

Colorado City Metropolitan District Rules and Regulations

Revised August 2016

**Colorado City Metropolitan District
Rules and Regulations Index**

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Section One

1. GENERAL INFORMATION

- 1.1. **Authority:** These Rules and Regulations are adopted in accordance with the authority conferred in Title 32, Article 1 of the Colorado Revised Statutes, Colorado City Metropolitan District a Political subdivision of the State of Colorado and a quasi-municipal corporation with all the powers thereof which are specifically granted to the District, or are necessary or incidental to or implied from power specifically granted by statute, constitution or other law, for carrying out the objectives and purposes of the District.
- 1.2. **Policy:** It is hereby declared that the following Rules and Regulations will serve a public purpose and will promote the health, safety, and general welfare of the inhabitants and visitors of the Colorado City Metropolitan District.
- 1.3. **Purpose:** The purpose of these Rules and Regulations are to provide for the control, management and operation of recreation, services and facilities, together with the water and sewer systems of the Colorado City Metropolitan District, including additions, extensions and connections thereto, and to provide for the administration and enforcement of such standards. All service by the District will be available in accordance with these Rules and Regulations and the charges established therefore, and subject to all penalties and charges for violation thereof, or any statutes applicable to the District, subject to availability and capacity of facilities.
- 1.4. **Scope:** These Rules and Regulations shall be considered a comprehensive set of Rules and Regulations governing certain aspects of the control, management and operation of the Colorado City Metropolitan District. It should be noted, however, that not every conceivable aspect of the control, management and operation of the District and its systems is covered in these Rules and Regulations, and the Board of Directors of the District reserves the right to make rulings concerning matters not covered herein as and when appropriate, in the opinion of the Board. In addition, these Rules and Regulations are not intended to supersede or contravene specific terms or conditions of any agreement, contract, or other document entered into between the District and a party.
- 1.5. **Regulations by Other Governmental Entities:** Any limitation, restriction, or prohibition validly placed upon the District by any governmental entity or by any agreement between the District and any other governmental entity is hereby incorporated into these Rules and Regulations by this reference and shall constitute a limitation, restriction and/or prohibition on each customer of the District.
- 1.6. **Effective Date:** These Rules and Regulations shall be effective immediately upon adoption by a majority of the District's Board of Directors at a public meeting.
- 1.7. **Construction:** It is the intent of the Board that these Rules and Regulations shall be liberally construed to affect the general purposes and policies set forth herein. Nothing set forth herein shall be construed as an alteration, waiver or deviation from any grant of power, or any limitation or restriction thereof, conferred or imposed upon the District by the statutes,

constitutional provisions, or other laws of Colorado as they currently exist and as they may exist in the future.

- 1.8. **Enactment and Amendments:** These Rules and Regulations may be amended from time to time by the Board in the same manner as the original Rules and Regulations herein were adopted as provided in Section 1.6 herein
 - 1.8.1. **General.** The provisions of these Rules and Regulations, when properly enacted by the Board of Directors of the District, repeals those conflicting regulations in existence at the time of enactment.
 - 1.8.2. **Amendments.** Amendments to the provisions of these Rules and Regulations, to include changes of material contents and additions thereto, may occur at the Board's discretion. However, the enactment of the said amendments shall take place only after publication of notice announcing the proposed change or addition and the time and place of a public hearing relating to the proposed amendment.
 - 1.8.3. **Invalidity.** The invalidity of any section, subsection, sentence, clause, or provision of these Rules and Regulations shall not affect the Rule and Regulations which can be given effect without such invalid part or parts.
- 1.9. **Saving Provisions:** The enactment of these Rules and Regulations, any amendment thereof, or the repeal of any prior existing Rules and Regulations or Resolutions shall not deny or limit any right, action, cause of action, penalty charge or fee which arose under such provision.
- 1.10. **Repeal of Conflicting Resolutions:** All resolutions or parts of resolutions in conflict herewith are hereby repealed, except as may be expressly provided herein.
- 1.11. **Severability:** The invalidity of any section, clause, sentence, or provision of these Rules and Regulations shall not affect the validity of any other part of these Rules and Regulations which can be given effect without such invalid part or parts, and to this end the provisions of these Rules and Regulations are hereby declared to be severable.
- 1.12. **Notices:**
 - 1.12.1. **General:** Unless otherwise provided by any specific rule or regulation of the District, whenever a notice, resolution, order or other matter is required to be published, posted or mailed, it shall be done in accordance with the provisions of this Section.
 - 1.12.2. **Secretary:** Whenever any notice, resolution, order or other matter is required to be published, posted or mailed and the duty of accomplishing same is not specifically delegated to any officer or person, the Secretary shall cause it to be done.
 - 1.12.3. **Mailing:** Mailing shall be by first-class mail, postage prepaid and addressed to owners at least ten days prior to a stated time or event.
 - 1.12.4. **Posting:** When the Secretary is required to give notice by mail and the name of the owner is not shown on the County Tax Roll and is not otherwise known to the Secretary, the notice shall be Posted near the front boundary line of the affected property at least ten days prior to the stated time or event.
 - 1.12.5. **Sufficiency of Notice:** No notice other than that specifically provided for in this Section or in any rule or regulation of the District shall be necessary to give validity to any proceeding.

- 1.12.6. **Proof:** Proof of publication, posting or mailing of any notice, resolution or other matter may be made or effected by:
- a. The owner, publisher, printer, foreman, clerk or other authorized representative of a newspaper in which the publication was made, or
 - b. The poster or mailer of notice, or
 - c. A person having knowledge of the fact.

1.12.7. **Failure in Publication:** Failure to publish any notice or to publish it a lesser number of times or for a lesser period of time, as herein provided, or the failure to accurately publish the same, will not affect the validity of any proceeding, provided the notice has been mailed or posted to the affected property, as in this Section provided.

1.12.8. **Failure in Posting or Mailing:** The failure to any person to receive any notice which has been mailed to him/her or to observe any notice which has been posted on his/her property, shall not affect the validity of any procedure, provided that such notice has been mailed or a copy posted on the property affected, as in this Section provided.

1.13. **Variances:** The District reserves the right to waive or modify the provisions of these Rules and Regulations at its sole discretion. Any person seeking a variance of a provision of the Rules and Regulations shall have the burden of providing that the operation of such a provision would cause hardship, or should not be applied to the person for another justifiable reason, and such variance shall not endanger the health, safety and welfare of the residents and inhabitants of the District. The Board's decision to grant or to deny the variance shall be final and conclusive.

Section Two

2. **DEFINITIONS:** Unless the context requires otherwise, the meaning of terms used herein shall be as follows:

- 2.1. **Cost or Costs:** All costs associated with the new construction, reconstruction, enlargement or dedication of any water or sewer system, including, but not limited to, all costs of associated planning, engineering, inspection, administration, acquisition of facilities, rights-of-ways or water rights, attorney fees and other fees which are necessary to provide new, different or additional service within the District's service area or proposed service area.
- 2.2. **BOD:** (Denoting Biodegradable Oxygen Demand) The quantity of Oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees centigrade, expressed in milligrams per liter.
- 2.3. **Board or Board of Directors:** The duly elected Board of Directors of the Colorado City Metropolitan District, which acts as the governing body of the District.
- 2.4. **Building:** Shall mean any structure used or intended for supporting or sheltering any use or occupancy.
- 2.5. **Building Drain:** That part of the lowest horizontal piping of a building drainage system from the stack or horizontal branch, exclusive of storm sewer, extending to a point not less than five feet (5) outside of the building wall.
- 2.6. **Connection:** The connection of water and/or sewer service lines to District lines for either a permanent or temporary purpose.

- 2.7. **Contractor:** Any person, corporation, or other entity acting as an independent contractor, as licensed by Pueblo County Regional Building Authority, authorized by the District to perform work or furnish materials within the District, and hired by either the District or other persons or entities.
- 2.8. **Customer:** Any person, company, corporation, public entity or authority, as defined herein, developer, property owner, lessee, tenant or occupant or such property owner, who is supplied with service by the District or authorized to use water or connect to the public water or sewer.
- 2.9. **Deleterious Wastes:** Any wastes contained in special sewage that would be harmful to the District's sewer mains or to the sewage treatment works, or which, without pretreatment, would violate federal, state or local pretreatment standards.
- 2.10. **Developer:** Any person who owns land and is subdividing the land for resale and seeks to have the land served by the District.
- 2.11. **District Attorney:** Person or firm appointed by the District to act on its behalf in legal proceedings and offer legal opinions.
- 2.12. **District Engineer:** Person or firm that is appointed by the Board and employed or contracted to do engineering work for the District.
- 2.13. **District Representative:** District Administrator, Manager, Superintendent, or other authorized person conducting District business.
- 2.14. **District:** The Colorado City Metropolitan District.
- 2.15. **EQR:** The measure of the level of service necessary to serve a single family dwelling (equivalent residential unit).
- 2.16. **Industrial Wastes:** The liquid wastes from industrial processes, trade, or business, as distinct from sanitary sewage.
- 2.17. **Licensed Plumber:** A person who has been bonded and provided a license to perform such work by the Pueblo County Regional Building Authority, State of Colorado.
- 2.18. **Manager or District Manager:** The person retained by the Board to administer and supervise the affairs of the District and its employees, including enforcement of the District's Rules and Regulations.
- 2.19. **May:** Is permissive.
- 2.20. **Permit:** Written permission of the Board of Directors given pursuant to these Rules and Regulations, subject to the specific terms and conditions contained therein.
- 2.21. **Person:** Shall refer either to the singular or plural and shall include an individual, firm, partnership or corporation.
- 2.22. **Pre-Treatment Facilities:** Structures, devices, equipment or processes for the purpose of reducing or removing the deleterious wastes or altering the nature of the deleterious wastes in special sewage prior to discharging such sewage into the District's sewer system.
- 2.23. **Proposed Customer:** Any person whose property is capable of being served by District facilities or who has applied for a tap permit, connection permit, main line extension permit, or inclusion and who has not yet received the service which is the object of the permit application, regardless of whether such person or governmental authority or agency is already receiving other service from the District and regardless of whether they are a property owner, developer, sub divider or potential user.
- 2.24. **Sampling:** The periodic collection of water or sewage samples for testing.
- 2.25. **Sewage:** A combination of liquid wastes originating from any residential, commercial, or industrial buildings or other establishments, which may include

- household wastes, human excreta, animal or vegetable matter, organic or inorganic material in suspension or solution, and other solids in suspension or solution.
- 2.26. **Sewer Main:** Any pipe, system of piping and appurtenances used as a conduit for sewage in the District's sewer system and owned by the District. Unless otherwise designated by the Board, a main shall be any line eight inches (8") or more in diameter.
- 2.27. **Sewer Service Line:** Any pipe, system of piping and appurtenances used as a conduit for sewage from a customer's facility where sewer service is provided, to the sewer main.
- 2.28. **Sewer System:** All structures, facilities equipment and processes used for collecting, pumping, treating, and disposition of sewage.
- 2.29. **Sewage Treatment Works:** Those devices, facilities, structures or locations to which sewage is conveyed by sewer mains by the District for the purpose of treatment.
- 2.30. **Shall:** Is mandatory.
- 2.31. **Stub-In:** In the context of water service lines, the meter; in the context of sewer service lines the point where service lines are brought to the property line.
- 2.32. **Superintendent or District Superintendent:** The person employed by the Board, or, in his absence, his duly authorized deputy, who shall supervise operation and maintenance of District facilities, and who may, among other things, operate, inspect and approve all connections, excavations, and installations, systems and facilities.
- 2.33. **Supervise:** Inspect to insure compliance with Rules and Regulations of the District.
- 2.34. **Testing:** In the context of water or sewage, the analysis of samples for composition, and other characteristics; in the context of construction or connection of water or sewer system facilities, the inspection and trial operation of the construction.
- 2.35. **Unit:** A building or portion thereof used for a single family residence, an individual commercial use or which is provided separate service.
- 2.36. **Water Mains:** Any pipe, system of piping and appurtenances used as a conduit for water in the District's water system and owned by the District. Unless otherwise designated by the Board, a main shall be any line four inches (4") or more in diameter.
- 2.37. **Water Service Line:** Any pipe, line, or conduit used to provide water service from the main to the facility where the water service is provided to the customer.
- 2.38. **Water System:** All facilities and processes for diverting, transporting, distributing, storing, pumping, treating, measuring, etc. the water of the District.
- 2.39. **Any Other Term:** Not herein defined shall be defined as presented in the "Glossary - Water and Sewage Control Engineering," A.P.H.A., A.W.W.A., A.S.C.E., and F.W.S.A., latest editions.

Section Three

3. OPERATING PRINCIPLES AND LIMITATIONS

- 3.1. **Policy:** The District is responsible for providing water and sewer services in an economical manner within the District, and providing for the operation, maintenance, repair and replacement of all mains, hydrants, valves, and facilities owned by the District, in accordance with these Rules and Regulations. The right to any use of the District's water or sewage system is only by permission of the District. The District

reserves full right to determine all matters related to the control and use of its water and sewage system. The right to use of the District's water and sewer systems shall be subject to suspension or revocation as set forth herein.

- 3.2. **Water and Sewer System Construction Costs:** Notwithstanding any other provision of these Rules and Regulations to the contrary, all cost of new construction, reconstruction or enlargement of any water or sewer system facilities, including all associated planning, engineering, administration and attorney's fees, which are necessary to provide new, different or additional water or sewer service within the District's service area (including but not limited to service lines, main lines and water or sewage treatment works), shall be paid by the owner (s), or customer (s), of the property or building to be serviced. The District shall not pay for any costs associated in any way with the provision of any new, different, or additional service after the effective date of these revised Rules and Regulations. The provisions of this section apply regardless of whether the District or some other person contracts for, or initially pays for, such construction, reconstruction or enlargement, or such service is requested by the customer, or compelled by the District. The District Board may act other than as required in this section when it determines, in its sole discretion, that such action is necessary to provide for the health, safety and welfare of the inhabitants and visitors of the District.

3.3. **Liability:**

- 3.3.1. **District Not Liable:** No claim for damage shall be made against the District, and the District and its officials and employees shall not be liable by reason of damage resulting from any of the following: breaking of any service or supply line, pipe, cock, or meter by any employee of the District; failure of the water supply; shutting off or turning on water in the water mains; the making of connections or extensions; damage caused by water running or escaping from open or defective faucets; burst service pipes or 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, sporadic, and excessive pressures; blockage in the system causing the backup of effluent; damage caused by "smoking" of lines to determine drainage connections to District lines; breakage of main lines by District personnel; interruption of water or sewer service and the conditions resulting there from where said interruption of service is brought about by request of claimant, or by circumstances beyond the District's control; failure of any facilities to be located where the District's map indicates they should be; the shutting off of a sewer lift station and possible backflow resulting there from; failure to obtain access to isolation valve; or for doing anything to the water and sewer system of the District deemed necessary by the Board of Directors or its agents. This paragraph shall not relieve the District from liability for negligence of its employees, if such liability would otherwise have existed; however, the foregoing shall not constitute a waiver by the District of the defense of sovereign immunity or the Colorado Governmental Immunity Act, or any other defenses it may have to an action against the District, its officials or employees, nor a waiver of its insurance coverage. These Rules and Regulations shall not be construed to hold the District in any manner responsible for any damages to persons or property resulting from any inspection as herein authorized or resulting from any failure to so inspect, or resulting from the issuance or denial of any permit as herein provided, or

resulting from the institution of court action as allowed by law, or the forbearance by the District to so proceed.

3.3.2. Officials Not Liable: Any District official or employee, charged with the enforcement of these Rules and Regulations, acting in good faith and without malice on behalf of the District in the discharge of his/her official duties, shall not thereby render himself/herself personally liable for any damages which may accrue to persons or property resulting from any such act or omission committed in the discharge of such duties. Any suit or proceeding instituted against such official or employee, stemming from any act or omission performed by him/her in the enforcement or attempted enforcement of any provision of these Rules and Regulations, shall be defended, indemnified and held harmless by the District until final termination of the proceedings. This section shall be construed in such a manner as to be consistent with the District's resolution indemnifying such officials and employees.

3.3.3. Nonliability for Work of Others: The District does not assume any liability for any work performed by others. No claim shall be made against the District or any of its officers or employees on account of errors of omission or commission made by the District's licensees.

3.3.4. Indemnity: The owner(s) shall indemnify the District from any loss or damage that may directly or indirectly be occasioned by the installation of the service line and shall obtain any guarantee required by Section 9.10.2.

3.3.5. Construction: This Section 3.3 shall be construed in such a manner as to be consistent with any District resolution then in effect indemnifying such officials and employees.

3.4. District Ownership and Maintenance: Except as otherwise provided in these Rules and Regulations, all existing and future water and/or sewer system facilities connected with and forming an integral part of the District's water and sewage system shall become and are the property of the District. The District shall be responsible for maintenance, repair and reconstruction of such property, including water or sewer mains, at its cost, unless the situation necessitating such repair or reconstruction is the result of a change or enlargement of use, abnormal use or damage to such facilities, in which case such repair or reconstruction will be done at the expense of the person responsible for such abnormal use or damage. Said ownership will remain valid regardless of whether such property is constructed, financed, or paid for by other persons or otherwise acquired by the District. No other persons, except those authorized by the District, shall have any right to enter upon, inspect, operate, adjust, change, alter, move or relocate any portion of the District's facilities.

3.5. Ownership and Maintenance of Water and Sewer Service Lines: That portion of any water service lines extending from the meter to each building or unit, and the sewer service lines from the main to the building or unit are the property and maintenance responsibility of the customer. That portion of the water service line from the water main to the meter is the property of the District. Leaks, stoppages or breaks in the customer's portions of such service lines shall be repaired by the property owner within a reasonable period of time after discovery or notification of such condition by the District. If satisfactory progress toward repairing the said leak, stoppage or break has not been accomplished within such time period, the District Representative shall shut off the water service until the leaks, stoppage or breaks have been repaired. The District reserves the right to make the repair at the expense of the customer when, in the opinion of the District Representative, such repair is

necessary to protect the health, safety and welfare of the inhabitants and visitors of the District. Said ownership shall remain valid whether the service lines are constructed, financed, paid for, or otherwise acquired by the District or by other persons.

- 3.6. **Defective Meters:** It shall be the duty of all customers to notify the District office immediately if a meter is operating defectively. The District shall be responsible for the maintenance, repair or replacement of all meters, unless the meter is intentionally damaged. If any water service meter shall fail to register in any period because the customer has failed to notify the District, the customer shall be charged the average period consumption during the two preceding periods as shown by the meter when in order.
- 3.7. **Service Outside the District:** Service outside the District is available only by contract according to the discretion of the District's Board.
 - 3.7.1. **General Provisions:**
 - 3.7.2. **No Service Outside Boundaries, Exceptions:** The Board in its sole discretion may allow extraterritorial service for residential property owners at a rate of 1.5 times the current District service rates including tap fees and 2.0 times the current service rates for commercial property including tap fees.
 - 3.7.3. **Public Hearing:** The District shall not extend District water or sewer service beyond existing boundaries of the District except in cases where the Board, by Resolution determines it is in the best interests of the District to extend water and sewer service outside existing boundaries of the District.
- 3.8. **Water Service Policy:** All existing or future customers who receive water or sewer service from the District are required to convey and dedicate all tributary, nontributary, not nontributary, or Arkansas River Basin water rights and groundwater rights, underlying their property within the District, or the consent to withdraw and use such water, to the District as a condition of receiving such service.
- 3.9. **Ownership and Right to the Use of Water:** The District retains all property rights associated with any water provided to customers and buildings, including the right to reuse, make a successions of uses, or to use such water to the point of its complete or absolute consumption.
- 3.10. **No Resale of Colorado City Water is Permitted:** Water supplied by the District is, under no circumstances to be permitted for resale. This includes all bulk water sales.

Section Four

4. USE OF PUBLIC WATER AND SEWER SYSTEMS REQUIRED

- 4.1. **Unlawful to Deposit Waste in Unsanitary Manner:** It is unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the District, any human excrement, garbage, or other objectionable waste.
- 4.2. **Sewage Must be Treated:** It is unlawful to discharge to any natural outlet or surface or subsurface system within the District, any sewage or other polluted waters, except when suitable treatment has been provided for in accordance with these Rules and Regulations.
- 4.3. **Sumps and Water Wells Prohibited:** Unless otherwise approved by the Board, after the effective date of these revised rules the construction of any water well or sump within the District is prohibited. Upon connection of premises to the District's public water and sewer system, the owner shall dedicate and convey any existing

water rights and related structures appurtenant to the subject property to the District at no cost.

4.4. Use of District Water and Sewer Systems Required: No water system or sewage disposal system shall be constructed within the District, unless such system is connected with the District's sewer or water systems, unless otherwise specifically authorized by the Board. The owner(s) of any parcel of land within the boundaries of the District which is subdivided subsequent to the effective date hereof, shall make application to the District for extension of its water and sewer facilities to serve said subdivision. The District shall require said owner(s) to construct or pay for the construction of the extension or enlargement of all facilities necessary to serve said subdivision. If the District elects to extend such service, the District and the property owner(s) shall enter into a service agreement therefore.

4.5. District's Power to Compel Connection: Unless otherwise agreed to by the Board, the owner(s) of all buildings, businesses or other premises situated within the District where a water supply shall be used or domestic or industrial wastes or sewage are generated, stored, or treated shall be required at the owner(s) expense to install suitable water and sewer facilities therein and to make application for and to connect such facilities directly with the District's public water and sewer system for the protection of the health, safety and welfare of the inhabitants and visitors of the District in accordance with the provisions of these Rules and Regulations, within 20 days after written notice is sent by registered mail to do so, provided that the public water or sewer main is within 400 feet of the owner's property line. If such connection is not commenced within such period and completed with reasonable diligence by the owner, the District may thereupon make such connection, and the owner shall be liable for all expenses incurred by the District for the completion of the connection, including any unpaid tap fees. The District shall also have a first and prior lien on the premises for such costs and fees, and such lien shall be enforceable in accordance with the provisions of §32-1-1006(l)(a), C.R.S. If an owner's service line must cross another person's property in order to connect to the District's water or sewer system at the point designated by the District, and the owner is unable to obtain the easements required for such service line, the District may in its discretion initiate proceedings to acquire such easements. All costs incurred by the District in the prosecution of such proceedings, including without limitation, the amount determined to be payable as just compensation, attorney and legal fees, engineering and survey fees, appraisal fees and expert witness fees, shall be paid by the owner of the premises to be connected. The amount required to be deposited with the court in order for the District to obtain possession of the property included within the easement(s) shall be paid at that time by the owner of the premises to be connected. The District shall have a first and prior lien on the premises to be connected and the land on which they are located for all such costs, and such lien shall be enforceable in accordance with the provisions of §32-1-1006(l)(a), C.R.S.

Section Five

5. APPLICATION FOR SERVICE

5.1. Policy: Service shall be furnished subject to these Rules and Regulations and taxation, unless otherwise agreed to by the Board in its sole discretion. It shall be incumbent upon an applicant for service to furnish satisfactory evidence of inclusion whenever such evidence is requested by the District. Any property included within the District or to be provided service must provide to the District all finances,

facilities and service required by such property, and must pay for the use of all existing and future improvements, facilities, water and sewer rights and system. Any person or entity seeking inclusion or development of property within the District shall comply with the terms of this section, and may be required to enter into a Tap Purchase Agreement.

5.2. Sufficient Water Rights and Facilities Required: No new property shall be included, unless the owner and developer of said property or subdivision shall comply with the Water Service Policy (Section 3.8) and shall also furnish sufficient additional adjudicated water rights and associated facilities to the District in an amount and of a quality adequate, in the judgment of the District's Board, to serve said property or subdivision; or, at the discretion of the Board, monetary compensation adequate, in the judgment of the Board, to purchase or compensate for sufficient additional water rights and water facilities to provide such service. The owners of said property shall convey these rights or monies to the District free and clear of all liens and encumbrances prior to inclusion of the property into the District or furnishing of service to the property, whichever the case may be. The matters of sufficiency of water rights to serve the subject property and/or monetary compensation shall be determined by the District's Board after taking into consideration the recommendations of the District's attorneys and engineering consultants. In no event shall the District be obligated to reimburse the applicant for funds expended by the applicant for any such water rights and water facilities.

5.3. Application for Service: A proposed customer seeking service within the District, shall, as provided for in Section 9.4, submit an Application for Water and Sewer Tap Permit on the District's standard form, accompanied by the appropriate tap fee from the Fee Schedule attached hereto and designated Appendix A to the District for the District Board's consideration.

5.4. Connection Permit: A proposed customer seeking service within the District, shall, as provided for in Section 9.7, make separate application for a connection permit, accompanied by the applicable fees, prior to connection to the District's lines. No work on a proposed connection shall commence prior to payment of all fees and the issuance of a connection permit. Payment of a tap fee and issuance of a tap permit does not constitute a connection permit.

5.4.1. Construction Services: After the connection permit is issued and the system development charges, tap fees, and other applicable fees have been paid, the customer shall be responsible for all construction services associated with the water and sewer connections. An approved, licensed contractor in accordance with specifications and standards established by the District and Pueblo County shall perform the construction services. **SEWER:** The customer's contractor shall install the sewer tap and service line from the sewer main to the property line and shall not backfill until after the District has approved the installation. **WATER:** The customer's contractor shall fully expose the existing water line so the District can install the water tap. The customer's contractor shall install the service line from the district's installed water tap to the property line and shall not backfill until after the District has approved the installation. The District shall furnish the following items to the contractor: (Tap saddle, corporation stop, meter pit, bull yoke and support, meter, check valve and PRV if needed). **Notice to Colorado City Metropolitan District:** The contractor shall provide Colorado City Metropolitan

District 72 hours written notice prior to the installation of a new water or sewer tap.

- 5.5. Limitations of Service Permits and Connection Permits:** The service and connection permits issued to an applicant are applicable only to the real property and buildings or portion thereof specified on the permit, and all rights under the permit shall be deemed to be automatically conveyed with title to such property. The permit shall not be transferable for use on other property or for use on other buildings on this same property; except that transfer to the permit may be approved upon written application, by the District in its sole discretion upon payment of a proper transfer fee and a determination that such transfer will not impair the health, safety and welfare of the residents and visitors of the District. Each connection or tap permit shall allow only one service line connection.
- 5.6. Main Line Extension Permits:** A proposed customer seeking service requiring the construction or extension of a water or sewer main line shall, as provided for in Section 9.8, submit a separate application for a main line extension permit, accompanied by the appropriate fees, prior to any construction of the main line or any service lines to be connected thereto. Payment of a tap fee and issuance of a service permit and issuance of a connection permit does not constitute a main line extension permit. No work on a proposed extension shall commence prior to payment of all fees and the issuance of a main line extension permit.
- 5.7. Road Cuts:** Issuance of a connection permit or any other District permit does not authorize the holder thereof to make any cut in a public road or street or to do anything for which separate permission is required of another governmental entity.
- 5.8. Permits Subject to Rules and Regulations:** Each service and connection permit and inclusion or other agreement issued or entered into by the District shall be subject to each of the provisions of these Rules and Regulations as amended from time to time and shall be subject to each of the conditions and limitations set forth herein.
- 5.9. Denial of Application for Service:** The District's Board retains, in the Board's sole discretion and judgment at a public meeting, the right to deny any application for a service permit, temporary, irrigation, or otherwise, when the granting of the application would not be in the best interests of the District or its residents and property owners. The factors that the District's Board may consider, by way of illustration and not by way of limitation, include: whether sufficient water rights and water facilities are available and will be available in the future to serve the development or construction proposed for the development or construction proposed for the property, the impact of the proposed service treatment, transmission, and storage facilities, the economic effect that the approval of the application would have on the District and its residents and property owners, and other factors related to the request to provide such service. There may be factors and aspects of an application which are unique to that application and are not recited above, and the District's Board retains the right to consider all factors related to an application and make a decision based thereon.
- 5.9.1. Bulk Water Sales:** The District makes sale of bulk water available through a stand pipe(s) located with-in the District Boundaries. The District may, at its discretion, at any time elect to modify, ration or cease the sale of bulk water. See Schedule of Fees and Charges attached hereto as Appendix A.
- 5.10. Cancellation of Permits and Refund of Fees:** The District reserves the right, in its sole discretion, for cost-related, lack of capacity, or other reasons, to cancel

any permit, including tap, connection, or main line extension permits, at any time prior to connection to the District's water or sewer system and, refund fees.

5.10.1. Additional considerations for issuance of water taps on a first come, first served basis. Issuance of water taps after the date of May 31st, 2005 as adopted by resolution 04-2005 shall be subject to water availability and shall be issued on a first come, first served basis. No tap shall be issued without an applicant's establishing to the satisfaction of The District administration that construction of a residential or commercial building will commence within 1 year following the date of application or that the water will be put to a beneficial use in some other capacity within such 1 year period. The decision to issue a tap based on the representations of an applicant regarding the use of water shall in all instances be left to the sound discretion of The District administration. A decision to deny a tap may be appealed to The District Board by providing written notice not fewer than 10 days preceding any regular meeting of The District Board. The District Board decision shall be final.

5.11. Inclusion: A person or entity owning or having an interest in land outside of the boundaries of the District desiring service shall include in the petition for inclusion all of the land in which applicant is the owner or has a beneficial interest in that it is contiguous to the parcel upon which service is desired within the District, unless the District allows otherwise. The District's policy concerning inclusions into the District is that any property brought into the District must provide to the District all finances, facilities and service required for such property, and must pay for the use of all existing and future improvements, facilities, water and sewer rights and systems. The property must come complete with sufficient water rights and water facilities which are, in the judgment of the District, adequate to serve the anticipated development of the property, or provide funds adequate to purchase or compensate for such rights; all water and sewer facilities to be constructed by the District in order to serve the property must be financed solely by the developer and owner of the property, and payment of tap fees and any other necessary charges shall be made for the use of existing District facilities and rights. The District will not require its existing residents to subsidize the development of any newly included property.

5.11.1. Inclusion Petition: Ten copies of the inclusion petition shall be submitted, together with a petition fee in the amount of an initial deposit of \$10,000.00 which shall be credited towards the costs of inclusion to be paid hereunder. The inclusion petition shall contain the following information:

- a. Legal description of the property to be included, setting forth the total acreage, together with proof of title.
- b. A survey of the property, with plan view of a scale on one inch equaling 200 feet, showing its location with respect to the District's existing boundaries.
- c. The existing zoning for the property together with any proposed changes.
- d. A description of the proposed uses of the property, including:
The proposed total population for the property, including a breakdown into types of uses such as single family residences, condominiums, commercial development, recreational uses, etc.

1. The proposed maximum population density for each area of the property, including the number of acres to be used for various types of uses, together with an indication of lot sizes, irrigated acreage, and water and sewer requirements, and any limitations proposed on water usage.
 2. The number of acres to be dedicated to open space, green belts, and parks and the anticipated location of each such area, a description of the proposed ground cover and the irrigation water requirements for each such area.
 3. Detailed engineering plans on how the developer or proposed customer proposes that water and sewer service be provided, including cost estimates of all facilities.
 4. Any other pertinent facts that will assist the District in considering the request for inclusion.
- e. The proposed development schedule.
 - f. A complete description of all water rights associated with or acquired for the property, including proof of ownership, copies of all court decrees and well permits, etc.
 - g. Upon request by the District, a full financial statement and balance sheet of the owner, developer or proposed customer, and an ownership and encumbrance report for the property.

5.11.2. Petition Evaluation Reimbursement: The petitioner for inclusion shall be responsible to the District for all costs, including engineering and attorney and legal fees and expenses, incurred on behalf of the District in evaluating the petition, together with 100% of any amounts paid by the District to any other governmental entity which is required to review the proposal. The District may require additional deposits over and above that required by Section 5.11.1 if the amount will exceed the original deposit. These costs shall be assessed regardless of whether a petition for inclusion of the property into the District is finally granted.

5.11.3. Hearing on Petition for Inclusion: The District's Board of Directors shall conduct a hearing as provided by the Colorado statutes on whether the petition for inclusion should be granted or denied, in whole or in part. The District's Board shall decide, in its sole discretion and judgment, whether the granting of the petition is in the best interests of the District's existing residents and property owners. The District's Board shall withhold entry of any final order approving inclusion until the developer or proposed customer have entered into an agreement which details the terms and conditions of inclusion and provides for payment of all fees and costs and sufficient security therefore. The District Board's action granting or denying the petition for inclusion shall be final and conclusive.

Section Six

6. SERVICE LINE CONSTRUCTION AND CONNECTION

6.1 Required Permits and Fees: No service line shall be constructed within the District nor connected to the District's water or sewer system until a connection permit has been issued by the District as provided in Section 9.7.

6.2 Separate Service Lines: A separate and independent service line shall be provided for every building, except out buildings, and except as otherwise provided herein, shall be installed at the expense of the property owner.

6.2.1 Commercial Structures: Each commercial structure hereafter constructed shall have an individual service line and connection for each commercial unit in the commercial structure or if not divided into units then it shall have a separate service line and connection for each building.

6.2.2 Interior Lots: A single service line may be allowed where one building stands at the rear of another on an interior lot and no separate service line is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The service line from the front building may be extended to the rear building and the whole considered as one service line, but the District does not assume any obligation or responsibility for damage caused by or resulting from any such single connection. The owner of the interior lot is responsible for obtaining the necessary permission or easement in order to connect to the service line located on the exterior lot.

6.3. Inspection: The applicant for the water or sewer service line connection permit shall notify the District when the service line is ready for inspection and connection to the public system. The connection and testing shall be made under the supervision of the District Representative. The entire length of the trench containing the service line, from the building to the public system, or a main line extension shall not be backfilled until inspection has been made by the District Representative; however, the owner will continue to be responsible for any costs, expenses or damages resulting from improper connection or construction.

6.4. Design and Construction Specifications: Service lines shall be installed in accordance with the specifications set forth in Appendix B attached hereto and incorporated herein by this reference. All contractors, licensed plumbers and others doing work within the District shall comply with these requirements.

6.5. Contractor Qualifications: All contractors and subcontractors shall be approved by the District Representative prior to commencing work on any water or sewer facilities, mainlines, or service lines within the District. Connections shall be made by bonded, licensed plumbers, but plumbing contracted by a licensed master plumber may be performed through Journeymen plumbers or apprentices under his/her direction. The District assumes no responsibility for work performed by general or subcontractors or their agents.

Section Seven

7. CONSTRUCTION OF MAIN LINE EXTENSIONS

7.1. Required Permits and Fees: No main line shall be constructed within the District until a Main Extension Agreement has been issued by the District as provided by Section 9.8.

7.2. Design and Construction Specifications: All line extensions, including fire hydrants, the next desirable fittings, and any special structures required to insure proper operation of the line extension shall be designed and constructed according to the District Manager's or Superintendent's specifications, and under the District's supervision. The plans and specifications shall be approved by the District prior to

execution of the Main Extension Agreement. Said specifications shall comply with the District's construction specifications, unless provided otherwise. Prior to the District's acceptance of the lines, reproducible as-built drawings shall be provided, or reasonable provision made therefore.

7.3. Location of Main Extensions and Additions, and Service Line Stub-Out

Installation: Water or sewer mains shall be installed in roads or streets which the District the County, the State Highway Department or other public agency has accepted for maintenance as a public right-of-way, or in easements granted for the use of the District. Where water and sewer mains cannot be installed in a street, private drive or common area, and must be installed in easements between adjacent pieces of property, the lines will terminate at the point determined by the District. All lateral lines and service line stub-outs shall be installed to the property line at the time of construction of the main. All such main lines, laterals and stub-outs shall be constructed prior to paving.

7.4. Procedure for Main Extension Construction: If applicant has agreed to the engineering layout or design for the work, he shall enter into a Main Extension Agreement with the District, covering standard regulations and specifications for line extensions and shall:

- a. Obtain bids directly from contractors for their work and furnish the District with a performance bond guaranteeing the performance of the work, holding the District harmless for the payment to the contractor, and provide two years maintenance bond. All such bids and contracts are subject to the approval of the District.
- b. All daily inspection fees on main construction required by the County, State Highway Department or local governments shall be paid by the plumber, contractor or others doing work in the District.
- c. The constructor shall be responsible for "over sizing" main extensions as required by the District. Any such over sizing required of the constructor shall be paid by the constructor,
- d. Prior to construction of a main line extension by the District, the proposed customer shall plat and grant to the District appropriate easements and rights-of-way necessary to cross-land not being subdivided or under the proposed customer's control in which to construct the same. All easements shall be recorded in the Pueblo County Clerk and Recorder's office at the proposed customer's expense prior to construction. Applicants who have completed construction of mains shall, before these mains are accepted by the District for taps, deed these lines, associated easements and all appurtenances to the District, free and clear of all liens and encumbrances; provide "as built" drawings of the mains, or make reasonable provision for such drawings, and furnish a bond to cover all maintenance for one year from the date of acceptance of the lines by the District.

7.5. Statement of Costs Required: Upon completion of the construction of any main extension and connection to the District facilities, the person to whom the permit was issued for such work shall render to the District a sworn statement of all costs of construction thereof, including engineering cost, inspection cost, and incidentals, verified by the receipted bill or statements of all contractors or engineers engaged in the construction of such extensions. In the event such sworn statement is not rendered to the District within thirty (30) days after completion of the extension, the

District may permit and allow other property owners to connect with such extension without payment to the party constructing such extension.

7.6. Connections to Main Extensions; Fees: At the time of connection, the District shall collect an equitable fee for connection to any main extension to serve property not previously charged for the cost of such extension serving such property: provided, such fee shall not exceed the proportionate share of the cost of such extension, but in no event shall such fee be less than two dollars (\$2.00) per front foot of the property to be served. Such fee shall be refunded to the person to whom the main extension permit was issued, his heirs, successors or assigns. Such fee shall be in addition to all other permit fees and/or charges. No permit for connection to such extension shall be issued until such fee is paid in full. This provision for collection of fees and refunds shall remain in effect for a period of ten (10) years from the date of the verified statement as set forth in 7.5 above.

7.7. Inspection: During construction or extension of main lines, the District's Representative shall be notified, prior to back filling, when the main line is ready for inspection and approval. Inspection of construction of main line extensions shall be governed by the provisions of Section 6.3.

7.8. Ownership: All new water and sewer mains shall become the sole and absolute property of Colorado City Metropolitan District. No "private mains are allowed. Extensions to previously unserved property shall be paid for 100% by the parties so benefited. The parties paying for the initial installation shall be entitled to no future reimbursement from the Colorado City Metropolitan District, future developers, or others requesting taps from the subject line. The initial installers shall acknowledge that future developers shall connect and extend with no reimbursement to the initial installer. No separate connection fee is assessed to the initial installer to pay for a portion of the existing water main where the new connection is made, and hence no such fee shall be assessed to subsequent developers. The initial installer shall recoup utility installation costs from future lot sales, enhanced property value, or merely the value of the availability of "District Water" and "District Sewer". The initial installer, when choosing to make the investment of District utility extension, must weigh the benefits of "District Utilities against the costs of the extension and assume the full risk of a future party connecting to the new line at far less cost than borne by the initial installer.

EXAMPLE: Person AA pays for the extension of a waterline which runs past property owned by Person AB. Person AB does not wish to help pay for any of the new waterline. Person AA proceeds with the waterline installation anyway. Person AB can then tap the new waterline with no reimbursement

Section Eight

8. USE OF PUBLIC SEWER SYSTEM

8.1. Policy: Except as hereinafter provided, no person shall discharge, or cause to be discharged, to any sewer main, any special or prohibited sewage (as hereinafter defined) or any harmful or deleterious waters or wastes, whether liquid, solid, or gas, capable of causing obstruction to the flow in sewer, damage or hazard to structures, equipment and personnel of the sewage works, or other interference with the proper operation of the sewage works.

8.2. Classification of Sewage: This section of the Rules and Regulations shall provide the basic policies of the District for classification of sewage and for control of discharge of

sewage into the sanitary sewer system. It shall be the policy of the District to classify sewage into three main categories termed "normal sewage," "special sewage," "prohibited sewage," as hereafter defined. The classification of sewage shall be the responsibility of the Manager and shall follow recommended procedures of the State Department of Health and, subject to approval of the Board, shall be final and binding.

8.2.1. Normal Sewage: Normal sewage shall mean sewage which can be treated at the District's sewage treatment works without pre-treatment 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 B.O.D.

8.2.2. Special Sewage: Special sewage shall mean any sewage which does not conform to the definition for normal sewage, but which can be treated by the District after pre-treatment by the customer or by utilization of special operating procedures by the District at the sewage treatment works.

8.2.3. Prohibited Sewage: Prohibited sewage shall mean any sewage which may be reasonably anticipated to have a deleterious effect upon the sanitary sewage system, or any persons or property and therefore, in the opinion of the District, cannot be serviced by the District. No person(s) shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

- a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
- b. Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works.
- c. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage treatment works.
- d. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other deleterious effects on the sewer system and interference with the proper operation of the wastewater facilities such as, but not limited to, ungrounded garbage, and ashes, cinders, sand, mud, straw, shavings, metal, *glass*, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

8.3. Special Sewage: The admission into the public sewers of any special sewage shall be subject to the review and approval of the Board, which may prescribe limits on the strength and character of such sewage.

8.3.1. Pre-treatment: Where necessary, in the opinion of the Board, the owner shall provide, at his expense, such pre-treatment facilities as may be necessary to treat such special sewage prior to discharge to the sewer main. Plans, specifications, and any other pertinent information relating to proposed pre-treatment facilities shall be submitted for the approval of the District and of the State Board of Health, and no construction of such facilities shall be commenced until such approval is obtained in writing. Where pre-treatment facilities are provided for any special sewage, they

shall be maintained continuously in satisfactory and effective operation by the owner, at the owner's own expense.

8.3.2. Control Manhole: When required by the District, the owner of any property served by a service line carrying special sewage shall install and maintain, at the owner's expense, a suitable control manhole in the service line to facilitate observation, sampling and measurement of the wastes. All measurements, tests, and analysis of the characteristics of waters and wastes shall be at the owner's expense and determined in accordance with "Standard Methods for the Examination of Water and Sewage," and shall be determined at the control manhole, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest down-stream manhole in the sewer main to the point at which the service line is connected.

8.4. Prohibited Sewage: The admission into the public sewers of any prohibited sewage is prohibited. Prohibited sewage shall include clear water injected into the sewage system by means of a drainage collection system. Said drainage water is detrimental to the sewage system since it interferes with the District's volume capacity and with the biological process necessary to proper treatment, unless specifically authorized by the District.

8.4.1. Un-polluted Waters: Storm water, surface water, ground water, roof runoff, sub-surface drainage, cooling water, unpolluted industrial process water or any other unpolluted water may not be introduced to any sanitary sewer.

8.5. Analysis of Sewage: The Manager shall be responsible for all sampling, testing, analysis and classifying of sewage. Testing and analysis shall be determined in accordance with "Standard Methods for the Examination of Water and Waste Water" latest edition. Results of tests shall be made available to the customer at the District's office.

8.6. Grease, Oil and Sand Interceptors: All sewer service lines from commercial and industrial buildings or facilities shall contain grease, oil and sand interceptors of a design recommended by the Colorado State Board of Health, Uniform Plumbing Code, unless the District determines otherwise. Interceptors shall also be required when, in the opinion of the District Representative, they are necessary for the proper handling of special sewage or liquid wastes containing grease in excessive amount, or any flammable wastes, sand and other harmful ingredients; such interceptors shall not be required for common and ordinary private living quarters or dwelling units. Where installed, the District is given the authority to inspect the interceptors, and such interceptors shall be maintained by the user or owner, at the owner's expense, in a continuously efficient operation at all times.

Section Nine

9. PERMITS, FEES AND CHARGES

9.1. Policy: The rates, charges and other information shown herein shall apply only to customers inside the District and shall in no way control the rates, charges, and other requirements applied to service which the District may choose to provide outside the District in the future. Said rates and charges as herein established shall remain in effect until modified by the Board under the provisions of these Rules and Regulations and under the applicable statutes of the State of Colorado. Nothing

contained herein shall limit the Board from partially modifying rates and charges or from modifying any classification.

9.2. Type of Service Rates: Water service shall be metered as described in Appendix A by the District. Sewer service shall not be metered except for industrial or commercial service of unusual characteristics, which shall be metered. The cost of all such metering equipment shall be paid by the applicant for the service.

9.3. Classification of Customers: For the purpose of levying fair, reasonable, uniform and equitable charges, the following classifications and appropriate definitions are provided:

9.3.1. Single Family Dwelling: A single family dwelling (equivalent residential unit, "EQR") shall be construed as a living unit suitable for occupancy of one or more individuals of a family, comprising either a separate and unattached structure from any other dwelling unit.

9.3.2. Multiple Family Dwelling: A multiple family dwelling shall consist of a single structure or structures wherein more than one family unit exists, such as townhouse, condominiums and apartments.

9.3.3. All Other Categories: All other categories of use shown on the rate schedule attached hereto as Appendix A shall be given their customary meanings. Any controversy concerning definition of categories shall be resolved by the Board of the District in its sole discretion.

9.3.4. Unclassified Services: Whenever a structure represents a classification not contemplated by these Rules and Regulations, the Board, at its sole discretion, shall establish fair, reasonable and equitable fees and charges for said structure.

9.4. Service Permit: Any person requesting service shall file a service permit application and pay the applicable fees. For all structures other than single-family residences, building plans shall be submitted which must include the building requirements for potable water, fire protection and sewer. Upon approval by the District, a tap permit number will then be issued to the owner. In every case, no service shall be allowed until a tap fee has been paid.

9.4.1. Service Permit Fee: A water or sewer permit fee shall be charged to all customers of the District and shall be paid before a tap permit is issued. Fees shall be calculated to recover all expenses and costs associated with providing water or sewer service shall be assessed as provided for in the Schedule of Fees and Charges attached hereto as Appendix A. Fees shall be nonrefundable. Those pre-paid taps in existence on the date of adoption of these revised Rules & Regulations and tap permit fees for which connection to the District's facilities has not been made within one year from the date of issuance of the permit, shall be subject to an additional surcharge for fees or charges incurred by the District in providing such service, unless the District otherwise specifically agrees in writing.

9.4.2. Payment of Fees: Subject to the terms of individual agreements with the District, all tap fees due to the District, may not be pre-paid, but shall be collected after the issuance of the routing sheet and building permit, along with system development charges just prior to the initiation of water or sewer service, except when developers or proposed customers pre-install service lines prior to road paving, no fee shall be required to be paid until such time as application is made as required above.

9.4.3. **Amended Permits:** Anytime a permit has been issued, and subsequent thereto the meter size is changed, or the classification of the property or level of service needed under said permit is changed or recalculated by the District, so as to increase the level of service necessary, the quantity of water or sewage, or amount of water treatment necessary, the owner shall apply for an amended permit and pay such additional fee as applicable.

9.5. **Irrigation Permit and Fee:** Prior to installing a separate water connection to the public main for an irrigated area, the owner shall apply for an irrigation tap permit and pay the required fee. The District's Board shall then consider, in its sole discretion, whether to grant each irrigation tap permit.

9.6. **Raw Water Permit and Fee:** Prior to installing a separate water connection for raw water, the owner shall apply for a raw water permit and pay the required tap fee. The District's Board shall then consider, in its sole discretion, whether to grant each raw water permit.

9.7. **Connection Permits:**

9.7.1. **Fees to be Paid:** No connection permit shall be issued to the customer until the appropriate fees, inspection fees, performance bonds and guarantees, fees for water meter installation and initial meter reading, if applicable, have been paid, and funds estimated to cover the cost to the District associated with the connection deposited with the District, and a permit issued for the property or building to be served by the connection. No new services shall be furnished to the customer until all outstanding debts to the District, and special fees as hereinafter provided, have been paid to the District. A developer shall pay all fees for his development at the prevailing rate, subject to any contractual agreements.

9.7.2. **Connection Permit Application:** No connection permit will be issued until an application form, properly completed, supplemented and signed has been filed with the District by the owner(s) or its agent. Prior to approval of the application, the applicant shall submit and have approved by the District the engineering design and construction plans for the proposed service line and connection.

9.7.3. **Expiration:** Connection permits shall expire one (1) year from the date of issuance where the authorized connection has not been made during such time, unless extended by the Board upon written request.

9.8. **Main Line Extension Agreement:**

9.8.1. **Fee to be Paid:** No Main Line Extension Agreement shall be signed by the District until all fees have been paid, and funds estimated to cover the cost to the District associated with the main line extension have been deposited with the District. No new services shall be furnished to the customer until all outstanding debts to the District, and special fees as hereinafter provided, have been paid to the District. A developer shall pay all tap fees, and other fees and charges provided for herein, for his development at the prevailing rate.

9.8.2. **Main Line Extension Application:** Prior to approval of the Agreement the applicant shall submit and have approved by the District the engineering design and construction plans for the proposed service line and connection. The Board may give preliminary approval of an application based upon terms and conditions which may allow design and

construction specifications to be agreed upon by the District Representative.

- 9.9. **Inspection Fees:** At the time of applying for a connection permit, an applicant shall pay an inspection fee as provided for in Appendix A which shall approximate the cost to the District to conduct such inspection.
- 9.10. **Associated District Construction Costs and Fees:** All costs and fees of new construction, reconstruction or enlargement of any water or sewer system facilities, including all associated planning, engineering, administration and attorney's fees, which are necessary to provide new different or additional water or sewer service within the District's service area (including but not limited to service lines, main lines and water or sewage treatment works), shall be paid by the customers of the property or building to be serviced. After approval, but prior to the issuance of any necessary permits or commencement of any such work, the applicant shall deposit with the District sufficient funds to cover all of the District's estimated cost associated with such work.
- 9.10.1. **Performance Bonds:** Any person constructing water or sewer system facilities to be conveyed to the District, or within the public right-of-way, or any public or private easement granted to the District for such purpose, shall furnish to the District a performance bond equal to one hundred (100) percent of the construction costs, or a letter of credit, cash deposit or other financing acceptable to District. When the proposed customer is to be responsible for such construction, such performance bond or other financing arrangement shall hold the District harmless for payment to the contractor. The property owner shall indemnify the Board for any loss or damage that may directly or indirectly be occasioned by the installation of the water or sewer service.
- 9.10.2. **Guarantee:** Prior to acceptance by the District, any person constructing water or sewer system facilities to be conveyed to the District, or within the public right-of-way, or any public or private easement granted to the District for such purpose, shall guarantee or cause its contractor to guarantee to the District the construction against faulty workmanship and materials associated with such construction for a period of one year after acceptance by the District. A guarantee of all maintenance for one year from the date of acceptance by the District of the lines shall also be provided. A performance and maintenance bond or other security acceptable to the District shall be furnished as such a guarantee. Inspection and approval by the District of any such facilities shall not relieve the guarantor from compliance with these provisions.
- 9.11. **Unauthorized Connection Fees:** An unauthorized connection penalty shall be payable by persons connecting to a District line without prior payment of tap fees or inspection fees, approval of connection permit or adequate inspection of lines. Should the District determine that disconnection, or turning off of service, is necessary because of the unauthorized connection, prior to reconnection or turning on service, all unauthorized connection fees, and any other outstanding fees or charges, a reconnection fee and all costs associated with such disconnection and reconnection must be paid.
- 9.12. **Service Charges:** Upon the securing of a connection permit for service and upon payment of the fee, service charges shall commence at the time of meter installation. Whenever possible, service charges will be directed to the user/occupant, though the owner of the property remains ultimately liable for such charges. When a

condominium association exists for a number of units receiving service from the District through one meter, said condominium association shall receive a bill for all units serviced by the association. In no event shall the District be obligated to bill the owners of individual units within a condominium unless service to each unit is metered separately.

- 9.12.1. Calculation of Service Charges:** Service charges shall be paid by all customers as provided in the schedule of fees and charges attached hereto as Appendix A.
- 9.12.2. Surcharges for High Strength Wastes:** A surcharge fee shall be paid by all customers who discharge high strength wastes as provided in the schedule of fees and charges attached hereto as Appendix A.
- 9.12.3. Amended Service Charges:** In those situations where, in the Board's sole discretion, the service charges shown in Appendix A do not represent a fair, reasonable and equitable charge for the intended use, the Board may adjust said rates.
- 9.12.4. Payment of Service Charges:** Statements for service charges shall be sent out on a monthly basis. Charges for late payments, turn-on, turnoff, etc., shall be added to such statements. Statements shall be payable upon receipt.
- 9.13. Temporary Service Fee:** The Board may allow, in its sole discretion, connection to provide temporary water and/or sewer service if it determines that good cause for such connection has been shown. Persons seeking temporary service from the District for property within the District shall submit an application for temporary service. Upon approval by the District, a service charge fee for a temporary connection will be calculated.
- 9.14. Raw Water Service Fee:** The Board may allow, in its sole discretion, a connection to provide raw water. Upon approval of the connection by the District, a service charge fee for the raw water will be calculated.
- 9.15. Reconnect Fee:** When service has previously been turned off, either for voluntary reasons such as a vacation or vacancy of rental property, or involuntary reasons, such as a delinquency of payment or violation of the District's Rules & Regs., a reconnect fee shall be charged prior to the District's turning on service as listed in Appendix A.
- 9.16. Service Availability Fees:** As determined to be necessary by the Board, the District may assess availability of service or facilities fees upon providing notice of the meeting to consider such fees. Availability of service or facilities fees shall be assessed solely for the purpose of paying principal and interest on any outstanding indebtedness or bonds to mature and accrue during the annual period within which such fees are payable. Property shall be considered as having water or sewer service available for purpose of assessing service availability fee when District water and sewer mains are installed in a public right-of-way, easement, private drive, or common area of a property line or corner.
- 9.17. Capital Finance Fees:** As determined to be necessary by the Board, the District may assess a capital finance fee upon providing notice of the meeting to consider such fees. Each year during the budgetary process, the Board shall determine the amount to be raised by the capital finance fee for the subsequent budget year. Prior to the beginning of the subsequent budget year, the Board shall calculate the portion of the total figure adopted by the Board to be allocated to each property within the District. Each allocation shall be based on the percentage of the fixed assets of the District that the property can be reasonably expected to use, either based on current

actual use if the property is fully developed, or what the property could reasonably expect to use under the current zoning at full development. The monthly capital finance fee shall be due and payable on a basis of 1/12 of each separate property's total annual allocation. The fee shall be due and payable at the same time and in the same manner as the District's other fees.

9.18. Capital Recovery Fee: All properties within the District which are either exempt or not subject to the District mill levies for debt service shall be required to pay a monthly capital recovery fee to be determined after calculating a unit burden of debt payment for each water and sewer tap issued to a non-exempt entity, and applying the same burden to each water and sewer tap held by the tax exempt entity. The actual calculation is as follows: (a) multiply District non-exempt assessed valuation for the calculation year times the District's mill levy; (b) divide this result by the number of issued water and sewer tap equivalents; (c) multiply this result by the number of water and sewer tap equivalents held by the tax exempt entity; and (d) divide the previous result by 12. The capital recovery fee shall be due and payable at the same time and in the same manner as the other District fees. The capital recovery fee shall be calculated each fall during the budget process for the subsequent budget year. The fee may be adjusted during the course of a budget year, if the number of tap equivalents for the exempt entity changes. The District shall require all new non-residential customers to sign an agreement which will bind their property to pay this capital recovery fee in the event the property is or ever becomes owned by a tax-exempt entity or governmental body. The aforementioned agreement shall run with the land and shall be filed in the real property records at the Pueblo County Clerk and Recorder's Office.

9.19. Billing Procedure:

9.19.1. Service Charges and Service Availability Fees: Statements of service charges and service availability fees will be mailed monthly. Except as specifically provided by written agreement between the District and an owner, all service charges are due upon receipt. Payments not received at the office of the Colorado City Metropolitan District by the twenty-fifth (25th) day of the month after billing are delinquent.

9.19.2. All Other Charges and Fees: Except as specifically provided by written agreement between the District and an owner, tap permit fees, inspection fees, reconnect fees, fees for water meter installation and maintenance, performance bonds and guarantees, funds estimated to cover the cost to the District associated with any construction, and all other fees and charges are due when application for such permit or approval is made, or the task requiring the fee or charge is initiated, whichever occurs first. All such charges and fees not paid when due are delinquent.

9.19.3. Delinquent Charges and Fees: All fees and charges not paid within thirty (30) days shall be considered delinquent and will be assessed a penalty of \$5.00 or interest at the rate of one (1%) percent per month, whichever is higher, plus all costs and attorney's fees associated with the collection of delinquent charges and fees. If such fees or charges are delinquent, the District may stop service to the property after providing notice of a hearing, as provided for in Section 12.4.1. on the proposed termination of service. The account must be paid in full; partial payments will only be accepted after a written agreement has been finalized with the District Manager. In addition, the District may either certify the delinquency to the County Treasurer, contract with a debt recovery service

or initiate lien foreclosure proceedings. The District assumes no responsibility for agreements between owners and occupants and vendors and vendees.

9.19.4. Liens for Unpaid Charges and Fees: All charges and fees shall be charged against the owner or customer of the property served and shall be a perpetual lien upon the property to which said service is provided or requested from the time when due. All charges for water and sewer service shall be billed directly to the owner of the property. All delinquent bills are the responsibility of the property owner and if service is turned off due to late payment or nonpayment all charges including delinquent payments must be paid before service shall be turned on to the property.

9.19.5. Returned Check Fee: Any check or other negotiable instrument tendered to the District for payment which is returned to the District and dishonored for any reason whatsoever shall be subject to a returned check fee as listed in Appendix A.

Section Ten

10. WATER CONSERVATION

10.1. Waste: Water supplied by the District shall be used only for beneficial uses. Waste of water shall not be permitted.

10.2. Conservation Orders: Upon a determination by the Board or a District Representative that the District is facing an immediate shortage in its supply of water which threatens the health, welfare, and safety of the inhabitants and visitors of the District and which requires immediate action, the Board or the District Representative is empowered to institute orders regulating or curtailing uses of water by those served by the District's water system. If necessary, the Board or the District Representative may order immediate complete curtailment of non-domestic use, and limit in-house use, of water from the District's facilities. Any conservation orders shall be uniformly applied to all similarly situated water customers within the District's service area. Nothing herein shall be construed to prevent the District from regulating different categories of water users differently. These conservation orders may be modified as the conditions causing the water shortage change.

10.2.1. Effective Date of Conservation Orders: The conservation orders shall be effective immediately upon being signed or as otherwise provided. Copies of the orders adopted pursuant to this section shall be delivered or mailed to all residences, businesses, and other premises served by the District's water delivery system.

10.2.2. Public Meeting to Consider Conservation Orders: The Board shall conduct a public meeting on the water conservation orders as soon as

possible, but in no event later than two weeks from the date of the adoption of such orders. Notice of this public meeting shall be posted at the District's office at least five days in advance of the meeting. At the public meeting, the Board shall receive public comments and staff recommendations with respect to the water conservation orders, and shall determine what modifications, if any, need to be made to the orders. If any material modifications are made to such orders, the revised orders shall be mailed or delivered to all of the District's water users. All such orders or revised orders shall remain in effect until such time as the water shortage problem is determined by the Board to have ended and notice thereof is given as provided in Section 10.2.1.

10.3. Use of Water Conservation Devices Encouraged: The District encourages the use of water conservation devices for all properties served by the District's water supply.

10.4. Enforcement: The person or entity billed for water service to any given premises, whether owner or occupant, and any person using water supplied or delivered by the District's system, shall be responsible for compliance with the above-mentioned conservation orders, and prescription against waste. Violations, as determined by the District Representative, will subject such persons to the following actions and penalties in addition to those actions authorized in Section 12:

10.4.1. First Violation: Written notice of said violation and a \$100 charge.

10.4.2. Second Violation: Violation at the same premises or by the same user; written notice of said violation and a \$250 charge.

10.4.3. Third or Any Subsequent Violations: Violation at the same premises or by the same user; the District Manager shall suspend further service to the premises or assess a \$500 charge, or both.

10.4.4. Appeals: Appeals of such penalties and charges may be made to the Board.

Section Eleven

11. INSPECTIONS

11.1. Powers and Authority of Inspectors: The District Manager, Superintendent, or Representative bearing proper credentials and identification shall be permitted to enter all private properties within the District for the purposes of reading meters and testing related to discharge to the public system, inspection, observation, measurement, sampling, repair, maintenance of any portion of the water or sewer facilities lying within said properties, and related matters.

11.2. Construction Inspection: The District Manager, Superintendent, or Representative shall have the right to inspect any and all work during construction to insure installation in accordance with District standards. After completion of construction of water or sewer lines, the District Superintendent or his Representative shall make a final inspection of construction as provided in Sections 6.3 and 7.7.

Section Twelve

12. ENFORCEMENT

- 12.1. Prohibitions:** No unauthorized person shall turn on service from, uncover, make any connection or reconnection with, opening into, extend, use, alter, or disturb any public water or sewer main facilities or appurtenances, or fail to comply with these Rules and Regulations, or construct a main line extension without first obtaining a written permit from the District, paying all applicable fees and charges and complying with all applicable Rules and Regulation of the District.
- 12.2. Violations:** In case of violation of this Section, the District may revoke service, disconnect, turn off service, require the responsible person to disconnect, or return or require the responsible person to return the District's system to its original condition, and shall require payment of all applicable fees and charges provided by these Rules and Regulations and all costs associated with the violation, including any expense, loss, damage or attorneys fees occasioned by such violation by the responsible person prior to the District providing any service to any property or facilities owned, leased or occupied by the responsible party, whether or not such property or facilities are directly involved in the violation of this Section. This Section shall not be construed to limit the rights of the District to pursue other fees, charges, remedies or forms of relief provided in these Rules and Regulations and by other applicable law.
- 12.3. Misdemeanor Offenses:** Any person who shall maliciously, willfully, or negligently, break, damage, destroy, uncover, deface or tamper with any portion of the District's water or sewer system, or take water from the District's system, including fire hydrants, without written authorization, shall be charged with a misdemeanor, and upon conviction thereof, shall be fined in an amount as established by the court for each violation, along with whatever additional penalties as may be appropriate.
- 12.4. Revocation of Service:** Service shall be revocable by the District upon non-payment of valid fees or charges owing to the District, upon failure to comply with the Rules and Regulations of the District, or when the District Manager, Superintendent or Representative determines that an emergency exists and such revocation is necessary to protect the health, safety and welfare of the inhabitants and visitors of the District.
- 12.4.1. Notice and Hearing:** In all cases except those involving an imminent hazard to the health, safety or welfare of the inhabitants or visitors of the District, or to the District's water or sewer systems, the owner shall be given due notice of the opportunity to request a hearing prior to involuntary disconnection or termination of service. Any request for a hearing concerning the District's intent to revoke service shall be given in writing to the District Representative within ten (10) days of receiving such notice. Such notice shall be deemed to have been received by the customer upon the delivery of such notice to the owner's residence or business if located within the District and mailing notice to the owner's billing address, or if the owner neither resides nor does business within the District, three (3) days after the mailing of notice to the owner's billing address. Said hearing shall be held by the District at a regular or special meeting of the Board of Directors at which time the customer or owner shall have an opportunity to present testimony and evidence to the Board. Following said hearing, the Board's decision shall be final. Service to the

property shall be revoked by disconnecting or blocking either or both the water and sewer lines serving the property.

Section Thirteen

13. PROCEDURES BY WHICH THE BOARD OF DIRECTORS MAY DIVIDE THE DISTRICT INTO AREAS ACCORDING TO WATER OR SEWER FACILITIES TO BE FURNISHED OR NOT FURNISHED

13.1. GENERAL PROVISIONS:

13.1.1. Infeasibility: It is hereby determined that it is and will be infeasible, impracticable and undesirable for the good of the entire District to extend water or sewer lines to all parts of the District, and that there will be need for the Board, by Resolution, to divide the District into areas according to the facilities and services furnished or to be furnished therein, and designate such areas as are not to be served with water or sewer facilities, as authorized under C.R.S., 32-1-1006(l)(b).

13.1.2. Supplementation. It is further determined that the public convenience, economy, health, interest, necessity, safety and welfare of the inhabitants and property owners of the District require that the Board pass and enforce rules and regulations supplementing any provisions of C.R.S. 32-1-1006(l)(b), providing procedures by which said resolutions are adopted after notice of public hearings held thereon, at which the boundaries of the benefited areas are determined, and for filing notices, descriptions, and maps in conformity with general laws relating to establishing taxing districts and that the provisions hereof are promulgated by the Board to effectuate the purposes for which the District was organized.

13.1.3. Waiver. All objections not made within the time and manner herein provided are waived.

13.1.4. Orders Final. All decisions and determinations of the Board upon notice and hearing shall be final and conclusive proof against persons entitled to appeal as to all errors, informalities, omissions and irregularities which might have been avoided or which might have been remedied during the process of the proceedings, or which can be remedied.

13.1.5. Limitation of Action. The validity of any order establishing the boundaries of any area or of any tax rate fixed in pursuance hereof, shall not be contested in any action or proceeding, unless such action or proceeding is commenced within 30 days after said action is taken.

13.2. FORMATION PROCEDURES:

13.2.1. General: The Board may divide the District into areas according to the water and sewer facilities furnished or to be furnished therein, or both, and into areas not to be served with water or sewer facilities in the manner provided in this Section.

13.2.2. Resolution of Intention: The Board shall adopt a resolution determining that the public interest and convenience require that the District be formed into areas which are to be served with water only, which shall:

- a. Designate each area by number and parenthetical description such as water only;
- b. Clearly describe the boundaries of each area proposed to be so formed, which may consist of contiguous or noncontiguous parcels of land;

- c. State whether or not each area is furnished with water only;
- d. Refer to a map or maps on file with the Secretary for further information, which map or maps shall have clearly delineated thereon the parenthetical designations of the area or areas to be so formed and their boundaries, and the boundary relationship of area adjacent thereto.

13.2.3. Publication: The resolution of intention shall be published.

13.2.4. Mailing and Posting: The notice of the adoption of the resolution of intention shall be mailed and posted.

13.2.5. Form of Notice: The notice shall:

- a. Be headed "Notice of Area Formation";
- b. In legible character state the fact and date of the resolution of intention;
- c. Briefly describe the number and parenthetical description of each proposed the map or maps on file with the Secretary for further particulars; and
- d. State the time and place of hearing owners and persons interested.

13.2.6. Protest: Any property owner or person interested may object to the extent of boundaries of an area in which his property is proposed to be included, by filing a written protest with the Secretary at or before the time set for hearing, containing a description of the property of the protestant sufficient to identify the same, the grounds of protest, and be signed by him.

13.2.7. Multiple Ownership: In the case of multiple ownerships, protestants shall sign as follows:

- a. **Tenancy:** When property is owned in joint tenancy, tenancy in common or as partners, it may be signed by any tenant or partner.
- b. **Estate:** When property is in probate, the protest shall be signed by the administrator, executor, or personal representative of the estate.
- c. **Guardian:** When the property is in guardianship of the person or estate of the owner, or both, the protest shall be signed by the guardian.
- d. **Trustee:** When property is in trust and the property is on the tax roll in the name of the trustee, it shall be signed by the trustee and when the property is on the tax roll in the name of a beneficiary, it shall be signed by him.
- e. **Corporation:** When property appears on the tax roll or is known by the Secretary to be a corporation, it shall be signed by the authorized representative of the corporation.
- f. **Contract of Purchase:** When property has been sold under a contract of sale, the protest may be signed by the purchaser, when his/her name appears on the tax roll, and when his/her name does not so appear, it shall be accompanied by proof of its recording or of its existence when not recorded.

13.2.8. Late Endorsement: All protests filed after the hour fixed for hearing shall have endorsed thereon by the Secretary the date and time of filing and said protest need not be considered.

- 13.2.9. Proof of Ownership:** The Secretary or Board may require of a protestant that he/she give proof of ownership, which may be evidencing documents thereof, or by affidavit or certificate executed before the Secretary or before other persons qualified to give an oath.
- 13.2.10. Exclusion:** If one of the grounds of protest is that a piece of land is proposed to be included in an area for water or sewer, or both, and that either or both have not or are not to be provided to the property by the District, the Board may exclude the parcel from the affected area if it finds the protest to be true; in which event the Board shall include it in another area not to be so served.
- 13.2.11. Inclusion:** If one of the grounds of protest is that one of the pieces of land is not included in the area furnished or to be furnished water or sewer facilities, or both, which piece is to be so served, the Board, if it finds the protest to be true, may order its inclusion in an area to be formed for such purpose or purposes and exclude it from an area to be formed of unserved lands.
- 13.2.12. Jurisdiction:** When a notice of a hearing has been made as provided in these rules and regulations, written protests have been duly considered and all owners and persons interested have been heard, the Board shall have jurisdiction to take further proceedings in the formation of the area.
- 13.2.13. Modification:** The District shall have the power to alter and modify the boundary of any area proposed to be formed, provided that no parcel shall be included in an area not included in such area, except when the owner has filed a written protest on that ground, or a written request therefor, or upon written notice to such owner ten days in advance of a further hearing thereon.
- 13.2.14. Benefit:** All lands proposed to be benefited by a system of water or sewer facilities, or more than one such system, may be formed into an area, and lands served by more than one of said systems may be formed into same area, and all lands not to be served by water or sewer systems may be formed into one or more areas. No lands shall be included within an area which the Board finds will not be benefited by the proposed improvements or their absence and no lands shall be left out of an area which the Board finds will be benefited by being so included.
- 13.2.15. Formation:** When the Board has determined the area or areas which shall be benefited by being so formed, it shall by resolution so determine and designate such areas by number, name, purpose and boundary description.
- 13.2.16. Filing Resolution of Intention:** Immediately following the adoption of resolution of intention to form an area or areas, the Secretary shall file a certified copy thereof, accompanied by a map or maps referred to therein, with each the County Assessor, County Commission, and State Commission, as required by C.R.S. 39-1-110.
- 13.2.17. Filing Resolution of Creation:** Immediately following the adoption of resolution of creation, the Secretary shall file a certified copy thereof, accompanied by a certified copy of the map or maps delineating such boundaries as finally determined with each the County Assessor, County Commission and State Commission prior to the first day of July

preceding the calendar year during which it is proposed to levy a tax thereon as required by C.R.S. 39-1-110.

13.2.18. Limitation: No area should be defined or designated as an unserved area which shall have less than 10 acres in extent.

13.2.19. Rate of Taxation: The board shall annually have power to provide in its budget and to fix a different rate of levy for tax purposes against all of the taxable property within several areas of the District so formed, according to the services and facilities furnished or to be furnished therein, or not furnished or not to be furnished, and its proportionate share of any obligation of the District.

13.3. ALTERATION OF BOUNDARIES

13.3.1. General: If at any time the Board shall be of the opinion that the benefits to any parcel or parcels of land which has been included within an area, or that any parcel or parcels of land which are not included in an area designated as served, is served or is to be served, it may change the boundaries of such area or areas as provided in this Section.

13.3.2. Initiation of Proceeding: The proceedings for changing boundaries may be initiated by petition of the affected owners or by the Board of its own volition.

13.3.3. Procedure: Proceedings for the alteration of the boundary of any area or areas shall be made as provided for in their formation as previously set forth in this Section.

13.4. ALTERNATIVE MEANS OF SEWAGE DISPOSAL

13.4.1. Nothing in this section shall prohibit the installation of Individual Sewage Disposal Systems in accordance with State of Colorado and/or the County of Pueblo Regulation VIII.

Section Fourteen

14. A CODE OF ETHICS REGULATING THE CONDUCT OF DIRECTORS, OFFICERS AND EMPLOYEES OF THE COLORADO CITY METROPOLITAN DISTRICT

14.1. GENERAL:

14.1.1. Purpose: The General Purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for all officials and employees of the District by setting forth those acts or actions that are incompatible with the best interests of the District, and by directing disclosure of such officials and employees of private financial or other interests in matters affecting the district.

14.2. DEFINITIONS:

14.2.1. Business Entity: Any business, proprietorship, firm, partnership, person in representative or fiduciary capacity, association, venture, trust or corporation.

14.2.2. Interest: The direct or indirect pecuniary or material benefit accruing to a public officer or employee as a result of a contract or transaction which is or may be the subject of an official act or action by or with the District except for such contracts or transactions which by their terms and by the substance of their provisions confer the opportunity and right to realize

the accrual of similar benefits to all other persons and/or property similarly situated.

For the purposes of this Section, a public officer or employee shall be deemed to have an interest in the affairs of:

- a. Any person related to him by blood or marriage in a degree closer than the second degree of consanguinity or affinity (determined by the civil law method), and a divorce or separation between spouses shall not be deemed to terminate any such relationship;
- b. Any person or business entity with whom a contractual relationship exists with the public officer or employee;
- c. Any business entity in which the public officer or employee is an officer, director, or member having a financial interest in, or employed by;
- d. Any business entity in which the stock of, or legal or beneficial ownership of, in excess of five percent (5%) of the total stock or total legal and beneficial ownership, is controlled or owned directly or indirectly by the public officer or employee.

14.2.3. Official Act or Action: Any legislative, administrative, appointive or discretionary act of any officer or employee of the District or any agency, board, committee or commission thereof.

14.2.4. Public Officer or Employee: Any person, officer or employee holding a position by election, appointment or employment in the service of the District whether paid or unpaid, including members of any board, committee or commission thereof.

14.3. REQUIREMENTS:

14.3.1. General: The requirements herein set forth shall constitute a code of ethics establishing reasonable standards and guidelines for the ethical conduct of public officers and employees of the District.

14.3.2. Interest in Contract or Transaction: No public officer or employee having the power or duty to perform an official act or action, related to a contract or transaction which is or may be the subject of an official act or action of the District, shall:

- a. Have or thereafter acquire an interest in such contract or transaction, or
- b. Have an interest in any business entity representing, advising or appearing on behalf of, whether paid or unpaid, any person involved in such contract or transaction, or
- c. Have solicited or accepted present or future employment with a person or business entity involved in such contract or transaction, or
- d. Have solicited, accepted or granted a present or future gift, favor, service or thing of value from or to a person involved in such contract or transaction, or
- e. Have encouraged, made or accepted any ex parte or unilateral application or communication where a determination is to be made after a public hearing and such public employee fails to make the contents of the communication a part of the record.

14.3.3 Exemptions: The prohibition against gifts or favors in Section 14.3.2(d) of this Section shall not apply to:

- a. an occasional non-pecuniary gift, insignificant in value, or
- b. an award publicly presented in recognition of public service, or
- c. any gift which would have been offered or given to him if he were not an official or employee.

14.3.4. Reacquisition of Interest: No public officer or employee, with respect to any contract or transaction which is or may be the subject of an official act or action of the District, shall acquire an interest in or be affected by such contract or transaction at a time when the public employee believes or has reason to believe that he/she will directly or indirectly be affected by an official act or action of the District.

14.3.5. Disclosure of Information: No public officer or employee with respect to any contract or transaction which is or may be the subject of an official act or action of the District, shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the District, or use such information to advance the financial or other private interest of himself/herself or others.

14.3.6. Incompatible Service: No public officer or employee shall engage in or accept private employment or render service, for private interest, when such employment or service is incompatible with the proper discharge or judgment or action in the performance of his/her official duties, unless otherwise permitted by law and unless disclosure is made as provided in this code.

14.3.7. Appearances: No public officer or employee shall appear on behalf of any private person, other than himself/herself, his/her spouse or minor children, before any District agency or Board. However, a member of the Board may appear before District agencies on behalf of his/her constituents in the course of his/her duties as a representative of the electorate or in the performance of public or civic obligations.

14.3.8. Public Contracts: No public officer or employee, who in his/her capacity as such officer or employee participates in the making of a contract in which he/she has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion or his/her part, shall enter into any contract with the District unless:

- a. The contract is awarded through a process of public and competitive bidding, or
- b. The District's attorney or the Board of Directors waives the requirement of this Section after determining that it is in the best interest of the District to do so.

14.3.9. Special Treatment: No public officer or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

14.3.10. Later Case Interest: No public officer or employee shall, after the termination of service or employment with the District, appear before any board, commission, committee or agency of the District for a period of two (2) years, in relation to any case, proceeding or application in

which he/she personally participated during the period of his/her service or employment, or which was under his/her active consideration.

14.4. EXCEPTIONS:

14.4.1. Public Officer or Employee Interest: It shall not be deemed a violation of the standards of this Section if the interest of a public officer or employee in a person or business entity is a contractual obligation of less than \$500 which has not been preceded by any other obligation, discharged or existing, between the parties, and which is not the first in a series of two or more loans or debts which either of the parties is under an obligation to make or incur.

14.4.2. Authorized by Law: A commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of this State to engage in the making of such loans shall not be deemed to create an interest in violation of this Section.

14.4.3. Contract, Retail Sale: A contract for a commercial retail sale, even though over the value of \$500, shall not be deemed to create an interest in violation of this Section.

14.5. DISCLOSURE OF INTEREST IN BOARD ACTION:

14.5.1. Financial Interest, Board Member: Any member of the Board who has a financial interest or personal interest in any proposed action before the Board shall, before any action is taken, disclose on the record of the Board the nature and extent of such interest.

14.5.2. Financial Interest, Officer or Employee: Any other official or employee who has a financial or personal interest in any proposed Board action and who participates in discussion with or gives an official opinion or recommendation to the Board shall disclose on the record of the Board the nature and extent of such interest.

14.6. ENFORCEMENT:

14.6.1. Board Responsibility: The Board shall have the primary responsibility for the enforcement of this Section. The Board shall have the power to investigate any complaint, to initiate any suit, and to prosecute any criminal or civil action on behalf of the District when a majority of the Board determines that such action is appropriate.

14.6.2. District's Attorney: The Board may direct the District's attorney to investigate any apparent violation of this Section or it may employ or appoint any qualified attorney to investigate any violation or series of violations by one or more persons of this Section.

14.6.3. Complaints Filing: Any person who believes that a violation of any portion of this Section has occurred may file a complaint with the Board, who may thereafter proceed as above provided. However, nothing in this Section shall be construed to prevent complainants from instituting direct legal action through the appropriate judicial authority.

14.7. ADVISORY OPINIONS:

14.7.1. Procedure: Where any public officer or employee has a doubt as to the applicability of any provision of this Section to a particular situation, or as to the definition of terms used herein, he may apply to the Board for an advisory direction and determination. The officer or employee shall have the opportunity to present his/her interpretation of the facts at issue and of

the applicability of provisions of this Section before such advisory determination is made.

14.7.2. Binding Determination: Such determination until amended or revoked shall be binding on the District and the Board in any subsequent actions concerning the public officer or employee who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory determination. Such advisory determination shall not be binding in any action initiated by any private citizen.

14.8. EXEMPTION, INJUNCTION:

14.8.1. Board Authority: The Board may exempt from the provisions of this Section any conduct found to constitute a violation by a public officer or employee, if it finds that the enforcement of this provisions of this Section with respect to such conduct is not necessarily in the public interest.

14.8.2. Voidability: Any contract or transaction which was the subject of an official act or action of the District in which there is an interest prohibited by this Section, or which involved the violation of a provision of this Section, shall be avoidable at the option of the District.

14.8.3. Board Power: The Board shall have the power, where a violation of the provisions of this Section is threatened or has occurred, to bring civil action or proceeding at law or in equity for a judgment enjoining any violation of the provisions of this ordinance or requiring the relinquishment of any prohibited interest or the voiding of any such contract or transactions, taking into account the interest of the District and any third persons who may be injured thereby. Where the Board determines that the public interest may best be served by not voiding a contract or transaction entered into in violation of the provisions of this Section, such contract or transaction may be enforced and an action or proceeding may be brought against any public officer or employee found in violation of this Section for damages not to exceed the damages suffered by the District or twice the profit or gain realized by the public officer or employee, whichever is greater.

14.9. DISTRIBUTION OF CODE OF ETHICS:

14.9.1. Copy Distribution: The Secretary to the Board shall cause a copy of this Section to be distributed to every public officer and employee of the District within (30) days after enactment. Each public officer and employee elected, appointed or engaged thereafter shall be furnished a copy before entering upon the duties of his/her office or employment.

Section Fifteen

15. REGULATIONS CONTROLLING THE POSSESSION AND CONSUMPTION OF ALCOHOL IN AND UPON CERTAIN PROPERTY OF THE DISTRICT

15.1. General Purpose:

15.1.1. Control of Alcoholic Beverages: The purpose of this Section is to control the possession or consumption of alcoholic beverages in, on or about property which is owned by the District, or which is held by the District for public recreational use of the residents. The Board has determined that this Section is in the best interests of the District and its residents.

15.2. SUPPLEMENTATION:

15.2.1. District Property Restriction: No alcoholic beverages shall be carried upon, possessed or consumed within or upon any properties owned by the District, which have been designated as public parks, playgrounds, swimming pools, equestrian trails or any other property which has been dedicated for public recreational purposes, except as provided in paragraph 15.2.2 of this Section.

15.2.2. Request for Permit: Any person, corporation or group wishing to conduct a function on property of the District of described in paragraph 15.1.1 of this Section, at which alcoholic beverages may be consumed, shall submit a written request, upon a form supplied by the District, substantially the same as that form attached to these Rules and Regulations as Appendix C , to the Board of the District for a permit to have or consume alcoholic beverages on such property in connection with said function. Such permit shall be granted or denied by the Board so as to promote the general welfare of the residents of the District and in accordance with these Rules and Regulations.

15.2.3. Consent: Any person going upon any property described in paragraph 15.1.1 of this Section owned by the District shall be deemed to have consented to the terms of this Section and any person violating any provision of this Section shall be considered a trespasser and shall be dealt with as prescribed by law.

15.3. NOTICE:

15.3.1. Posting: A copy of this Section shall be posted in the following places within the District:

- a. Community Center, 4705 Santa Fe Drive, Colorado City, Colorado.
- b. Colorado City Post Office Colorado City, Colorado.
- c. District Offices, 5445 Cuerno Verde Blvd., Colorado City.
- d. Concession Stand, Colorado City Swimming Pool, Colorado City, Colorado.
- e. Announcers Booth, Upper Baseball Field No. 3, Hicklin Park, Colorado City, Colorado.
- f. Concession Stand, Lower Baseball Fields No. 1 and 2, Colorado City, Colorado.

15.3.2. Notice to Sheriff: A copy of this Section shall also be furnished to the Pueblo County Sheriff to place him on notice that should violations of this Section occur, the Sheriff's Department shall be called upon to take appropriate action against such violators.

Section Sixteen

16. RULES AND REGULATIONS FOR THE USE OF DISTRICT PROPERTIES

16.1 PURPOSE:

16.1.1 Authority of District: The District has authority to establish parks and recreation facilities and to own other properties as the Board determines is in the best interests of the health, safety and welfare of the residents of Colorado City, to establish these Rules and Regulations for the use of District properties, including parks and recreation facilities. **For the**

purposes of this Section Sixteen property "owned by the District" includes property owned in fee, easement or right-of-way, including without limitation parks, greenbelts and open spaces.

16.2 PARKS, GREENBELTS AND OPEN SPACES:

16.2.1 Hours:

- a. Colorado City parks will be open for public use between the hours of 11:00 A.M. and 11:00 P.M. daily.
- b. All organized activities within the park area shall be terminated no later than 10:30 o'clock P.M.
- c. Park gates shall be secured by 11:00 o'clock P.M. or 30 minutes following the completion of scheduled activities whichever is the earliest.

16.2.2 Alcoholic Beverages and Drugs:

- a. No alcoholic beverages shall be carried upon, possessed or consumed within or upon any properties owned by the District, except as in accordance with Section 15 of these Rules and Regulations.
- b. No prohibited drugs shall be carried upon, possessed, consumed, used or sold within or upon any properties owned by the District, including but not limited to Colorado City parks facilities.

16.2.3 Unlicensed Vehicles: Unlicensed vehicles (including dirt bikes) shall be prohibited from traveling within the boundaries of all Colorado City parks, greenbelts and open spaces.

16.2.4 Speed Limits: The maximum speed limit on all roads and vehicle rights of way within Colorado City parks shall be 5 miles per hour.

16.2.5 General Restrictions:

- a. All persons using Colorado City parks, greenbelts and open spaces, shall refrain from creating noise and disturbances which may create a nuisance to adjacent property owners.
- b. Littering is strictly prohibited within Colorado City park areas, greenbelts and open spaces. Persons using picnic areas are required to clean up area following use of the area and all trash shall be carried out or deposited in appropriate containers.
- c. Persons using Colorado City parks, greenbelts and open spaces, grounds and facilities shall do so in such a manner as to not create a nuisance or harassment of any other parties.

16.2.6 Fee: Fees for use of park facilities are set forth in Appendix A to these Rules and Regulations.

16.2.7 Special Permits: The Board reserves the right to issue special use permits for the use of Colorado City parks. Said permits shall be issued at the discretion of the Board and may include permission for extended use of the park areas beyond the normal times the parks are open.

16.2.8 Parks Enforcement:

- a. The District Manager and the Recreation Manager of the District or any persons designated by them, may enforce these rules and regulations by requiring violators to leave the Colorado City Park areas, greenbelts and open spaces.

b. The Board of Directors may enforce these Rules and Regulations by:

1. Denying future use of all Colorado City parks and recreation facilities.
2. Initiating criminal actions against violators in accordance with appropriate State Statutes and County Ordinances.

16.2.9. Directional Signs: No directional signs shall be placed in open space or a greenbelt without approval of the sign and location permit being issued by the District Manager of Colorado City Metropolitan District. The decision of the District Manager is final. Directional signs shall be removed from the greenbelt and open space within 7 days following the completion of the real estate event during which the sign was placed. Signs being placed pursuant to the terms of this resolution shall remain not longer than 30 days following the issuance of the permit by the District Manager. Any signs placed without the approval of the Metropolitan District will be removed by the District and disposed of. No sign face shall exceed four (4) square feet.

16.2.10. Firearms: The discharge of firearms is prohibited on property owned by the District, including without limitation Colorado City parks, greenbelts and open spaces, without prior written approval by the District Manager of Colorado City Metropolitan District. As used herein, "firearms" means any pistol, revolver, rifle, or other weapon of any description from which any shot, projectile, or bullet may be discharged. Violation of this prohibition is subject to the enforcement provisions of Section 16.2.8 of these Rules and Regulations. Nothing in this section shall be construed to restrict or otherwise affect any person's constitutional right to bear arms or his legally protected right to the defense of his person, his family, or his property.

16.2.11. Hunting: Hunting is prohibited on property owned by the District, including without limitation Colorado City parks, greenbelts and open spaces, without prior written approval by the District Manager of Colorado City Metropolitan District. As used herein, "hunting" means to pursue, attract, stalk, lie in wait for, or attempt to shoot, wound, kill, trap, capture, collect, or take wildlife. "Hunting" does not include stalking, attracting, searching, or lying in wait for wildlife by an unarmed person solely for the purpose of watching or taking photographs of wildlife. Violation of this prohibition is subject to the enforcement provisions of Section 16.2.8 of these Rules and Regulations.

16.3. COMMUNITY CENTER, 4705 SANTA FE DRIVE, COLORADO CITY, COLORADO:

16.3.1 Reservations: The Community Center must be reserved five days prior to any activity. All reservations for the use of the Community Center should be made by contacting the District Recreation Manager at 676-3059.

16.3.2 Damage Deposit: A damage deposit shall be required to insure the Community Center will be left in an orderly manner and that there is no damage to the buildings or furniture. All deposits shall be made to the District and will be returned to the depositor after inspection of the building has been made and it has been determined that the building has

been left in a clean and orderly manner. The amount of the deposit is listed in Appendix A. On placing the deposit on file, the responsible party shall be required to sign an "Agreement of the User to Hold Harmless" form. This person shall also be responsible for occupying the building until the District Custodian arrives to lock the building.

16.3.3 Notice of Cancellation: Notice of cancellation of reservation is required at least 48 hours in advance of reserved date and time. If less than 48 hours notice of cancellation of reservation is given, the District shall retain the usage fee. Any violation of local, county, district, state or federal laws and/or ordinances or rules and regulations shall result in forfeiture of the right to future use of the building by violators. Person(s) signing the Agreement of the User to Hold Harmless form shall be designated as the responsible party and is required to contact the District Custodian at once should any problem occur with the building or should the activity extend beyond or end before the reserved time.

16.3.4 District Sponsored Activities: Activities sponsored by the District shall not be subject to fees for use of the Community Center.

16.3.5 Credit for Fees: Colorado City organizations including, but not limited to Senior Citizens, Boy Scouts, Girl Scouts, Cub Scouts and other youth groups may apply for work projects to receive credit for payment when rental fees apply. These work projects may include policing park areas or roadways or assisting in maintenance of the park grounds.

16.3.6 Fees: Fees for use of the Community Center at 4705 Santa Fe Drive, Colorado City, Colorado, are as set forth in Appendix A to these Rules and Regulations.

16.4. DISTRICT VEHICLES:

16.4.1. Local Organizations: Colorado City clubs and non-profit organizations may apply to the Colorado City Metropolitan District Recreation Department for certification of club activities no less than one week prior to the event or activity. All persons participating in activities so certified shall be eligible to use District vehicles when available. Priority will be given to District sponsored activities and recreation programs. All drivers of district vehicles of these activities must have a valid C.D.L.

16.4.2. Designation of Vehicles: The District reserves the right to designate the vehicle(s) to be used or to deny the use of its vehicles. If a District vehicle is used, it shall be driven by a District approved driver.

16.4.3. Fees: The fees for use of District's vehicles are set forth in Appendix A to these Rules and Regulations.

16.5. Lake Beckwith:

16.5.1. Fishing: Lake Beckwith is open to fishing by anyone holding a current Colorado Fishing License. Creel limits and other fishing regulations are set and enforced by the Colorado Division of Wildlife.

16.5.2. Boats: Wind and hand-propelled craft are allowed. Only electric trolling motors are allowed. Gasoline motor powered craft are prohibited, except for official purposes as approved by the District. Boats are permitted on the lake during daylight hours only.

16.5.3. Motor Vehicles: Motor vehicles are prohibited on walkways or greenbelt areas.

16.5.4. Fires: Open fires are prohibited. Charcoal fires in barbecues are allowed.

- 16.5.5. **Camping:** All overnight camping in the Lake area is prohibited.
- 16.5.6. **Swimming:** Swimming in the Lake is prohibited.
- 16.5.7. **Trash:** Trash containers are generally not provided. Users shall pack out their trash. Littering is prohibited.

Section Seventeen

17. RULES AND REGULATIONS CONCERNING WATER RIGHTS TO, AND USE OF WATER FROM THE DAKOTA AQUIFER, IMPOSING AN ADDITIONAL REQUIREMENT FOR WATER SERVICE, AND REGULATING THE DRILLING OF WELLS INTO SAID AQUIFER

17.1. PURPOSE:

- 17.1.1. **Necessity:** The District deems it necessary in the pursuance of its statutory obligations to provide for a District water system for the needs, health, safety, comfort, welfare, and benefit of its inhabitants, and to provide a sufficient supply of water for the said purposes as well as to allow future economic growth of the District and provide a sufficient supply of water for fire fighting purposes, to use water from the underground aquifer known as the "Dakota Aquifer", a distinct and recognized geologic formation which hereinafter is referred to as the "Aquifer".
- 17.1.2. **Statutory Limitation:** Colorado Revised Statute 37-90-137(4) places a limit upon the amount of water which may be pumped by the District from the well and said aquifer in terms of the quantity of water underlying land owned either by the District or by persons who have consented to withdrawal of ground water pursuant to said statute.
- 17.1.3. **Drilling Prohibition:** To avoid interference with the water supply to or water rights of wells which the District has constructed or intends to construct in said aquifer, which interference would be detrimental to the health, safety and welfare of the citizens of the District, the District deems it necessary to prohibit the drilling of wells into said Aquifer within the boundaries of the District except as provided in this Section 17.3.1 of the District Rules and Regulations.

17.2. APPROPRIATION OF GROUNDWATER:

- 17.2.1. **Appropriation:** The District hereby claims and appropriates and incorporates into its Plan of Service, for the purpose of providing water service to its inhabitants and customers of its water system, all right, title and interest in and to groundwater and water rights in the said Aquifer underlying all lands within the boundaries of the District, as those boundaries existed on January 1, 1985.
- 17.2.2. **Limitations:** This Section 19 does not apply to the following lands or groundwater in the said Aquifer:
- a. Lands outside the boundaries of the District as of January 1, 1985.
 - b. Any lands or groundwater as to which the groundwater has been conveyed or reserved or consent to use such groundwater has been given or reserved to anyone other than the District, by a writing executed prior to January 1, 1985, and recorded in the records of Pueblo County prior to August 31, 1985.
 - c. Any groundwater which has been decreed or permitted to anyone other than the District prior to the effective date hereof.

- d. Any lands not being served by the District as of the effective date hereof, and the groundwater underlying such land is the subject of an application for determination of a right to use groundwater filed in the Water Court prior to July 1, 1985.

17.3. CONVEYANCE OF WATER RIGHTS:

17.3.1. Any person who applies for water service from the District's water system or for inclusion into the District shall, as part of the application and as part of the consideration thereof, tender to the District a properly executed deed conveying to the District the water and water rights in said aquifer, underlying the lands to which service is requested or subject to such inclusion as provided in Section 5 of these Rules and Regulations, and warranting that such water, water rights or the consent to use or withdraw such groundwater underlying such lands have not been conveyed to other persons.

17.4. RESTRICTION OF WELL CONSTRUCTION:

17.4.1 No person may construct a well in the said Aquifer upon lands subject to this Section 19, or withdraw groundwater subject to this Rule and Regulation.

17.5. MISCELLANEOUS

17.5.1. Map: Upon final adoption hereof, the District Manager shall file with the State Engineer a detail map of the land area as to which consents deemed to have been given hereunder.

Section Eighteen

18. PARKS AND RECREATION ADVISORY BOARD

18.1. Created; Composition; Appointment; Terms of Members:

18.1.1. There is hereby created the parks and recreation advisory board which shall consist of five (5) members appointed by the Colorado City Metropolitan Board for terms of five (5) years each; except that five (5) initial members shall be appointed to staggered terms that will expire, respectively, on August first of 2002, 2003, 2004, 2005, and 2006.

18.2. Duties:

18.2.1. To advise and assist the CCMD Board on all matters of policy relating to the operation, maintenance and planning connected with all parks owned or operated by the District.

18.2.2. To advise and assist the District Manager and the CCMD Board on all matters of policy relating to the operation and maintenance of the recreation center.

18.2.3. To plan, organize and recommend to the CCMD Board a comprehensive program of recreation for the District, including such seasonal activities as the Parks and Recreation Advisory Board may deem appropriate.

18.2.4. To plan and recommend to the CCMD Board the construction or acquisition of such recreational facilities as the Parks and Recreation

Advisory Board may deem necessary or appropriate for the recreation program.

18.2.5. To advise and assist the District Manager and the CCMD Board in budgeting expenditures from the recreation fund.

18.3. **Attendance At Meetings:**

18.3.1. Parks and Recreation Advisory Board members are required to attend at least seventy-five (75) per cent of the regularly scheduled meetings in any twelve-month period. Noncompliance of this attendance will result in removal from the board.

Section Nineteen

19. **FRIENDS OF HOLLYDOT**

19.1. **Created; Composition; Appointment; Terms of Members:**

19.1.1 There is hereby created the Friends of Hollydot which shall consist of five (5) members appointed by the Colorado City Metropolitan Board. One (1) member shall be represented from each of the four associations. Eighteen Hole Ladies, Nine Hole Ladies, Men's Association, Couples. One (1) At-Large Member from the Community.

19.2. **Duties:**

19.2.1. To advise and assist CCMD on matters relating to promoting, advertising and fundraising for the golf course.

19.2.2. To plan, organize and recommend to the Superintendent and Golf Pro a comprehensive program of volunteers to assist in maintenance and improvements to the golf course.

19.3. **Attendance At Meetings:**

19.3.1. Friends of Hollydot members are required to attend at least seventy-five (75) per cent of the regularly scheduled meetings in any twelve-month period. Noncompliance of this attendance will result in removal from the board.