section 4.8 of these Rules and Regulations, to any portion of the System even though all or portions of the same may be privately owned and maintained by the Developer, Owner or Customer. No Person shall connect to the sewer system or install or use any water well facility or system within the District’s Service Area, unless otherwise authorized by the District or these Rules and Regulations. No Person shall violate any provisions of these Rules and Regulations. The District may pursue to the limits of local, state, and/or federal laws any Person(s) that cause damage to the System.

#### **5.9.6 Obstruction of Easements or Rights-of-Way**

No Person shall obstruct or impede the usage of District easements or rights-of-way in any manner that may prevent unrestricted access to and use of the easements or rights-of-way by duly authorized employees, agents, or representatives of the District unless such obstructions are specifically permitted by the District or the terms of the agreement granting the easement to the District.

#### **5.9.7 Unauthorized Distribution of Water**

No Person shall be permitted to transfer, convey or resell District water to a third-party without the express written consent of the District. This prohibition shall apply whether the Person is attempting to provide the water for free, at the cost paid by the Customer, or at a premium above the cost paid by the Customer. Each Customer shall remain fully responsible for all costs associated with their receipt of water from the District. To the extent that a Customer has entered into a lease arrangement with a third-party for use of their property, that Customer may not charge the lessee any more than what the Customer is being charged at that time by the District.

### **5.10 Forfeitures**

#### **5.10.1 Revocation of Service**

Service shall be revocable by the District for violation of any provision of these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement as provided in Section 9.2.2.6 of these Rules and Regulations.

#### **5.10.2 Failure to Connect**

A Developer, Owner or Customer's right to connect to the System shall terminate and any Tap Fee paid shall be forfeited if the Tap is not connected to the District's Facilities within twenty-four (24) months of the payment of the Tap Fees unless (1) the Developer, Owner or Customer pays the Failure to Connect Fee imposed for that Tap for each billing cycle, commencing with the first billing cycle after the 24-month period has passed, until Connection has been made and (2) any other applicable fees, rates, tolls, charges and penalties provided for in these Rules and Regulations; or (3) the Developer, Owner or Customer has entered into an Agreement with the District that specifically addresses the timing of Connection for pre-paid Taps.

#### **5.10.3 Revocation of Tap Certificate**

A Tap Certificate shall be revocable by the District for violation of any provision of these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement as provided in Section 9.2.2.6 of these Rules and Regulations.

#### **5.11 Penalties**

Any Person that violating any of the provisions of these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement may be subject to the enforcement provisions and penalties set forth in Article 9 of these Rules and Regulations.

#### **5.12 Reimbursement of District Costs**

Any Person that violating any of the provisions of these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement shall become liable for reimbursement of any District costs associated therewith as set forth in Section 9.2.3 of these Rules and Regulations.

### **ARTICLE 6 – USE OF NON-POTABLE WATER SYSTEM AND POTABLE WATER SYSTEM**

#### **6.1 General**

The District's Potable Water System and Non-Potable Water System have been planned and constructed to provide water for conventional, domestic, irrigation, industrial and commercial uses, and fire protection. Persons wanting to use the Potable Water System or Non-Potable Water System for an industrial or commercial water supply, which could be expected to require large quantities of water or unusual demand rates, shall be required to submit demand data as to water

use before a Tap Certificate will be issued; said Tap Certificate may contain use limitations as determined necessary by the District.

## **6.2 Non-Potable Water System Requirement**

All outside irrigation of sod, shrubs, trees or other plant material (collectively “Landscaping”) shall only be done with water from the Non-Potable Water System. Violation of this requirement, including by third party contractors, shall be deemed to be an unauthorized connection and tampering with the District’s System and subject to the enforcement provisions and penalties set forth in Article 9 of these Rules and Regulations. No potable water shall be used for the irrigation of Landscaping at any time. Developers, Owners and/or Customers shall be required to connect sprinkler and irrigation systems to the Non-Potable Water System only. All automatic sprinkler and irrigation systems shall be equipped and designed for use with the Non-Potable Water System, which may contain particulate matter or other foreign substances from time to time. Annual turn-on and shut-off, draining and servicing of sprinkler and irrigation systems shall be the responsibility of the Owner and/or Customer. Observation of the meter to ensure that the valve is in the proper position (fully open, or fully closed), and to confirm there are no leaks, shall not be deemed tampering with District’s System.

## **6.3 Cross-Connection/Dual Supply**

Water from the District’s Potable Water System and water from the District’s Non- Potable Water System or any other source shall be distributed through systems entirely independent of each other and cross-connection between such supplies is strictly prohibited. A cross-connection is defined as any physical arrangement whereby the District’s water supply is connected, directly or indirectly with any Non-Potable Water System or unapproved District water supply system, sewer drain, conduit, pool, reservoir plumbing fixture or other device which contains or may contain any contaminated water, liquid, or other waste of unknown or unsafe quality that could impart a contaminant to the District’s water supply as a result of backflow. Violation of this prohibition, including by third party contractors, shall be deemed to be an unauthorized connection and tampering with the District’s System and subject to the enforcement provisions and penalties set forth in Article 9 of these Rules and Regulations.

All plumbing installations shall be designed and installed in conformity with the Annual, Cross-Connection Control, published by the Colorado Department of Health, latest edition and with the latest plumbing codes as adopted by the relevant local, states and federal authorities.

### **6.3.1 Backflow Prevention Required**

In accordance with the Colorado Primary Drinking Water Regulations (5 CCR 1002-11.39, as amended), commercial, industrial and multi-family service connections shall be subject to a survey for cross-connections. If a cross-connection has been identified or a potential of backflow is present, an appropriate backflow prevention assembly or device acceptable to the District shall be installed. Backflow prevention assemblies and devices shall be inspected, tested, maintained, and repaired or replaced, as needed.



#### **6.4 Fire Protection Sprinkler System**

If a fire protection water sprinkler system is to be used, a plan of the system shall accompany the application for such connection and shall be subject to the approval of the District. All fire sprinkler systems shall meet the then current National Fire Protection Association requirements and additionally shall meet the requirements of applicable local, state and federal building and fire protection codes. The District may require separate tap purchases and/or metering of fire protection systems. The District assumes no obligation to provide or liability related to adequacy of water pressure or quantity for fire protection water sprinkler systems.

#### **6.5 Compliance with Other Applicable Regulations**

Developers, Owners and Customers using the Potable Water System and/or the Non-Potable Water System shall abide by all provisions of these Rules and Regulations and all applicable local, state and federal laws, policies, codes, rules and regulations, as the same may be amended from time to time.

#### **6.6 Conservation**

At the District's sole and absolute discretion, such as in times of drought, the District may elect to shut off the Non-Potable Water System in order to conserve water resources. Additionally, the District may adopt additional rules and regulations relating to the rationing of water, including, but not limited to, scheduled use of such water, limitations on use, and any other measures that the District determines to be necessary and appropriate. The District shall not be liable for any damage caused to landscaping that may result from the shut off of the Non-Potable Water System.

Owners, Developers, or Customers that do not follow the rules, regulations, and prohibitions adopted by the District during times of drought may have their service suspended or receive a fine for such violations as determined by the District.

### **ARTICLE 7 – USE OF SEWER SYSTEM**

The District's rules and regulations relating to the sanitary sewer system are found in the Todd Creek Village Metropolitan District Rules and Regulations regarding the Sanitary Sewer System.

### **ARTICLE 8 – FEES, RATES AND CHARGES**

#### **8.1 General**

The Board is empowered to fix and from time to time to increase or decrease fees, rates, tolls, penalties or charges for services, programs, or facilities furnished by the District pursuant to Section 32-1-1001(1)(j)(I), Colorado Revised Statutes, as amended from time to time. The District imposes and collects such fees, rates, tolls and charges in amounts to ensure they are sufficient to operate, maintain and provide the Services and the District Facilities. The District imposes and

utilizes its fees, rates, tolls and charges in accordance with applicable law for protection of the health and welfare of residents and property owners of the District.

## **8.2 Application of this Article**

The fees, rates, tolls, charges and penalties established by the District and the other information set forth herein shall apply only to Developers, Owners and Customers of property within the Service Area of the District and shall in no way obligate the District with respect to the provision of Service outside of the Service Area of the District.

## **8.3 Schedule of Fees, Rates and Charges**

The fees, rates, tolls, charges and penalties in existence and in effect are set forth in the SCHEDULE OF FEES, RATES AND CHARGES, as the same may be amended from time to time, which is available upon request from the District. Such fees, rates, tolls, charges and penalties shall remain in effect until modified by the Board in accordance with these Rules and Regulations and applicable laws. Nothing contained herein shall limit the Board from modifying fees, rates, tolls, charges and fees, rates, tolls, charges and penalties fees, rates, tolls, penalties and charges adopted by the District will become a part of these Rules and Regulations.

## **8.4 Adjustment of Fees, Rates and Charges**

In those situations where, in the District's sole discretion, the fees, rates, tolls, charges and/or penalties shown on the SCHEDULE OF FEES, RATES AND CHARGES, as the same may be amended from time to time, which is available upon request from the District, do not represent a fair, reasonable and equitable charge for the intended use, the District, in its sole discretion, may adjust said fees, rates, tolls, charges and/or penalties.

## **8.5 Payment of Fees, Rates and Charges**

### **8.5.1 Billing**

It is the policy of the District to bill all monthly service charges in arrears. The District shall have the right to issue only one (1) billing statement for a multi-unit structure or development which is served by a single Service Line and where each unit is not separately metered. The Owner of such property shall be responsible for all charges to the property. If the units are owned by separate parties, the parties shall designate a responsible party, association or other representative party to receive billing statements and notices from the District.

### **8.5.2 Due Date**

The Owner or Customer shall pay to the District within fifteen (15) days after the date shown on the statement the full amount of that statement. Where the Owner or Customer believes said statement is in error, the Owner or Customer must file within fifteen (15) days after the statement date, a written notice to the District of the presumed error and request a clarification from the District. Upon review by the District and re- submittal and/or revision of the statement,

payment shall be due no later than fifteen (15) days from the date of the resubmitted statement. Any appeal of resubmitted statement must be made in accordance with Section 9.3 of these Rules and Regulations.

### **8.5.3 Third-Party Deposits and Debits**

The District may enter into agreements with third-party contractors for services that benefit Owners and Customers. In order to receive these services, the Owner or Customer may be required to submit payments directly to the third-party contractor. As an assurance of payment to the third-party contractor, the District may be required to establish an account with the third-party contractor for the settlement of chargebacks, failed payments, and declined payments, along with related fees and costs associated with the service. Should the Owner's or Customer's payment to the third-party contractor be rejected or fail to be accepted for any reason, the District may be responsible for covering the amount of the rejected payment (the "Rejected Payment Amount"). The District reserves the right to recover the Rejected Payment Amount plus penalties from the responsible Owner or Customer. The District may also assess the Owner or Customer certain additional penalties in amounts to be determined by the District, in its sole discretion.

### **8.6 Responsibility for Costs**

Any Person who seeks to do business with the District, obtain agreements with the District, obtain approval of plans from the District, or otherwise undertake activities which cause the District to incur costs or fees, shall be responsible for paying the District for all such costs. Any activities by Persons that may require additional costs to the District, including but not limited to additional administrative, engineering or legal costs, shall pay the District for all such additional costs. Such payment shall be due at such time as the Person receives an invoice from the District or as the Board directs, but in no case later than the date when agreements are executed, approvals are delivered, or such Person receives benefit from the District for such activities.

### **8.7 Perpetual Lien/Foreclosure**

In accordance with 32-1-1001(1)(j)(I), Colorado Revised Statutes, as may be amended from time to time, and as more particularly discussed in Section 9.2.2.4 of these Rules and Regulations, until paid all rates, tolls, charges, fines, fees, assessments, penalties and costs shall constitute a perpetual lien on and against the property served, and any such lien may be foreclosed in the same manner as provided by the laws of this state for the foreclosure of mechanics' liens.

### **8.8 Penalties for Late Payment or Non-Payment**

Late payment or non-payment of any rates, tolls, charges, fines, fees and/or assessments owed to the District may result in the District taking one or more actions, which may include, but is not limited to charging a late fee, charging interest or revoking service, in accordance with Article 9 of these Rules and Regulations.

## **ARTICLE 9 – ENFORCEMENT, VIOLATIONS AND PENALTIES**

### **9.1 Violations**

Any intentional or negligent action taken by a Person in contravention of these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement shall be considered a violation and is subject to the provisions of this Article.

### **9.2 Enforcement Remedies**

#### **9.2.1 Notification of Violation**

Whenever the District finds that any Person has violated or is violating these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement, the District may issue a written notice to resolve the obligation, correct the problem or the practice at issue. If, in the sole discretion of the District, an emergency exists, the District may take immediate action as provided in Section 9.4 of these Rules and Regulations and shall provide written notice as soon thereafter as possible. In the event of late payment or non-payment of any rates, tolls, charges, fines, fees and/or assessments, the District is not required to send any notification beyond the billing statement, unless otherwise required by law.

Should the violation still exist after the time limit on the notice has elapsed, the District may revoke Service, revoke a Tap Certificate or assess charges, fines and/or penalties as provided in Section 9.2.2 of these Rules and Regulations.

#### **9.2.2 Penalty for Violations**

##### **9.2.2.1 Penalty**

Any Person in violation of these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement may be assessed penalties in an amount to be determined by the District or as shown on the SCHEDULE OF FEES, RATES AND CHARGES, as the same may be amended from time to time, which is available upon request from the District. Each violation is subject to a penalty and each day of a violation shall be considered a separate violation. Penalties may be added to the Developer, Owner or Customer's next bill.

##### **9.2.2.2 Late Fee**

At any time a Developer, Owner or Customer is fifteen (15) days late in payment of any rates, tolls, charges, fines, fees and/or assessments due the District, the District shall have the right to assess a penalty on the unpaid balance in the amount shown on the SCHEDULE OF FEES, RATES AND CHARGES, as the same may be amended from time to time, which is available upon request from the District.

### **9.2.2.3 Interest**

Unpaid rates, tolls, charges, fines, fees, assessments and/or penalties may, after thirty (30) calendar days, be assessed interest, which shall accrue thereafter at a rate as shown on the SCHEDULE OF FEES, RATES AND CHARGES, as the same may be amended from time to time, which is available upon request from the District.

### **9.2.2.4 Perpetual Lien/Foreclosure**

In accordance with Section 32-1-1001(1)(j)(I), Colorado Revised Statutes, as may be amended from time to time, until paid all rates, tolls, charges, fines, fees, assessments, penalties and costs (including but not limited to legal, engineering, accounting and administrative) shall constitute a prior and perpetual lien on or against the entire property served, including all units served by a common service and on or against any property benefited by a Service Line or main line extension. Any such lien may be foreclosed in the manner provided by law.

### **9.2.2.5 Certification of Amount to County Treasurer**

In addition to any other means provided by law, the Board may elect to have certain delinquent rates, tolls, charges, fines, fees, penalties and/or assessments made or levied solely for Potable Water Service, Non-Potable Water Service and/or Sewer Service certified to the treasurer of the county to be collected and paid over by the treasurer of the county in the same manner as taxes in accordance with Section 32-1-1101(1)(e), Colorado Revised Statutes, as may be amended from time to time.

### **9.2.2.6 Revocation of Service**

Should a Developer, Owner or Customer remain in violation of these Rules and Regulations, or the conditions or obligations set forth in any Tap Certificate or Agreement after the time limit stated on a violation notice issued pursuant to Section 9.2.1 of these Rules and Regulations has elapsed, the District may revoke Service. In the event of a proposed revocation of Service, the Developer, Owner or Customer shall be given not less than ten (10) days advance notice in writing of the revocation, which notice shall set forth the following:

- a. The reason for the revocation and the date service(s) shall be terminated;
- b. That the Developer, Owner or Customer has the right to contact the District and the manner in which the District may be contacted for the purpose of resolving the obligations; and
- c. That there exists an opportunity for a hearing in accordance with Section 9.3 of these Rules and Regulations.

If the obligations are not resolved or a request for a hearing, accompanied by a deposit equal to the amount of any fees, rates, tolls, charges and/or penalties specified in the notice, is not received by the District within ten (10) days, the District may terminate the Service(s) and the Developer, Owner or Customer may be assessed the cost of the disconnection. The Developer,

Owner or Customer's deposit for Service, if any, shall be applied against the outstanding obligation.

#### **9.2.2.7 Revocation of Tap Certificate**

In addition to the other rights and remedies set forth in these Rules and Regulations, any Developer, Owner or Customer who violates these Rules and Regulations, any conditions of the Tap Certificate or Agreement, or violates any applicable local, state and federal regulations, is subject to having their Tap Certificate revoked after receipt of notice of such proposed revocation in substantially the same manner as provided in Section 9.2.2.6 of these Rules and Regulations. If the Tap Certificate is revoked, the Developer, Owner or Customer may reacquire such Tap Certificate only by reapplying for Service in accordance with the Rules and Regulations, and after paying all fees due and owing the District and the then-current Tap Fees charged by the District under these Rules and Regulations for the use in question and complying with all other applicable requirements of the District.

#### **9.2.2.8 Civil Liability**

Any Person who intentionally or negligently violates any provision of these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement may be subject to civil liability to the District.

#### **9.2.2.9 Criminal Liability**

Any Person who violates these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement and in doing so commits a misdemeanor or felony may be charged with a misdemeanor or felony, and upon conviction thereof, shall be subject to such penalties as provided by law.

#### **9.2.2.10 Other Remedies Provided at Law**

In addition to the other rights and remedies set forth in these Rules and Regulations the District may exercise any other rights or remedies it may be entitled to under law or in equity to enforce these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement.

### **9.2.3 Reimbursement of District Costs**

Any Person that violates any of the provisions of these Rules and Regulations or the conditions or obligations set forth in any Tap Certificate or Agreement shall become liable to the District for any expense, loss or damage occasioned by reason of such violation, including, but not limited to, administrative, attorneys', engineering, collection, court and accounting fees and costs. Damages to the District's Facilities by a party other than a Developer, Owner, or Customer may be collected at a rate of at least 130% of the actual cost to the District of repairing such damage. The District shall have the authority, at its sole discretion, to engage the services of a third-party collection agency to assist the District in collecting reimbursement of its costs. Such third-party

collection agency shall be engaged as an independent contractors of the District and shall not be an assignee of the District's rights to collect the amounts owed.

### **9.3 Hearing and Appeal Procedures**

#### **9.3.1 General**

If a Developer, Owner or Customer wishes to dispute any rates, tolls, charges, fines, fees, assessments and/or penalties imposed by the District or a determination made by the District, the Developer, Owner or Customer must appeal such rates, tolls, charges, fines, fees, assessments and/or penalties or determination by following the procedure set forth below (a Developer, Owner or Customer filing an appeal is referred to in the remainder of this section as the "Appellant"). Notwithstanding the filing of an appeal the Appellant is required to pay any rates, tolls, charges, fines, fees, assessments and/or penalties assessed by the District and such rates, tolls, charges, fines, fees, assessments and/or penalties shall be held by the District until such time as the appeal is final. The hearing and appeal procedures established below shall apply to all disputes concerning the interpretation, application or enforcement of the rates, tolls, charges, fines, fees, assessments and/or penalties, or other determinations, including determinations not involving applications of the Rules and Regulations, of the District and application and enforcement of these Rules and Regulations, as they now exist or may hereafter be amended. In the event a proper and timely request for an appeal is not made as provided herein, the right to an appeal shall be deemed forever waived.

#### **9.3.2 Appeal to District Manager**

The Appellant must first file a written request with the District within ten (10) days of being notified of a proposed revocation of service or other determination of the District or of the due date specified for a fee, rate or charge of the District. Within thirty (30) days of receiving the request from the Appellant, the District, after a full and complete review of the record, shall issue a written determination regarding the application or enforcement of the rates, tolls, charges, fines, fees, assessments and/or penalties, or other determinations, including determinations not involving applications of the Rules and Regulations, of the Districts and/or application and enforcement of these Rules and Regulations, as may be applicable.

#### **9.3.3 Hearing before Board of Directors**

If the Appellant wishes to appeal the written determination of the District under Section 9.3.2 of these Rules and Regulations, the Appellant must file a written request with the District for a hearing within ten (10) days after the date of the written determination of the District under Section 9.3.2 of these Rules and Regulations was mailed. The request for a hearing shall set forth with specificity the facts upon which the Appellant is relying and shall contain a brief statement of the Appellant's reasons for the complaint. The Board shall hold a formal hearing on the appeal at the next regularly scheduled meeting that is held no earlier than ten (10) days after the filing of the Appellant's request for a hearing.

#### **9.3.3.1 Notice**

A notice shall be served on the Appellant, specifying the time and place of the hearing to be held by the Board regarding the appeal and directing the Appellant to present evidence of why the determination regarding the application or enforcement of the fee, rate or charge, or determination, including a determination outside of these Rules and Regulations, of the District and/or application and enforcement of these Rules and Regulations, as may be applicable, is not correct. The notice of the hearing shall be served personally or by certified mail return receipt requested or by any mail delivery service that is the equivalent to or superior to certified mail return receipt requested, at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation. When an Appellant is represented by an attorney, notice of any action, finding, determination, decision or order affecting the Appellant shall also be served upon the attorney.

#### **9.3.3.2 Conduct of Hearing**

At the hearing, the District's Manager and the Appellant shall be entitled to present all evidence that is relevant and material to the dispute, and to examine and cross-examine witnesses. The Board may establish rules and procedures governing the hearing. A record of the hearing shall be maintained.

#### **9.3.3.3 Written Determination**

Based on the record established, the Board shall issue a written decision concerning the disposition of the dispute presented to it and shall cause notice of the decision to be hand delivered or sent by certified mail to the Appellant within fifteen (15) days after the hearing.

#### **9.3.3.4 Board of Directors Determination Final**

The decision issued by the Board shall be final and binding upon the District and the Appellant and shall constitute the final administrative action of the District. Any party to the hearing aggrieved or adversely affected by an order of the Board may appeal such order to the District Court in and for the County of Adams, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

### **9.4 Emergencies**

If an emergency is deemed to exist, the District may take any reasonable actions to remediate the emergency, including, but not limited to immediately notifying the State Health Department or any other appropriate department or agency and disconnecting any Service Line from the District Facilities or take any other action deemed necessary or prudent to protect the District, the District Facilities and/or the Developers, Owners or Customers, until such time as the District has received adequate assurance that any and all violations of these Rules and Regulations will cease and will not occur in the future. The District will, as soon as possible, provide written notice as described in Section 9.2.1 of these Rules and Regulations.