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# TITLE 1-GENERAL

## CHAPTERS:

1.05 CODE NAME

1.10 PERSONNEL RULES

1.15 TREASURER

1.20 PUBLIC MEETINGS AND RECORD POLICY

1.25 SEVERABILITY

## Chapter 1.05 Code Name

### SECTIONS:

#### 1.05.010 NAME CHANGE – EFFECTIVE DATE.

#### **1.05.010 Name change – Effective date.**

The official name of the Bear Creek Valley Sanitary Authority, BCVSA, shall be changed effective July 1, 2003, to Rogue Valley Sewer Services, RVSS.

[Res. 03-08, 2003.]

## Chapter 1.10 Personnel Rules

### SECTIONS:

#### 1.10.010 ADOPTED.

#### 1.10.020 COPIES DELIVERED.

#### **1.10.010 Adopted.**

Personnel rules for Rogue Valley Sewer Services may be adopted and amended by resolution of the Board of Directors of Rogue Valley Sewer Services at any regular or special meeting of the Board duly and regularly called and held.

[Ord. 75-5 § 1, 1975.]

#### **1.10.020 Copies delivered.**

Copies of personnel rules of Rogue Valley Sewer Services shall be delivered to and receipt acknowledged by each employee of RVSS.

[Ord. 5-5 § 2, 1975.]

## Chapter 1.15 Treasurer

### Sections:

#### 1.15.010 Appointed.

#### 1.15.020 Authorized to receive funds.

#### 1.15.030 Periodic appointment.

#### 1.15.010 Appointed.

#### **1.15.010 Appointed.**

An individual shall be appointed as the treasurer of Rogue Valley Sewer Services for the purpose of receiving bond proceeds, as provided in ORS 223.260.

[Ord. 92-14 § 1, 1993.]

#### **1.15.020 Authorized to receive funds.**

The treasurer shall not be a member of the RVSS Board of Directors and is hereby authorized in the capacity of treasurer to receive and invest funds pursuant to ordinances of Rogue Valley Sewer Services.

[Ord. 92-14 § 2, 1993.]

#### **1.15.030 Periodic appointment.**

Periodically as the Rogue Valley Sewer Services Board of Directors sees fit, it shall appoint or reappoint with resolution or ordinance an official as Rogue Valley Sewer Services treasurer.

[Ord. 92-14 § 3, 1993.]

## Chapter 1.20 Public Meetings and Record Policy

### Sections:

#### 1.20.010 Public meetings and record policy.

#### **1.20.010 Public meetings and record policy.**

Absent of any more specific policies adopted by the Board of Directors, the Attorney General's most recent public records and meetings manual is to be used.

[Ord. 06-05 § 11, 2006.]

## Chapter 1.25 Severability

### Sections:

#### 1.25.010 Severability

#### **1.25.010 Severability.**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this code shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this code.

## **TITLE 2-FINANCE**

### Chapters:

- 2.05 BILLING POLICIES
- 2.10 COLLECTION PROCEDURE FOR IMPROVEMENT LIENS
- 2.15 SEGREGATION OF EXISTING ASSESSMENT LIENS
- 2.20 SYSTEM DEVELOPMENT CHARGES

## Chapter 2.05 Billing Policies

### Sections:

2.05.010 Additional charges.

2.05.020 Interest policy.

2.05.030 Liens in second position.

2.05.040 Refund policy.

2.05.050 Property owner responsibility.

2.05.060 Uncollectible and delinquent accounts.

### **2.05.010 Additional charges.**

The Board of Directors of Rogue Valley Sewer Services will charge a specific amount in addition to the amounts adopted by ordinance or codified in this Code when it is determined by its manager that costs incurred to provide such services to a specific customer or property exceed the amount that would normally be charged for such services as provided for in these ordinances due to there being either exceptional circumstances or charges incurred by Rogue Valley Sewer Services to provide such services.

[Ord. 94-4, 1994.]

### **2.05.020 Interest policy.**

Rogue Valley Sewer Services shall charge 12 percent per annum simple interest on any unpaid obligation owing to it unless otherwise agreed in writing between RVSS for a particular type of obligation.

[Res. 99-19, 1999.]

### **2.05.030 Liens in second position.**

1) Rogue Valley Sewer Services will not subordinate or otherwise allow its lien to be put in a second position unless the following conditions are met:

- a) The party requesting the refinance pays a \$100.00 application fee and provides RVSS with the information and documentation set forth in subsection (1)(d) of this section;
- b) RVSS is not put in a weaker security position than before, or if it is, RVSS receives a higher interest rate to compensate it for the increased risk; and
- c) In the opinion of RVSS the approved refinancing actually improves the customer's ability to pay.
- d) RVSS shall be entitled to verify, at the customer's expense:

- i) The financial condition of the property owner, including obtaining a credit check,
- ii) All liens on the property including a lender's title policy,
- iii) The value of the property,
- iv) That the new mortgage or trust deed against the property that would be prior to RVSS's second lien is for 80 percent or less of the value of the property, and

2) If the lien is part of the security for bonded indebtedness, RVSS shall use its reserves to pay the bond fund, which is relying on the lien for payment, the amount of the balance of that particular lien.

3) RVSS reserves the right in its sole discretion to deny any request to put an RVSS lien in a second position. RVSS shall determine that allowing the application is not adverse to its interest.

4) In the event the application is approved, the customer shall sign escrow instructions to require that RVSS shall be placed in a second position at the time the lender is placed in a first position. The customer shall also have a lender's policy issued to RVSS.

[Res. 97-42, 1997.]

### **2.05.040 Refund policy.**

1) If an account has been overcharged for any reason, RVSS will refund the account the amount overcharged for the previous six months.

2) If an account has been undercharged for any reason, RVSS will back-bill the account for the amount undercharged for the previous twelve months. At the discretion of the Manager, back charges may be paid in increments over a period not to exceed 12 months.

### **2.05.050 Property owner responsibility.**

Every owner of property within RVSS is responsible for payment of charges under this title, including without limitation charges created by tenants or other persons lawfully in possession

of the property. RVSS will not recognize any attempt to transfer such responsibility although RVSS will, upon written request, bill occupants other than the property owner as a courtesy. If the property owner does not provide RVSS with an address for mailing bills, RVSS may use the mailing address for tax statements shown on the records of the county assessor and/or county tax collector.

[Ord. 07-01, 2007.]

#### **2.05.060 Uncollectible and delinquent accounts.**

Except as otherwise inconsistent, the provisions of RVSSC 9.05.080 shall apply to this chapter. [Ord. 07-01, 2007.]

## **Chapter 2.10 Collection Procedure for Improvement Liens**

### Sections:

#### 2.10.010 General.

#### 2.10.020 Late charge.

#### 2.10.030 Debt acceleration.

#### 2.10.040 Foreclosure.

#### 2.10.050 Reassessment.

#### 2.10.060 Alternative collection procedures.

#### 2.10.070 Fees for credit reports.

Code reviser's note: Ord. 88-8 has been revised by Ords. 9-8 and 89-10.

#### **2.10.010 General.**

In the event the whole or any portion of the cost of sewage treatment plants' trunk or lateral sewers or drains is assessed against property directly benefited and the owner of the property fails to pay the amount of the lien, or any portion thereof, or the interest thereon, when due, the Board of Directors ("Board", herein) of Rogue Valley Sewer Services is authorized to follow the collection procedures set forth herein.

[Ord. 88-8 § 1, 1988.]

#### **2.10.020 Late charge.**

In the event installment payments are authorized and an assessment installment payment is not paid when due, and said failure to pay continues for a period of 60 days after said due date, a late charge of 10 percent of the payment, or \$10.00,

whichever is greater, but in no case less than \$10.00 or greater than \$20.00, shall be added to the overdue installment and said late charge shall be immediately due and payable. Notice of intent to impose a late charge shall be sent to the owner of the property appearing in the records of RVSS, by regular mail, directed to the address of the property upon which the improvement assessment was levied. Said notice shall be mailed not less than 30 or more than 50 days after the due date for the installment payment. All late penalties shall be specifically designated on the appropriate monthly or semi-annual assessment payment billing of RVSS.

[Ord. 88-8 § 2, 1988.]

#### **2.10.030 Debt acceleration.**

- 1) **Bonded Lien Debt Acceleration.** In the event installment payments on any lien that is bonded are authorized and any of said installment payments is not paid for one year or more from and after the due date thereof, the Board may declare the unpaid balance of the debt secured by said lien, with interest and late charges, immediately due and payable.
- 2) **Unbonded Lien Debt Acceleration.** In the event an unbonded lien is not paid in full 90 days or more from and after the due date, the Board shall declare the unpaid balance of the debt secured by said lien, with interest, immediately due and payable.
- 3) **Notice of Intent to Accelerate Debt and to Foreclose.** If an installment payment on the debt secured by a bonded lien remains unpaid 270 days after due, or if payment of the debt secured by an unbonded lien remains unpaid in full 90 days after due, the manager shall prepare and submit to the Board a list in tabular form, made from the lien records of RVSS, describing each lien, assessment or installment due on any bonded or unbonded lien. The list shall also contain the name of the person to whom assessed, a particular description of the property, the amount of the lien or assessment and the amount of the installment or installments due on any such lien, and any other facts required by the Board to be given. The Board may review



the list and direct the manager to give notice to the owners of the property upon which the unpaid improvement lien or assessment was imposed that the Board intends to accelerate the debt and declare the entire assessment, with interest, immediately due and payable if not paid within 90 days of the date of the notice. Said notice shall also advise that failure to pay the assessment in full with interest and late charges, after acceleration thereof, may result in foreclosure of the lien or other action by the Board to protect interest of RVSS.

[Ord. 88-8 § 3, 1988.]

#### **2.10.040 Foreclosure.**

- 1) Judicial Foreclosure. Upon the Board accelerating the unpaid balance on a debt secured by a bonded or unbonded lien as provided in RVSSC 2.10.030(1) and (2), the Board may direct the manager to give written notice to the owner of the real property subject to the lien to pay the lien, with accrued interest and late charges, if any, in full to RVSS within 30 days of the date of said notice. Said notice shall be sent by certified mail, return receipt requested and shall set forth the full amount to be paid, with interest, within said time period, and the options of RVSS then being considered to protect the interest of the patrons of RVSS. If the owner fails to pay said lien in full within said time period, the Board may direct the manager to initiate foreclosure proceedings as provided in ORS 88.010 through 88.120 or in any other manner authorized under Oregon statutory or common law..

- 2) Alternative Foreclosure Methods. After giving notice as provided in RVSSC 2.10.030(1), (2), and (3), the Board may, in the alternative, direct the manager to proceed to foreclose the lien, securing the delinquent assessments in the manner provided by law for the collection of liens by municipalities under the provisions of ORS 223.510 through 223.670, and any amendments thereof. The manager of RVSS shall perform the tasks and procedures assigned in said statutes to the “recorder” and “treasurer.” This chapter, applying only to the procedures and remedies

for the enforcement of the improvement liens of RVSS, shall be applicable to all improvement liens heretofore or hereafter at any time assessed by RVSS upon real property within its jurisdiction.

- 3) Administrative Determination. When authorizing foreclosure of improvement liens by resolution, the Board of Directors may provide for the manner and method of foreclosure under the provision of subsection (1) or (2) of this section, or may direct that the procedure under which such foreclosure shall be undertaken and carried out shall be determined in the discretion of the manager in each particular case.

[Ord. 88-8 § 4, 1988.]

#### **2.10.050 Reassessment.**

The provisions of ORS 223.405 to 223.485 relating to reassessment shall be available to RVSS when applicable.

[Ord. 88-8 § 5, 1988.]

#### **2.10.060 Alternative collection procedures.**

If at any time the Board determines that strict implementation of this chapter will result in hardship or other oppressive circumstances to a property owner or occupant within the RVSS district, the Board may adopt such other collection procedures that will ameliorate the hardship or other oppressive circumstance yet protect the interest of RVSS.

[Ord. 88-8 § 6, 1988.]

#### **2.10.070 Fees for credit reports.**

Upon application for deferment of assessment lien or for purposes of making special repayment arrangements or when deemed appropriate by a manager, a fee shall be charged as follows: RVSS’s cost for the credit report, plus \$2.00 to offset costs associated with obtaining a written credit report. The information obtained from the credit report will be used to help make determinations regarding the ability of applicants to repay assessments.

[Ord. 88-8 § 7, 1988.]

## Chapter 2.15 Segregation of Existing Assessment Liens

### Sections:

2.15.010 Special assessment apportioned.

2.15.020 When requested.

2.15.030 Assessment done in accordance with Board.

2.15.040 Definitions.

2.15.050 Installments.

2.15.060 Application for segregation.

2.15.070 Deferred assessment.

### **2.15.010 Special assessment apportioned.**

RVSS, acting by its Board of Directors, may apportion a special assessment imposed upon a single tract or parcel of real property among all of the parcels formed from a subsequent partition or other division of that tract or parcel, if the subsequent partition or division is in accordance with ORS 92.010 through 92.190, and is consistent with all applicable comprehensive plans as acknowledged by the Land Conservation and Development Commission under ORS 197.251. The proportionate distribution of a special assessment authorized under this section may be made whenever the special assessment remains wholly or partially unpaid, and full payment or an installment payment is not past due.

[Ord. 88-7 § 1, 1988.]

### **2.15.020 When requested.**

RVSS shall apportion a special assessment under this chapter when requested to do so by any owner, mortgagee or lienholder of a parcel of real property that was formed from the partition or other division of the larger tract of real property against which the special assessment was originally levied. If the deed, mortgage or other instrument, including a contract of sale, evidencing the applicant's ownership or other interest in the parcel has not been recorded by the county clerk of the county in which the parcel is situated, RVSS shall not apportion the special assessment unless the applicant files a copy sworn to be a true copy of that deed, mortgage or instrument with RVSS.

[Ord. 88-7 § 2, 1988.]

### **2.15.030 Assessment done in accordance with Board.**

Apportionment of a special assessment under this section shall be done in accordance with an order or resolution of the Board of Directors of RVSS. The order or resolution shall:

- 1) Describe each parcel of real property affected by the apportionment;
- 2) The amount of the assessment levied against each such parcel;
- 3) The owner of each parcel and the address thereof;
- 4) The original tax lot designation for each parcel, and the tax lot numbers of the parcels as partitioned;
- 5) Such additional information as is required to keep a permanent and complete record of the assessments and the payments thereon.

A copy of the order or resolution shall be filed with the recording officer required to maintain the lien docket for RVSS, who shall make any necessary changes or entries in the lien docket for RVSS.

[Ord. 88-7 § 3, 1988.]

### **2.15.040 Definitions.**

The definitions set forth in ORS 223.317 shall apply to this chapter.

[Ord. 88-7 § 4, 1988.]

### **2.15.050 Installments.**

When an assessment is being paid in installments under the Bancroft Bonding Act, or ORS 268.485, 450.155, 450.897 or 451.530, if such assessment is apportioned among smaller parcels of real property under this chapter, the installments remaining unpaid shall be prorated among those smaller parcels, so that each parcel shall be charged with that percentage of the remaining installment payments equal to the percentage of the unpaid assessment charged to the parcel upon apportionment.

[Ord. 88-7 § 5, 1988.]

### **2.15.060 Application for segregation.**

- 1) Application for Segregation. Applications

for segregation shall be filed with the manager of the district on a form to be furnished by the office of the manager. The application shall include:

- a) A lot book report or title report from a title company showing copies of the deeds and other instruments evidencing all ownerships or other interests and legal descriptions of the parcels to be segregated.
  - b) The original and segregated tax lot number, original and segregated assessed values, names and addresses of the owners of the respective parcels, and all others having an interest in each parcel, and any other relevant information requested by the manager.
  - c) An express waiver of defects, jurisdictional or otherwise, in the original assessment, and an agreement that the priority of the lien of the original assessment shall be preserved in the amounts as segregated.
- 2) The application shall be accompanied by a fee of \$25.00 for each tract partitioned, plus \$5.00 for each parcel over two parcels when a single tract is partitioned into more than two parcels, and all are segregated at the same time.
  - 3) If the manager or designee finds that the application is complete and proper, it shall be submitted to the Board of Directors, along with a proposed resolution prepared in accordance with RVSSC 2.15.030. Copies of the proposed resolution shall be mailed to all persons shown by the application to have an interest in the property at least seven days prior to the Board of Directors' meeting at which the resolution will be considered. The copy of the resolution shall be accompanied by a notice stating the date of the meeting and that all written objections filed with the Board of Directors prior to the date of the meeting will be considered by the Board of Directors. It shall also state that, and this chapter hereby provides that, oral objections will not be heard.  
[Ord. 88-7 § 6, 1988.]

### **2.15.070 Deferred assessment.**

Such segregations may also be subject to further deferred assessment at the time of development of any unimproved parcel.

[Ord. 88-7 § 7, 1988.]

## **Chapter 2.20 System Development Charges**

### Sections:

#### Article I. GENERAL PROVISIONS

##### 2.20.010 Purpose.

##### 2.20.020 Scope.

##### 2.20.030 Definitions.

##### 2.20.040 System development charge imposed – Method for establishment created.

##### 2.20.050 Methodology.

##### 2.20.060 Authorized expenditure.

##### 2.20.070 Project plan.

##### 2.20.080 Collection of system development charges.

##### 2.20.090 Exemptions.

##### 2.20.100 Credits.

##### 2.20.110 Installment payments.

##### 2.20.120 Delinquent charges.

##### 2.20.130 Exemptions.

##### 2.20.140 Prohibited connection.

##### 2.20.150 Notification – Appeals.

##### 2.20.160 Annual accounting.

#### Article II. REGIONAL WATER QUALITY CONTROL PLANT SYSTEMS DEVELOPMENT CHARGE

##### 2.20.170 Definitions.

##### 2.20.180 Collection of charge.

##### 2.20.190 Methodology.

##### 2.20.200 Reserved

##### 2.20.210 Schedule of charges.

##### 2.20.220 Notice and hearing.

#### Article III. SANITARY SEWER COLLECTION AND TRUNK/INTERCEPTOR SYSTEM DEVELOPMENT CHARGES

##### 2.20.230 Methodology.

##### 2.20.240 Charges established – Sanitary sewer collection.

##### 2.20.250 Permits.

##### 2.20.260 Project plan.

##### 2.20.270 Reserved

##### 2.20.280 Large industrial users.

##### 2.20.290 Reserved

2.20.300 Temporary mobile homes.  
2.20.010 System Development Charges

**Chapter 2.20**  
**Article I.**  
**General Provisions**

**2.20.010 Purpose.**

The purpose of this article is to provide authorization for system development charges for capital improvements pursuant to ORS 223.297 through 223.314 for the purpose of creating a source of funding for existing system capacity and/or the installation, construction and extension of future capital improvements. These charges shall be collected either at the time of increased usage or at the time of permitting development of properties which increase the use of capital improvements and generate a need for those facilities.

[Ord. 04-07 § 1, 2004; Ord. 04-03 § 1, 2004.]

**2.20.020 Scope.**

The system development charges imposed herein are separate from and in addition to any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development.

[Ord. 04-07 § 2, 2004; Ord. 04-03 § 2, 2004.]

**2.20.030 Definitions.**

For the purposes of this article, the following definitions shall apply:

“Capital Improvements” means facilities or assets used for:

- 1) Sewage and wastewater collection, transmission, treatment and disposal; or
- 2) Drainage and flood control.

“Development” means conducting a building or mining operation, making a physical change in the use or appearance of a structure or land, or creating or terminating a right of access.

“Improvement fee” means a fee for costs associated with capital improvements to be constructed after the date the fee is adopted pursuant to the provisions of this article.

“Land area” means the area of a parcel of land as measured by projection of the parcel boundaries upon a horizontal plane with the exception of a portion of the parcel within a recorded right-of-way or easement subject to a servitude for a public street or scenic or preservation purpose.

“Owner” means the owner(s) of a recorded title or the purchaser(s) under a recorded sales agreement, and other persons having an interest of record in the described real property.

“Parcel of land” means a lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and includes the yards and other open spaces required under the zoning, subdivision, or other development ordinances.

“Permittee” means the person to whom a building permit, development permit, or right-of-way access permit is issued.

“Qualified public improvement” means a capital improvement that is:

- 1) Required as a condition of development approval;
- 2) Identified in the system development charge fund project plan; and
- 3) Not located on or continuous to a parcel of land that is the subject of the development approval.

“Reimbursement fee” means a fee for costs associated with capital improvements constructed or under construction on the date the fee is adopted pursuant to the provisions of this article.

“System Development Charge (SDC)” means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement, at the time of issuance of a development permit or building permit, or at the time of connection to the capital improvement. “SDC” does not include fees assessed or collected as part of a local improvement district or a charge in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions

imposed by a land use decision.

[Ord. 04-07 § 2, 2004; Ord. 04-03 § 2, 2004.]

**2.20.040 System development charge imposed – Method for establishment created.**

- 1) Unless exempted pursuant to RVSSC 2.20.090, a systems development charge is hereby imposed upon all development within the district of Rogue Valley Sewer Services.
- 2) Systems development charges shall be established and may be revised by resolution of the RVSS district Board in so far as those revisions do not constitute a revision to the methodology for calculating the SDC. The resolution shall set the amount of the charge, the type of permit to which the charge applies, and, if the charge applies to a geographic area smaller than the entire district, the geographic area subject to the charge.

[Ord. 04-07 § 3, 2004; Ord. 04-03 § 3, 2004.]  
2.20.080

**2.20.050 Methodology.**

- 1) The methodology used to establish the reimbursement fee shall consider the cost of the then-existing facilities, prior contributions by then-existing system users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by the district Board. The methodology shall promote the objective that future systems users shall contribute not more than an equitable share of the cost of then-existing facilities.
- 2) The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related and other relevant factors identified by the district Board.
- 3) The methodology used to establish the improvement fee or the reimbursement fee, or both, shall be adopted by resolution.

[Ord. 04-07 § 4, 2004; Ord. 04-03 § 4, 2004.]

**2.20.060 Authorized expenditure.**

- 1) Reimbursement fees shall be applied only to capital improvements associated with the systems for which the fees are assessed, including expenditures relating to repayment of indebtedness.
- 2) Improvement fees shall be spent only on capacity-increasing capital improvements, including expenditures relating to repayment of debt for such improvements. An increase in system capacity occurs if a capital improvement increases the level of performance or service provided by existing facilities or provides new facilities. The portion of the improvements funded by improvement fees must be related to demands created by future development.
- 3) A capital improvement being funded wholly or in part from revenues derived from the improvement fee shall be included in the capital plan adopted by the district.
- 4) System development charge revenues may be expended on the direct costs of complying with the provisions of this article, including the costs of developing system development charge methodologies and providing an annual accounting of system development charge funds.

[Ord. 04-07 § 5, 2004; Ord. 04-03 § 5, 2004.]

**2.20.070 Project plan.**

- 1) The district Board shall adopt by resolution the capital plan. This plan:
  - a) Defines the amount of current or under construction capacity available for new development and the cost of the facilities comprising this capacity;
  - b) Lists the capital improvements that may be funded with improvement fee revenues; and
  - c) Lists the estimated cost, SDC eligible allocation of project costs and estimated time of construction of each improvement.
- 2) In adopting this plan, the district may incorporate by reference all or a portion of any public facilities plan, master plan, capital improvements plan or similar plan that contains the information required by this

section. The District Board may modify this project plan at any time through the adoption of an appropriate resolution.

- 3) The capital projects listed in the plan shall be adjusted for inflation annually and the index used shall be the Engineering News Rec Ord. [Ord. 04-07 § 6, 2004; Ord. 04-03 § 6, 2004.]

#### **2.20.080 Collection of System Development Charges.**

- 1) The system development charge is payable at the time specified in the resolution and at sizable increases in the usage of the system by nonresidential customers.
- 2) The resolution which sets the amount of the charge shall designate the permit or systems to which the charge applies.
- 3) If development is commenced or connection is made to the systems provided by the district without an appropriate permit, the system development charge is immediately payable upon the earliest date that a permit was required and is subject to penalty.
- 4) The district general manager or his/her designee shall collect the applicable system development charge from the permittee or system user.
- 5) The district general manager or his/her designee shall not issue such permit or allow connection or increased usage of the system(s) until the charge has been paid in full, unless an exemption is granted pursuant to RVSSC 2.20.090 or 2.20.130 or subsection (7) of this section.
- 6) All moneys collected through the system development charge shall be accounted for in the general fund and segregated by type of system development charge and by reimbursement versus improvement fees.
- 7) All system development for the collection, interceptor and trunk systems shall be due and payable at the conclusion of main line construction and prior to final acceptance by RVSS. If no main line is constructed, the fee

shall be paid prior to final acceptance by RVSS and before any connections are made to any RVSS lines. In areas where RVSS issues the sewer connection permit, charges for residential uses may be deferred until the permit to connect to the collection system is issued.

[Res. 10-30 §§ 1 – 3, 2010; Ord. 04-07 § 7, 2004; Ord. 04-03 § 7, 2004.]

#### **2.20.090 Exemptions.**

The following structures and uses are exempt from the system development charge:

- 1) Structures and uses established and existing on or before the effective date of the resolution;
- 2) Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the district's building code, are exempt from all portions of the system development charge; and
- 3) An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of a capital improvement is exempt from all portions of the system development charge.

[Ord. 04-07 § 8, 2004; Ord. 04-03 § 8, 2004.]

#### **2.20.100 Credits.**

- 1) A permittee is eligible for credit against the system development charge for constructing a qualified capital improvement. A "qualified capital improvement" means one that meets all of the following criteria:
  - a) Is required as a condition of development approval by the district Board; and
  - b) Is identified in the adopted capital plan; and
  - c) Is not located within or contiguous to the property or parcel that is subject to development approval; or
  - d) Is not located in whole or in part on, or contiguous to, property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

- 2) This credit shall be only for the improvement fee charged for the type of improvement being constructed. Credit under this section may be granted only for the cost of that portion of the improvement that exceeds the facility size or capacity needed to serve the development project.
- 3) Applying the adopted methodology, the district may grant a credit against the improvement charge for capital facilities provided as part of the development that reduces the development's demand upon existing capital improvements or the need for further capital improvements or that would otherwise have to be constructed at district expense under the then-existing District Board policies.
- 4) When the construction of a qualified public improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the project receiving development approval, the excess credit may be applied against improvement fees that accrue in subsequent phases of the original development project.
- 5) All credit requests must be in writing and filed with the district before the issuance of a building permit. Improvement acceptance shall be in accordance with the usual and customary practices, procedures and standards of the district of Rogue Valley Sewer Services. The amount of any credit shall be determined by the district and based upon the subject improvement construction contract documents, or other appropriate information, provided by the applicant for the credit. Upon a finding by the district that the contract amounts exceed the prevailing market rate for a similar project, the credit shall be based upon market rates. The district shall provide the applicant with a credit on a form provided by the district. The credit shall state the actual dollar amount that may be applied against any system development charge imposed against the subject property. The applicant has the burden of demonstrating qualification for a credit.
- 6) Credits shall be apportioned against the property which was subject to the requirements to construct an improvement eligible for credit. Unless otherwise requested, apportionment against lots or parcels constituting the property shall be proportionate to the anticipated public facility service requirements generated by the respective lots or parcels. Upon written application to the district, however, credits shall be reapportioned from any lot or parcel to any other lot or parcel within the confines of the property originally eligible for the credit. Reapportionment shall be noted on the original credit form retained by the district.
- 7) Any credits are assignable; however, they shall apply only to that property subject to the original condition for land use approval upon which the credit is based or any partitioned or subdivided parcel or lots of such property to which the credit has been apportioned. Credits shall only apply against system development charges, are limited to the amount of the fee attributable to the development of the specific lot or parcel for which the credit is sought and shall not be a basis for any refund. 2.20.160
- 8) Any credit request must be submitted before the issuance of a building permit. The applicant is responsible for presentation of any credit and no credit shall be considered after issuance of a building permit.
- 9) Credits shall be used by the applicant within 10 years of their issuance by the district.

#### **2.20.110 Installment payments.**

- 1) When a system development charge of \$500.00 or more is due and collectible, the owner of the parcel of land subject to the development charge may apply for payment in monthly installments, to include interest on the unpaid balance, in accordance with ORS 223.208.
- 2) The manager may provide application forms for installment payments, which shall include a waiver of all rights to contest the validity of

the lien, except for the correction of computational errors.

- 3) An applicant for installment payments shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel and that the interest of the applicant is adequate to secure payment of the lien.
- 4) The finance director shall report to the manager the amount of the systems development charge, the dates on which the payments are due, the name of the owner, and the description of the parcel.
- 5) Upon acceptance of the application, the manager shall record the lien with the county assessor. From that time, Rogue Valley Sewer Services shall have a lien upon the described parcel for the amount of the systems development charge, together with interest on the unpaid balance at the rate established by the Board of Directors. The lien shall be enforceable in the manner provided in ORS chapter 223.

[Ord. 06-05 § 1, 2006; Ord. 04-07 § 10, 2004; Ord. 04-03 § 10, 2004.]

#### **2.20.120 Delinquent charges.**

Should the owner neglect or refuse to pay installment payments of systems development charges as per RVSSC 2.20.110, then Rogue Valley Sewer Services shall follow those procedures for collection as provided for in Chapter 2.10 RVSSC, and in accordance with ORS 223.265 to 223.295.

[Ord. 04-07 § 11, 2004; Ord. 04-03 § 11, 2004.]

#### **2.20.130 Exemptions.**

The following structures and uses are exempt from the system development charge:

- 1) Additions to single-family dwellings that do not constitute the addition of a dwelling unit, as defined by the State Uniform Building Code, are exempt from all portions of the systems development charge; and
- 2) An alteration, addition, replacement or change in use that does not increase the parcel's or structure's use of the public

improvement facility.

[Ord. 04-07 § 12, 2004; Ord. 04-03 § 12, 2004.]

#### **2.20.140 Prohibited connection.**

No person may connect to the sewer systems of Rogue Valley Sewer Services unless the appropriate systems development charge has been paid or the lien and installment payment method has been applied for and approved.

[Ord. 04-07 § 13, 2004; Ord. 04-03 § 13, 2004.]

#### **2.20.150 Notification – Appeals.**

The district shall maintain a list of persons who have made a written request for notification prior to adoption or amendment of the system development charge methodology. These persons shall be so notified in writing of any such proposed changes at least 90 days prior to the first hearing to adopt or amend such methodology(ies). This methodology shall be available at least 60 days prior to the public hearing. No challenge to the system development charge methodology shall be accepted after 60 days following final adoption by the district Board.

[Ord. 04-07 § 14, 2004; Ord. 04-03 § 14, 2004.]

#### **2.20.160 Annual accounting.**

The district shall provide an annual accounting for system development charges showing the total amount of system development charges collected for each system along with a list of projects funded in whole or in part through system development charges.

[Ord. 04-07 § 15, 2004; Ord. 04-03 § 15, 2004.]

### **Article II.**

#### **Regional Water Quality Control Plant Systems Development Charge**

#### **2.20.170 Definitions.**

As used in this article, the following terms shall mean:

- 1) "Connection to system" means the actual physical connection to the wastewater system or the time of issuance of a building permit or wastewater permit.
- 2) "Change in usage" means an increase of 10 percent or more in the wastewater flows measured in gallons per day and/or strength



of wastewater flow measured in milligrams per liter of biological oxygen demand (BOD) or suspended solids (SS) from those originally used in the determination of the system development charge for connection to the system.

- 3) "Equivalent Residential Unit" (ERU) means the wastewater flow used by a single-family residential unit or 350 gallons per day of wastewater flow and 300 milligrams per liter of BODs and 300 milligrams per liter of SS.
- 4) All other definitions as used in this article shall have the same meaning as defined in Article I of this chapter.

[Res. 91-15 § 1, 1991.]

#### **2.20.180 Collection of charge.**

- 1) Rogue Valley Sewer Services shall collect the SDC when:
  - a) The customer connects to the system;
  - b) A change in usage occurs as determined by the technical advisory committee. Such change in usage may be determined by the technical advisory committee upon issuance of a new building permit or wastewater permit or by monitoring of the customer's wastewater flows as determined by procedures employed by the technical advisory committee.
- 2) To the extent that the technical advisory committee finds that a change in usage has occurred in accordance with subsection (1)(a) of this section, then the customer will be required to pay an additional sum equal to the current system development charge on a dollar-per-EDU basis times the increase in equivalent residential units. In no instance will a refund be provided if it is found that the change in usage results in a decrease in the number of equivalent residential units.

[Res. 91-15 § 2, 1991.]

Code reviser's note: Res. 91-15 has been revised by Resos. 93-29, 94-10, 95-4, 95-17, 97-40, 00-05, 00-26, 02-03 and 03-11.

#### **2.20.190 Methodology.**

- 1) The methodology used to establish the reimbursement fee shall consider the cost of

the existing facilities, prior contributions by then-existing users, the value of unused capacity, rate-making principles employed to finance publicly owned capital improvements, and other relevant factors identified by Rogue Valley Sewer Services. The methodology shall promote the objective that future systems users shall contribute no more than an equitable share of the cost of the existing facilities.

- 2) The methodology used to establish the improvement fee shall consider the cost of projected capital improvements needed to increase the capacity of the systems to which the fee is related.
- 3) Based on the principles for the establishment of reimbursement fees and improvement fees, the methodology for the determination of SDC shall consist of the following:
  - a) The number of EDUs in the plant shall be determined by dividing the most recent capacity expansion by the wastewater flow for an equivalent residential unit.
  - b) The costs of constructing the capacity expansion shall be divided by the number of EDUs to determine a charge in a dollar-per-EDU basis.
  - c) The charge as determined in subsection (3)(b) of this section will be adjusted by a present value factor to adjust for the interest cost on funds from the actual date of construction or planned date of construction.
  - d) The SDC for compliance costs shall be determined by dividing the estimated cost for compliance for the next six years by the number of EDUs added in each year. Such charge each year shall be adjusted to reflect the interest earning on funds.

[Res. 91-15 § 3, 1991.]

#### **2.20.200 Reserved**

#### **2.20.210 Schedule of charges.**

- 1) The SDC for the regional water quality treatment plant shall be established by the regional rate committee pursuant to intergovernmental agreement, and adopted

by Rogue Valley Sewer Services by resolution of the Board.

2) The following are definitions of classifications used in establishing the system development charges:

- a) A “single-family residence (SFR)” is defined as a building designed and/or used to provide independent living for not more than one family, including all necessary employees of such family. Mobile homes occupying a separate lot and providing permanent housing with a separate sewer connection shall be classed as an SFR. A “guest house or room” is an accessory building or room designed, constructed and used to provide temporary sleeping accommodations for guests, or for members of the same family as that occupying the main structure. A guest house or room contains no kitchen or kitchen facilities. A guest house shall be considered a part of the SFR and no additional fee shall be charged. “Kitchen or kitchen facilities” shall be any area separate from bathing and sanitation facilities which can be utilized for food preparation and which includes a sink or plumbing for a sink and may include any or all of the following: a dishwasher, stove, oven, or space for a refrigerator. Any addition to an existing SFR, which does not result in an additional dwelling unit, will be exempt from additional charge. However, any activity conducted from an SFR which requires a business license may be subject to an additional charge, depending on the nature of the activity.
- b) A “multiple-family residence (MFR)” is defined as a building or a group of buildings housing two or more families, living independently of each other, a “family” being defined as one or more persons living as a single housekeeping unit or household with sewer service being provided through not more than one sewer connection. Common buildings in an apartment house complex requiring sewer service shall be charged

as commercial buildings and that portion of buildings housing common laundry facilities shall be charged as laundries and laundromats. However, laundry facilities located in individual dwelling units shall be considered incidental to the standard multifamily charge.

- c) An “accessory or ancillary dwelling unit (ADU)” is defined as a residential dwelling unit, with a kitchen or kitchen facilities, that is used for independent living and is located on the same lot as a single-family residence (SFR), as defined by each entity in its own code, ordinances, or resolutions. An ADU may be a separate building or a space within an SFR. An ADU shall be charged the same SDC as an MFR. Any activity conducted from an MFR or ADU which requires a business license may be subject to an additional charge, depending on the nature of the activity.
- d) A “mobile home park,” including travel trailer parks, is defined as any area or tract of land having a sewer connection and where sewerage collection pipes are extended to two or more spaces occupied by or intended to be occupied by a “mobile home,” “travel trailer,” or “motor home” that are defined as a vehicle with or without motive power which is designed, used, or intended for use as a place of human habitation, or as eating, sleeping, or living quarters or any combination thereof. A “mobile home space” is defined as the individual location having a sewer hookup for each such vehicle. For purposes of determining the systems development charges (SDCs) for mobile home parks’ common buildings such as recreation halls, etc., shall be charged as commercial buildings. Buildings housing laundry facilities shall be charged as laundries and laundromats and food or drink service buildings shall be charged as food preparation and/or serving.
- e) A “recreational vehicle dumping station” is defined as a building or structure used for dumping of sanitary sewer wastes

from recreational vehicle holding tanks, including gray water from sinks and showers. (This excludes an individual collector installed by a homeowner for his/her own use.)

- f) A “school” is defined as any building or group of buildings used for school purposes more than 12 hours per week, involving assemblage for instruction, education or recreation. Schools may be public or private and may include, but not be limited to, day care/pre-school, kindergarten, elementary schools, middle/junior high schools, senior high schools, junior colleges, continuing education facilities, professional/vocational schools, and beauty colleges. Charge shall be based on student capacity of classrooms. No additional charge shall be made for school gymnasiums, locker rooms or cafeterias. Unless other supporting data is provided by the applicant, the design capacity of classroom area, per student, shall be based on the following
  - i) Pre-school through fifth grade: 35 square feet per student;
  - ii) Sixth grade through eighth grade: 30 square feet per student;
  - iii) Ninth grade through college: 25 square feet per student.
- g) A “church” is defined as a building or structure whose principal use is for worship and in which the incidental use for school or recreational purposes is less than 12 hours per week. Church buildings used for school purposes in excess of 12 hours per week shall be charged at the “school” SDC rate in addition to the charge per 100 seats as a church. No additional charge shall be made for kitchens, multi-purpose rooms, or fellowship halls and related plumbing fixtures. Unless other supporting data is provided by the applicant, the design capacity of a church, per seat, shall be based on 15 square feet per seat of sanctuary floor area (including aisles, stage, altar area, etc.).
- h) A “general hospital” is defined as a building or structure used for the

temporary housing of ill or injured persons and containing facilities for medical and surgical treatment of such persons. No additional charge shall be made for laundry and food and drink preparation and serving facilities included in hospitals.

- i) A “convalescent hospital, rest home, or assisted living facility (ALF)” is defined as a building or structure used for the housing of persons convalescing from illness or injury or persons requiring close personal care. No additional charge shall be made for laundry and food and drink preparation and serving facilities included in the facility. Rooms or units containing kitchen facilities shall be charged at the MFR rate.
- j) A “residential care, Boarding, or adult foster care facility” is defined as a residential building or structure, generally in a residential neighborhood, used for housing of persons requiring either long-term supervision and general care or any type of dependency recovery. The facility shall be considered an SFR for up to four bedrooms, with an additional charge per bedroom above four. No additional charges shall be made for laundry or food and drink preparation and serving facilities included in the facility. Individual bedrooms may not contain kitchen facilities. This language distinguishes between “assisted living” facilities, which tend to be larger-scale “businesses,” and the smaller-scale homes which provide more personal foster care.
- k) A “lodging facility” is defined as a building or group of buildings used for temporary housing of persons, containing rooms or units intended for the use of transient persons. Included within this definition are hotels, motels, and bed and breakfast accommodations. Homeless shelters and/or dormitory-style housing facilities shall be considered by the TAG on a case-by-case basis.
  - i) Hotels/Motels. Any building or group of buildings with guest rooms

- intended or designed to be rented for temporary occupation by guests. Those areas within hotels and motels to be used for commercial preparation of and serving of food and drink shall be charged at the rate for food preparation and/or serving, including guest breakfast serving and eating areas. Kitchens or kitchenettes in individual rooms shall be charged at commercial rates based upon fixtures. Commercial areas within hotels and motels, including convention facilities, meeting rooms and other such common areas other than lobby areas shall be charged at the rate for commercial and dry industrial areas. Areas used as guest or public laundry facilities in hotels and motels shall be charged at the area rate for laundries and laundromats. In-house laundries for use by staff shall be considered incidental to the per-room SDC rate. Such additional charges for food and drink, commercial areas, and laundry shall be in addition to the charge per room or motel unit.
- ii) Bed and Breakfast (B&B) Accommodations. A B&B is an SFR, or part thereof, other than a hotel, motel or MFR, where traveler's accommodations and breakfast are provided for a fee on a daily or weekly room rental basis. A B&B shall be charged at the SFR SDC rate for the first four bedrooms and at the lodging facility per-unit SDC rate for each additional bedroom. No additional charge shall be made for the kitchen unless an existing kitchen is remodeled and new fixtures added, at which time it shall be charged at the rate for commercial and dry industrial areas.
  - l) "Food preparation and/or serving" includes restaurants, lounges, taverns, delicatessens, coffee carts, kiosks, and wholesale and retail bakeries, but does not include outdoor seating areas for the above, nor canneries, dairies, cheese factories, packing houses, and similar facilities, which shall be classified as "wet industrial" under subsection (2)(t) of this section. The entire square footage of the tenant space or building shall be included in the chargeable area. Restroom facilities shall not be segregate out of the chargeable area for those eating and drinking establishments which occupy an entire tenant space or building.
  - m) Vehicle washes" are defined as commercial buildings or structures used for washing vehicles.
  - n) "Self-service vehicle washes" are coin-operated facilities serving the general public that require the customer to wash the vehicle.
  - o) Full-service vehicle washes" are facilities serving the general public, wherein the vehicle is washed for the customer, either automatically or by attendants.
  - p) Vehicle wash facilities that recycle or reclaim water, and all parts washing or steam cleaning facilities that discharge to the sanitary sewer are classified as "other vehicle washes" and will be reviewed on a case-by-case basis.
  - q) "Laundries and laundromats" are defined as commercial buildings or structures, or parts of commercial buildings and structures used for housing and operating laundry equipment by the public to wash clothes and linens for personal use.
  - r) "Industrial laundries" are defined as buildings or structures or parts of buildings and structures used for housing and operating laundry equipment for the large scale washing of uniforms, towels, linens, etc. The anticipated volume and strength of the sewage to be generated from an industrial laundry would be considerably more than that from a commercial laundry or laundromat. Industrial laundries shall be classified as "wet industrial buildings."
  - s) "Commercial buildings" are defined as all buildings used for conducting of wholesale or retail trade. "Dry industrial buildings or structures" are those that house light industrial activities where use

of water and subsequent discharge of sewer does not occur in connection with the industrial process. Warehouses and other storage buildings with sewer connections are classified as dry industrial buildings.

- t) “Wet industrial buildings” are defined as those buildings or structures housing industrial activities where the use of water and subsequent discharge to the sewer occurs in connection with an industrial process. Facilities with discharge of 10,000 gallons per day or greater are considered wet industrial. Other facilities that discharge less than 10,000 gallons per day and whose anticipated strength of sewage to be generated from the facility is greater than domestic sewage strengths may also be considered wet industrial. Those facilities will be reviewed on a case-by-case basis. The anticipated volume and strength of the sewage to be generated from the facility in relation to the volume and strength of sewage from an average single-family residence shall be considered when calculating SDCs.

Except for large wet industrial load increases as covered in subsection (B)(18) of this section, the SDC for wet industrial shall be determined on an individual basis for the TAG’s approval utilizing the formula listed below:

$$SDC = \frac{GPD \times SFR \times F}{350}$$

GPD = Anticipated volume of discharge to sewer in gallons per day.

SFR = Current SDC for single-family residence.

F = Extra strength factor, whole number multiplier derived for every 300 ppm of biochemical oxygen demand or suspended solids, or fraction thereof, in excess of the first 300 ppm of biochemical oxygen demand or suspended solids.

Example: Factor Range

1. 0 – 300
2. 301 – 600
3. 601 – 900

(Continues per 300 increment)

- u) “Undefined buildings and sewer use” are those not defined above.
- v) “Additional loading or change of use” is defined as an increased demand for wastewater treatment from an existing wet industrial building or structure. The additional loading may be the result of replacement or addition to an existing structure or facility, a change in use, or a 15 percent or greater increase above the permitted volume or character of the wastewater constituents being discharged.

Except for large wet industrial loads as covered in subsection (B)(18) of this section, the system development charge (SDC) shall be determined on the basis of the number of single-family residence equivalent units with the additional loading or the new use with credit being given for the number of single-family residence equivalent units of the original facility. No refund will be given if the change of use results in a decreased sewer loading.

- w) “Large wet industrial loads” are defined as new or increased loads greater than 25,000 gallons per day (gpd), 60 pounds per day (ppd) BOD, or 60 pounds per day TSS. SDCs for large industrial loads shall be calculated for the TAG’s approval based upon unit costs for flow, biochemical oxygen demand (BOD), and total suspended solids (TSS). Unit costs shall be established by the regional rate committee pursuant to intergovernmental agreement, and adopted by RVSS by resolution of the Board.

The SDC for the load being requested shall be based upon the Monthly Average Limit for each of the above-mentioned parameters.

- x) Monthly Average Limit is defined as the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during the calendar month divided by the number of daily discharges measured during that month.

Any exceedance of Monthly Average Limit loads requires payment of additional SDC's

The maximum allowable loadings shall be determined through established methodology in accordance with Regional Water Reclamation Facility's most recently approved Facilities Plan.

All penalties and corrective actions required will be in accordance with the approved pretreatment ordinances.

- 3) Pursuant to the regional sewer agreement, the regional committee shall appoint a technical advisory committee (TAG) consisting of a representative from each of the participating agencies, such representative to be technically qualified and knowledgeable in sewage treatment matters. The function of the TAG shall be to determine the single-family residence equivalent units in the case of application for a sewer connection by an industry and in the case of additional loading by an existing industry having a sewer connection. Such committee shall also determine the single-family residence equivalent units in the event of an application for a sewer connection for a building not defined in this listing of system development charges. In determining the number of single-family residence equivalent units to be assigned, the TAG shall consider the anticipated volume and strength of sewage to be generated from the industry or other undefined connection in relation to the volume and strength of sewage from an average single-family residence. Determinations made by the TAG shall be subject to appeal to the regional rate committee.

[Res. 09-01, 2009; Res. 91-15 § 5, 1991.]

#### **2.20.220 Notice and hearing.**

- 1) At least one public hearing shall be held prior to adoption or amendment of a methodology or rate change for any system development charge.
- 2) Maintenance of the list of interested persons and appropriate notification may be accomplished by the secretary of the committee.
- 3) The actual public hearing may also be conducted by the regional committee.
- 4) Nothing herein prohibits Rogue Valley Sewer Services from holding its own public hearing or notifying additional individuals. [Res. 91-15 § 6, 1991.]

### **Article III.**

#### **Sanitary Sewer Collection and Trunk/Interceptor System Development Charges**

##### **2.20.230 Methodology.**

The information contained in the February 2004 report and letter to the Board of Rogue Valley sewer by Shaun Pigott Associates is hereby adopted as the methodology for the district's sanitary sewer collection system development charge.

[Ord. 04-15 § 1, 2004.]

##### **2.20.240 Charges established – Sanitary sewer collection.**

System development charges shall be established by a resolution of the Board.

##### **2.20.250 Permits.**

The charges in this article shall be due and payable, unless a deferral agreement is entered into, upon the issuance of a permit to connect to the district's sanitary sewer collection system for individual properties, or at the time the plans are approved for subdivisions.

[Ord. 04-15 § 3, 2004.]

**2.20.260 Project plan.**

The district's Board has adopted the "capital improvement plan." The costs supporting development of the district's fee are consistent with those projects contained in the plan, which provide existing capacity to new connections and/or add to the capacity of the district's sanitary sewer collection system or increase the system's level of performance in order to meet the capacity demands of new development on the district's sewer collection system.

[Ord. 04-15 § 4, 2004.]

**2.20.270 Reserved.****2.20.280 Large industrial users.**

The number of equivalent residential units (ERUs) shall be calculated in the same manner as used to calculate the regional water reclamation plant SDC. Anyone discharging more flows than the amount used to calculate these fees is required to advise RVSS, and to pay for this additional

amount. For existing customers, the ERU rate shall be based on the average day during the peak month of the year.

[Ord. 04-15 § 6, 2004.]

**2.20.290 Reserved****2.20.300 Temporary mobile homes.**

Temporary mobile homes, approved by Jackson County as temporary medical hardship dwellings, will be billed at a rate of 10 percent of the total SDCs for each year the mobile home remains on the property, up to a maximum of 10 years. All fees paid under this program remain attached to the property when the mobile home is removed, and may be used as credit against future development fees. For example, if a mobile home remains on a property for 5 years prior to removal, the property shall have a credit equal to 50% of a single family residence SDC.

[Ord. 04-15 § 8, 2004.]

# **TITLE 3-PUBLIC CONTRACTING REGULATIONS**

## Chapters:

3.05 Public Contracting Regulations



## Chapter 3.05 Public Contracting Regulations

### Sections

3.05.010 Public contracts – Rogue Valley Sewer Services policy.

3.05.020 Application of public contracting regulations.

3.05.030 Public contracts – Regulation by Rogue Valley Sewer Services' Board of Directors.

3.05.040 Public contracts–Model rules.

3.05.050 Public contracts–Authority of manager.

3.05.060 Public contracts – Definitions.

3.05.070 Public contracts – Process for approval of special solicitation methods and exemptions.

3.05.080 Public contracts – Solicitation methods for classes of contracts.

3.05.090 Public contracts – Informal solicitation procedures.

3.05.100 Public contracts – Use of brand name specifications for public improvements.

3.05.110 Public contracts – Bid, performance and payment bonds.

3.05.120 Public contracts – Electronic advertisement of public improvement contracts.

3.05.130 Appeal of debarment or prequalification decision.

### **3.05.010 Public contracts – Rogue Valley Sewer Services policy.**

- 1) Short Title. The provisions of this chapter and all rules adopted under this chapter may be cited as the Rogue Valley Sewer Services (RVSS) public contracting regulations.
- 2) Purpose of Public Contracting Regulations. It is the policy of Rogue Valley Sewer Services in adopting the public contracting regulations to utilize public contracting practices and methods that maximize the efficient use of public resources and the purchasing power of public funds by:
  - a) Promoting impartial and open competition;
  - b) Using solicitation materials that are complete and contain a clear statement of contract specifications and requirements;

and

- c) Taking full advantage of evolving procurement methods that suit the contracting needs of Rogue Valley Sewer Services as they emerge within various industries.

- 3) Interpretation of Public Contracting Rules. In furtherance of the purpose of the objectives set forth in subsection (2) of this section, it is Rogue Valley Sewer Services' intent that the Rogue Valley Sewer Services public contracting regulations be interpreted to authorize the full use of all contracting powers and authorities described in ORS chapters 279A, 279B and 279C.

[Ord. 05-01, 2005.]

### **3.05.020 Application of public contracting regulations.**

In accordance with ORS 279A.025, Rogue Valley Sewer Services public contracting regulations and the Oregon Public Contracting Code do not apply to the following classes of contracts:

- 1) Between Governments. Contracts between Rogue Valley Sewer Services and a public body, contracting agency or agency of the state of Oregon or its political subdivisions, or between Rogue Valley Sewer Services and an agency of the federal government.
- 2) Grants. A grant is as defined in ORS 279A.010(1)(k).
- 3) Legal Witnesses and Consultants. Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which Rogue Valley Sewer Services is or may become interested.
- 4) Real Property. Acquisitions or disposals of real property or interests in real property.
- 5) Oregon Corrections Enterprises. Procurements from an Oregon corrections enterprises program.
- 6) Finance. Contracts, agreements or other documents entered into, issued or established

in connection with:

- a) The incurring of debt by Rogue Valley Sewer Services, including any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special or limited;
  - b) The making of program loans and similar extensions or advances of funds, aid or assistance by Rogue Valley Sewer Services to a public or private person for the purpose of carrying out, promoting or sustaining activities or programs authorized by law other than for the construction of public works or public improvements;
  - c) The investment of funds by Rogue Valley Sewer Services as authorized by law; or
  - d) Banking, money management or other predominantly financial transactions of Rogue Valley Sewer Services that, by their character, cannot practically be established under the competitive contractor selection procedures, based upon the findings of the manager.
- 7) Employee Benefits. Contracts for the administration of employee benefit plans.
  - 8) Exempt under State Laws. Any other public contracting specifically exempted from the Oregon Public Contracting Code by another provision of law.
  - 9) Federal Law. Except as otherwise expressly provided in ORS 279C.800 through 279C.870, applicable federal statutes and regulations govern when federal funds are involved and the federal statutes or regulations conflict with any provision of the Oregon Public Contracting Code or these regulations, or require additional conditions in public contracts not authorized by the Oregon Public Contracting Code or these regulations.
  - 10) Energy-saving performance contracts.
  - 11) It is the intent of this chapter that the exceptions set forth herein be as broad as

allowed by Oregon law.  
[Ord. 05-01, 2005.]

### **3.05.030 Public contracts—Regulation by Rogue Valley Sewer Services' Board of Directors.**

Except as expressly delegated under these regulations, Rogue Valley Sewer Services' Board of Directors reserves to itself the exercise of all of the duties and authority of a contract review Board and a contracting agency under state law, including, but not limited to, the power and authority to:

- 1) Approve the use of contracting methods and exemptions from contracting methods for a specific contract or certain classes of contracts;
  - 2) Approve the partial or complete waiver of the requirement for the delivery of a performance or payment bond for construction of a public improvement, other than in cases of emergencies;
  - 3) Authorize the use of electronic advertisements for public improvement contracts in lieu of publication in a newspaper of general circulation;
  - 4) Hear properly filed appeals of the manager's determination of debarment, or concerning pre-qualification;
  - 5) Adopt contracting rules under ORS 279A.065 and 279A.070 including, without limitation, rules for the procurement, management, disposal and control of goods, services, personal services and public improvements; and
  - 6) Award all contracts that exceed the authority of the manager.
- [Ord. 05-01, 2005.]

### **3.05.040 Public contracts – Model rules.**

The model rules adopted by the Attorney General under ORS 279A.065 are adopted as supplemental to this chapter and will apply only to the extent that they do not conflict with the contracting regulations adopted by Rogue Valley Sewer Services' Board of Directors and the

manager.  
[Ord. 05-01, 2005.]

### **3.05.050 Public contracts – Authority of manager.**

- 1) General Authority. The manager shall be the purchasing manager for Rogue Valley Sewer Services and is hereby authorized to issue all solicitations. The manager is further authorized to award all Rogue Valley Sewer Services contracts for which the contract price does not exceed an amount set by the Board of Directors by resolution. Subject to the provisions of this chapter, the manager may adopt and amend all solicitation materials, contracts and forms required or permitted to be adopted by contracting agencies under the Oregon Public Contracting Code or otherwise convenient for Rogue Valley Sewer Services contracting needs. The contract review Board shall hear all solicitation and award protests. All contract documents shall be signed by the RVSS manager or the Board chair.
- 2) Solicitation Preferences. When economically feasible, the manager may use solicitation documents and evaluation criteria that:
  - a) Give preference to goods and services that have been manufactured or produced in the State of Oregon if price, fitness, availability and quality are otherwise equal; and
  - b) Give preference to goods that are certified to be made from recycled products when such goods are available, can be substituted for nonrecycled products without a loss in quality, and the cost of goods made from recycled products is not significantly more than the cost of goods made from nonrecycled products.
- 3) Delegation of Manager's Authority. Any of the responsibilities or authorities of the manager under this chapter may be delegated by written directive.
- 4) Mandatory Review of Rules. Whenever the Oregon State Legislative Assembly enacts laws that cause the Attorney General to modify its model rules, the manager should

review the public contracting laws, and recommend to the Rogue Valley Sewer Services Board of Directors any modifications required to ensure compliance with statutory changes.

[Ord. 12-01, 2012; Ord. 05-01, 2005.]

### **3.05.060 Public contracts – Definitions.**

The following terms used in these regulations shall have the meanings set forth below.

- 1) "Award" means the selection of a person to provide goods, services or public improvements under a public contract. The award of a contract is not binding on Rogue Valley Sewer Services until the contract is executed and delivered by Rogue Valley Sewer Services.
- 2) "Bid" means a binding, sealed, written offer to provide goods, services or public improvements for a specified price or prices.
- 3) "Contract price" means the total amount paid or to be paid under a contract, including any approved alternates, and any fully executed change orders or amendments.
- 4) "Contract review Board" or "local contract review Board" means the Rogue Valley Sewer Services' Board of Directors.
- 5) "Cooperative procurement" means a procurement conducted by or on behalf of one or more contracting agencies.
- 6) "Debarment" means a declaration by the contracting agency under ORS 279B.130 or 279C.440 that prohibits a potential contractor from competing for the Rogue Valley Sewer Services' public contracts for a prescribed period of time not to exceed three years. On behalf of the contracting agency, the manager is given the authority to make the declaration of debarment subject to appeal under ORS 279B.425 to the contracting agency.
- 7) "Disposal" means any arrangement for the transfer of property by Rogue Valley Sewer Services under which Rogue Valley Sewer Services relinquishes ownership.

- 8) "Emergency" means circumstances that create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and require prompt execution of a contract to remedy the condition.
- 9) "Energy savings performance contract" means a contract with a qualified energy service company for the identification, evaluation, recommendation, design and construction of energy conservation measures that guarantee energy savings or performance.
- 10) "Findings" means the statements of fact that provide justification for a determination. Findings may include, but are not limited to, information regarding operation, budget and financial data; public benefits; cost savings; competition in public contracts; quality and aesthetic considerations; value engineering; specialized expertise needed; public safety; market conditions; technical complexity; availability, performance and funding sources.
- 11) "Goods" means any item or combination of supplies, equipment, materials or other personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto.
- 12) "Informal solicitation" means a solicitation made in accordance with Rogue Valley Sewer Services' public contracting regulations to a limited number of potential contractors, in which the solicitation agent attempts to obtain at least three written quotes or proposals. Such quotes or proposals include without limitation those via fax or e-mail.
- 13) "Invitation to bid" means a publicly advertised request for competitive sealed bids.
- 14) "Model rules" means the public contracting rules adopted by the Attorney General under ORS 279A.065.
- 15) "Offeror" means a person who submits a bid, quote or proposal to enter into a public contract with Rogue Valley Sewer Services.
- 16) "Oregon Public Contracting Code" means ORS chapters 279A, 279B and 279C.
- 17) "Person" means a natural person or any other private or governmental entity having the legal capacity to enter into a binding contract.
- 18) "Personal services contract" means a contract with an independent contractor predominantly for services that require special training or certification; skill; technical, creative, professional or communication skills or talents; unique and specialized knowledge; or the exercise of judgment skills; and for which the quality of the service depends on attributes that are unique to the service provider. Such services include, but are not limited to, the services of architects, engineers, land surveyors, attorneys, auditors and other licensed professionals, artists, designers, computer programmers, performers, consultants, property managers, auditing, building cleaning, landscape maintenance, compaction testing, materials testing services, computer software and maintenance, construction, inspection, engineering, electrical services, surveying, equipment repair and warranty firms, insurance, financial advisors, rate consultants, labor relations consultants, mailing services, mapping services, real estate, attorneys, building officials, public relations, telephone, pager, security alarm services and codification services. The manager shall have discretion to determine whether additional types of services not specifically mentioned in this paragraph fit within the definition of personal services.
- 19) "Proposal" means a binding offer to provide goods, services or public improvements with the understanding that acceptance will depend on the evaluation of factors other than, or in addition to, price. A proposal may be made in response to a request for proposals or under an informal solicitation.

- 20) "Public contract" means a sale or other disposal, or a purchase, lease, rental or other acquisition by Rogue Valley Sewer Services of personal property, services, including personal services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improvement.
- 21) "Public improvement" means a project for construction, reconstruction or major renovation on real property by or for Rogue Valley Sewer Services. "Public improvement" does not include:
- a) Projects for which no funds of Rogue Valley Sewer Services are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or
  - b) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.
- 22) "Qualified pool" means a pool of vendors who are pre-qualified to compete for the award of contracts for certain types of contracts or to provide certain types of services.
- 23) "Quote" means a price offer made in response to an informal or qualified pool solicitation to provide goods, services or public improvements.
- 24) "Request for proposals" means a publicly advertised request for sealed competitive proposals.
- 25) "Services" means and includes all types of services (including construction labor) other than personal services.
- 26) "Solicitation" means an invitation to one or more potential contractors to submit a bid, proposal, quote, statement of qualifications or letter of interest to Rogue Valley Sewer Services with respect to a proposed project, procurement or other contracting opportunity. The word "solicitation" also refers to the process by which Rogue Valley Sewer Services requests, receives and evaluates potential contractors and awards public contracts.
- 27) "Solicitation agent" means the manager or designee appointed in writing by the manager to exercise the authority of the manager under these public contracting regulations.
- 28) "Solicitation documents" means all informational materials issued by Rogue Valley Sewer Services for a solicitation, including, but not limited to, advertisements, instructions, submission requirements and schedules, award criteria, contract terms and specifications, and all laws, regulations and documents incorporated by reference.
- 29) "Standards of responsibility" means the qualifications of eligibility for award of a public contract. An offeror meets the standards of responsibility if the offeror has:
- a) Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise necessary to indicate the capability of the offeror to meet all contractual responsibilities;
  - b) A satisfactory record of performance. The solicitation agent shall document the record of performance of an offeror if the solicitation agent finds the offeror to be not responsible under this subsection;
  - c) A satisfactory record of integrity. The solicitation agent shall document the record of integrity of an offeror if the solicitation agent finds the offeror to be not responsible under this subsection;
  - d) Qualified legally to contract with Rogue Valley Sewer Services;
  - e) Supplied all necessary information in connection with the inquiry concerning responsibility. If an offeror fails to promptly supply information requested by the solicitation agent concerning responsibility, the solicitation agent shall base the determination of responsibility upon any available information or may find the offeror nonresponsible; and
  - f) Not been debarred by Rogue Valley

Sewer Services, and, in the case of public improvement contracts, has not been listed by the construction contractors Board as a contractor who is not qualified to hold a public improvement contract.

- 30) "Surplus property" means personal property owned by Rogue Valley Sewer Services which is no longer needed for use by the department to which such property has been assigned.

[Ord. 05-01, 2005.]

### **3.05.070 Public contracts – Process for approval of special solicitation methods and exemptions.**

- 1) Authority of Rogue Valley Sewer Services' Board of Directors. In its capacity as contract review Board for Rogue Valley Sewer Services, the Board of Directors, upon its own initiative, or upon request of the manager, may create special selection, evaluation and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section.
- 2) Basis for Approval. The approval of a special solicitation method or exemption from competition must be based upon a record before the Board of Directors that contains the following:
  - a) The nature of the contract or class of contracts for which the special solicitation or exemption is requested;
  - b) The estimated contract price or cost of the project, if relevant;
  - c) Findings to support the substantial cost savings, enhancement in quality or performance or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;
  - d) Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying

with the solicitation requirements that would otherwise be applicable under these regulations;

- e) A description of the proposed alternative contracting methods to be employed; and
- f) The estimated date by which it would be necessary to let the contract(s).

In making a determination regarding a special selection method, the Board of Directors may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.

- 3) Hearing: Rogue Valley Sewer Services shall approve the special solicitation or exemption after a public hearing before the Board of Directors following notice by publication in at least one newspaper of general circulation in the Rogue Valley Sewer Services area.
  - a) At the public hearing, Rogue Valley Sewer Services shall offer an opportunity for any interested party to appear and present comment.
  - b) The Board of Directors will consider the findings and may approve the exemption as proposed or as modified by the Board of Directors after providing an opportunity for public comment.
- 4) Special Requirements for Public Improvement Contracts.
  - a) Notification of the public hearing for exemption of a public improvement contract, or class of public improvement contracts, shall be published in a trade newspaper of general statewide circulation at least 14 days prior to the hearing.
  - b) The notice shall state that the public hearing is for the purpose of taking comments on Rogue Valley Sewer Services' draft findings for an exemption from the standard solicitation method. At the time of the notice, copies of the draft findings shall be made available to the public.
- 5) Commencement of Solicitation Prior to Approval. A solicitation may be issued prior

to the approval of a special exemption under this section; provided, that the closing of the solicitation may not be earlier than five days after the date of the hearing at which the Board of Directors approves the exemption. If the Board of Directors fails to approve a requested exemption, or requires the use of a solicitation procedure other than the procedures described in the issued solicitation documents, the issued solicitation may either be modified by addendum, or cancelled.

- 6) The Board may allow sole source procurement as provided under ORS 279B.075.

[Ord. 0501, 2005.]

### **3.05.080 Public contracts – Solicitation methods for classes of contracts.**

The following classes of public contracts and the method(s) that are approved for the award of each of the classes are hereby established by the Board of Directors.

- 1) Purchases from Nonprofit Agencies for Disabled Individuals. Rogue Valley Sewer Services shall comply with the provisions of ORS 279.835 through 279.850.
- 2) Public Improvement Contracts.
  - a) Any Public Improvement. Unless otherwise provided in these regulations or Oregon law approved for a special exemption, public improvement contracts in any amount may be issued only under an invitation to bid.
  - b) Nontransportation Public Improvements up to \$100,000. Public improvement contracts other than contracts for a highway, bridge or other transportation project for which the estimated contract price does not exceed \$100,000 may be awarded using an informal solicitation for quotes.
  - c) Transportation Public Improvements Up to \$50,000. Contracts for which the estimated contract price does not exceed \$50,000 for highways, bridges or other transportation projects may be awarded using an informal solicitation for quotes.
  - d) Rogue Valley Sewer Services – Funded

Privately, Constructed Public Improvements. Rogue Valley Sewer Services may contribute funding to a privately constructed public improvement project without subjecting the project to competitive solicitation requirements if all of the following conditions are met with respect to the entire public improvement project:

- i) Rogue Valley Sewer Services' contribution to the project may not exceed 25 percent of the total cost of the project;
  - ii) Rogue Valley Sewer Services must comply with all applicable laws concerning the reporting of the project to the Bureau of Labor and Industries as a public works project;
  - iii) The general contractor for the project must agree in writing to comply with all applicable laws concerning reporting and payment of prevailing wages for the project;
  - iv) The funds contributed to the project may not provide a monetary benefit to the owner of the development for which the project is being constructed, other than benefits that are shared by all users of the project;
  - v) The performance of the general contractor and the payment of labor for the project must be secured by performance and payment bonds or other cash-equivalent security that is acceptable to the manager to protect Rogue Valley Sewer Services against defective performance and claims for payment; and
  - vi) The contract for construction of the project must be amended, as necessary, to require the general contractor to maintain adequate workers compensation and liability insurance and to protect and provide indemnification to Rogue Valley Sewer Services for all claims for payment, injury or property damage arising from or related to the construction of the project.
- e) Contributed Funding. Allowing a credit against SDCs or other fees that would

otherwise be due from the developer does not constitute a contribution referred to in subsection (2)(d) of this section.

- 3) Personal Services Contracts. Any Personal Services Contract.
  - a) Personal services contracts in any amount may be awarded under a publicly advertised request for competitive sealed proposals.
  - b) Personal Service Contracts Not Exceeding \$150,000. Contracts for personal services for which the estimated contract price does not exceed \$150,000 may be awarded using an informal solicitation for proposals.
  - c) Seventy-Five Thousand Dollar Award from Qualified Pool. Contracts for personal services for which the estimated contract price does not exceed \$75,000 may be awarded by direct appointment without competition from a qualified pool.
  - d) Personal Service Contracts Not Exceeding \$20,000 per Year. Contracts for which the solicitation agent estimates that payments will not exceed \$20,000 in any fiscal year or \$150,000 over the full term, including optional renewals, may be awarded under any method deemed in Rogue Valley Sewer Services' best interest by the solicitation agent, including by direct appointment.
  - e) Personal Service Contracts for Continuation of Work. Contracts of not more than \$150,000 for the continuation of work by a contractor who performed preliminary studies, analysis or planning for the work under a prior contract may be awarded without competition if the prior contract was awarded under a competitive process and the solicitation agent determines that use of the original contractor will significantly reduce the costs of, or risks associated with, the work.
- 4) Hybrid Contracts. The following classes of contracts include elements of construction of public improvements as well as personal services and may be awarded under a request

for proposals, unless exempt from competitive solicitation.

- a) Design/Build and CM/GC Contracts. Contracts for the construction of public improvements using a design/build or construction manager/general contractor construction method shall be awarded under a request for proposals. The determination to construct a project using a design/build or construction manager/general contractor construction method must be approved by the Board of Directors, upon application of the solicitation agent, in which the solicitation agent submits facts that support a finding that the construction of the improvement under the proposed method is likely to result in cost savings, higher quality, reduced errors, or other benefits to Rogue Valley Sewer Services.
- 5) Contracts for Goods and Services.
  - a) Any Procurement. The procurement of goods or services, or goods and services in any amount may be made under either an invitation to bid or a request for proposals.
  - b) Procurements up to \$150,000. The procurement of goods or services, or goods and services for which the estimated contract price does not exceed \$150,000, may be made under an informal solicitation for either quotes or proposals.
- 6) Contracts Subject to Award at Solicitation Agent's Discretion. The following classes of contracts may be awarded in any manner which the solicitation agent deems appropriate to Rogue Valley Sewer Services' needs, including by direct appointment or purchase. Except where otherwise provided the solicitation agent shall make a record of the method of award.
  - a) Advertising. Contracts for the placing of notice or advertisements in any medium
  - b) Amendments. Contract amendments shall not be considered to be separate contracts if made in accordance with the public contracting regulations.
  - c) Contracts up to \$5,000. Contracts of any



- type for which the contract price does not exceed \$5,000 without a record of the method of award.
- d) Equipment Repair. Contracts for equipment repair or overhauling, provided the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing.
  - e) Government Regulated Items. Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.
  - f) Insurance. Contracts for insurance policies and services.
  - g) Nonowned Property. Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by Rogue Valley Sewer Services.
  - h) Sole Source Contracts. Contracts for goods or services which are available from a single source may be awarded without competition.
  - i) Specialty Goods for Resale. Contracts for the purchase of specialty goods by Rogue Valley Sewer Services for resale to consumers.
  - j) Structures. Contracts for the disposal of structures located on Rogue Valley Sewer Services-owned property.
  - k) Renewals. Contracts that are being renewed in accordance with their terms are not considered to be newly issued contracts and are not subject to competitive procurement procedures.
  - l) Temporary Extensions or Renewals. Contracts for a single period of one year or less, for the temporary extension or renewal of an expiring and nonrenewable, or recently expired, contract, other than a contract for public improvements.
  - m) Temporary Use of Rogue Valley Sewer Services-Owned Property. Rogue Valley Sewer Services may negotiate and enter into a license, permit or other contract for the temporary use of Rogue Valley Sewer Services-owned property without using a competitive selection process if:
    - i) The contract results from an unsolicited proposal to Rogue Valley Sewer Services based on the unique attributes of the property or the unique needs of the proposer;
    - ii) The proposed use of the property is consistent with Rogue Valley Sewer Services' use of the property and the public interest; and
    - iii) Rogue Valley Sewer Services reserves the right to terminate the contract without penalty, in the event that Rogue Valley Sewer Services determines that the contract is no longer consistent with Rogue Valley Sewer Services' present or planned use of the property or the public interest.
  - n) Used Property. The manager, for procurements up to the limit in RVSSC 3.05.050(1), may contract for the purchase of used property by negotiation if such property is suitable for Rogue Valley Sewer Services' needs and can be purchased for a lower cost than substantially similarly new property. For this purpose the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by Rogue Valley Sewer Services. The manager shall record the findings that support the purchase.
  - o) Utilities. Contracts for the purchase of power, heat, water, telecommunications services, and other utilities.
- 7) Contracts Required by Emergency Circumstances.
- a) In General. When the manager determines that immediate execution of a contract is necessary to prevent substantial damage or injury to persons or property, the manager may execute the contract without competitive selection and award or Board of Directors approval, but, where time permits, the official shall attempt to use competitive price and quality evaluation before selecting an emergency contractor. If the amount is in excess of the limits in RVSSC 3.05.050(1), the manager shall

- first attempt to obtain verbal approval from a majority of the Board of Directors.
- b) Reporting. An official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances:
    - i) Document the nature of the emergency, the method used for selection of the particular contractor and the reason why the selection method was deemed in the best interest of Rogue Valley Sewer Services and the public; and
    - ii) Notify the Board of Directors of the facts and circumstances surrounding the emergency execution of the contract.
  - c) Emergency Public Improvement Contracts. A public improvement contract may only be awarded under emergency circumstances if the manager has made a written declaration of emergency. Any public improvement contract award under emergency conditions must be awarded within 60 days following the declaration of an emergency unless the Board of Directors grants an extension of the emergency period. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the manager may waive the requirement for all or a portion of the required performance and payment bonds.
- 8) Federal Purchasing Programs. Goods and services may be purchased without competitive procedures under a local government purchasing program administered by the United States General Services Administration (“GSA”) as provided in this subsection.
- a) The procurement must be made in accordance with procedures established by the GSA for procurements by local governments, and under purchase orders or contracts submitted to and approved by the manager. The solicitation agent shall provide the manager with a copy of the letter, memorandum or other documentation from the GSA establishing permission to Rogue Valley Sewer Services to purchase under the federal program.
  - b) The price of the goods or services must be established under price agreements between the federally approved vendor and the GSA.
  - c) The price of the goods or services must be less than the price at which such goods or services are available under state or local cooperative purchasing programs that are available to Rogue Valley Sewer Services.
  - d) If a single purchase of goods or services exceeds \$150,000, the solicitation agent must obtain formal written quotes or proposals from at least two additional vendors (if reasonably available) and find, in writing, that the goods or services offered by the GSA represent the best value for Rogue Valley Sewer Services.
- 9) Cooperative Procurement Contracts. Cooperative and joint procurements may be made without competitive solicitation as provided in the Oregon Public Contracting Code.
- 10) Surplus Property.
- a) General Methods. Surplus property may be disposed of by any of the following methods upon a determination by the solicitation agent that the method of disposal is in the best interest of Rogue Valley Sewer Services. Factors that may be considered by the solicitation agent include costs of sale, administrative costs, and public benefits to Rogue Valley Sewer Services. The solicitation agent shall maintain a record of the reason for the disposal method selected, and the manner of disposal, including the name of the person to whom the surplus property was transferred. Such list should be given to the Board of Directors as soon as practical.
    - i) Governments. Without competition, by transfer or sale to another Rogue

- Valley Sewer Services department or public agency.
- ii) Auction. By publicly advertised auction to the highest bidder.
  - iii) Bids. By publicly advertised invitation to bid.
  - iv) Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of personal services contracts.
  - v) Fixed Price Sale. The solicitation agent may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.
  - vi) Trade-In. By trade-in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded.
  - vii) Donation. By donation to any organization operating within or providing a service to residents of Rogue Valley Sewer Services which is recognized by the Internal Revenue Service as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
- b) Disposal of Property with Minimal Value. Surplus property which has a value of less than \$500.00, or for which the costs of sale are likely to exceed sale proceeds, may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the value of the item and the manner of disposal.
  - c) Personal Use Items. An item (or indivisible set) of specialized and personal use, with a current value of less than \$100.00, may be sold to the employee or retired or terminated employee for whose use it was

purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the manager.

- d) Restriction on Sale to Rogue Valley Sewer Services Employees. Rogue Valley Sewer Services employees shall not be restricted from competing, as members of the public, for the purchase of publicly sold surplus property, but shall not be permitted to offer to purchase property to be sold to the first qualifying bidder until at least 10 days after the first date on which notice of the sale is first publicly advertised.
- e) Conveyance to Purchaser. Upon the consummation of a sale of surplus personal property, Rogue Valley Sewer Services shall make, execute and deliver a bill of sale signed on behalf of Rogue Valley Sewer Services, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.

[Ord. 05-01, 2005.]

### **3.05.090 Public contracts – Informal solicitation procedures.**

Rogue Valley Sewer Services may use the following procedure for informal solicitations in lieu of the procedures set forth in the model rules.

- 1) Informally Solicited Quotes and Proposals.
  - a) Solicitation of Offers. When authorized by these regulations, an informal solicitation may be made by general or limited advertisement to a certain group of vendors, by direct inquiry to persons selected by the solicitation agent, or in any other manner which the solicitation agent deems suitable for obtaining competitive quotes or proposals. The solicitation agent shall deliver or otherwise make available to potential offerors, a written scope of work, a description of how quotes or proposals are to be submitted and a description of the criteria for award.
  - b) Award. The solicitation agent shall attempt to obtain a minimum of three written quotes or proposals before

making an award. If the award is made solely on the basis of price, the solicitation agent shall award the contract to the responsible offeror that submits the lowest responsive quote. If the award is based on criteria other than, or in addition to, price, the solicitation agent shall award the contract to the responsible offeror that will best serve the interest of Rogue Valley Sewer Services, based on the criteria for award. Criteria does have to be made available ahead of such award.

- c) Records. A written record of all persons solicited and offers received shall be maintained. If three offers cannot be obtained, a lesser number will suffice; provided, that a written record is made of the effort to obtain the quotes.

## 2) Qualified Pools.

- a) General. To create a qualified pool, the manager may invite prospective contractors to submit their qualifications to Rogue Valley Sewer Services for inclusion as participants in a pool of contractors qualified to provide certain types of goods, services, or projects including personal services and public improvements.
- b) Advertisement. The invitation to participate in a qualified pool shall be advertised in the manner provided for advertisements of invitations to bid and requests for proposals by publication in at least one newspaper of general statewide circulation and the Medford Mail Tribune. If qualification will be for a term that exceeds one year or allows open entry on a continuous basis, the invitation to participate in the pool must be republished at least once per year and shall be posted at Rogue Valley Sewer Services' main office and on its website.
- c) Contents of Solicitation. Requests for participation in a qualified pool shall describe the scope of goods or services or projects for which the pool will be maintained, and the minimum qualifications for participation in the pool, which may include, but shall not be

limited to, qualifications related to financial stability, contracts with manufacturers or distributors, certification as an emerging small business, insurance, licensure, education, training, experience and demonstrated skills of key personnel, access to equipment, and other relevant qualifications that are important to the contracting needs of Rogue Valley Sewer Services.

- d) Contract. The operation of each qualified pool may be governed by the provisions of a pool contract to which Rogue Valley Sewer Services and all pool participants are parties. The contract shall contain all terms required by Rogue Valley Sewer Services, including, without limitation, terms related to price, performance, business registration or licensure, continuing education, insurance, and requirements for the submission, on an annual or other periodic basis, of evidence of continuing qualification. The qualified pool contract shall describe the selection procedures that Rogue Valley Sewer Services may use to issue contract job orders. The selection procedures shall be objective and open to all pool participants and afford all participants the opportunity to compete for or receive job awards. Unless expressly provided in the contract, participation in a qualified pool will not entitle a participant to the award of any Rogue Valley Sewer Services contract.
- e) Use of Qualified Pools. Subject to the provisions of these regulations concerning methods of solicitation for classes of contracts, the solicitation agent shall award all contracts for goods or services of the type for which a qualified pool is created from among the pool's participants, unless the solicitation agent determines that the best interests of Rogue Valley Sewer Services require solicitation by public advertisement, in which case, pool participants shall be notified of the solicitation and invited to submit competitive proposals.
- f) Amendment and Termination. The

manager may discontinue a qualified pool at any time, or may change the requirements for eligibility as a participant in the pool at any time, by giving notice to all participants in the qualified pool.

- g) Protest of Failure to Qualify. The manager shall notify any applicant who fails to qualify for participation in a pool that it may appeal a qualified pool decision to the Board of Directors in the manner described in RVSSC 3.05.130. [Ord. 05-01]

### **3.05.100 Public Contracts – Use of brand name specifications for public improvements**

- 1) In General. Specifications for contracts shall not expressly or implicitly require any product by one brand name or mark, nor the product of one particular manufacturer or seller, except for the following reasons:
  - a) It is unlikely that such exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts; or
  - b) The specification of a product by brand name or mark, or the product of a particular manufacturer or seller, would result in substantial cost savings to Rogue Valley Sewer Services; or
  - c) There is only one manufacturer or seller of the product of the quality required; or
  - d) Efficient utilization of existing equipment, systems or supplies requires the acquisition of compatible equipment or supplies.
- 2) Authority of Manager. The contracting agency shall have authority to determine whether an exemption for the use of a specific brand name specification should be granted by recording findings that support the exemption based on the provisions of subsection (1) of this section. On behalf of the contracting agency, the manager is authorized to make such exemptions subject to appeal under ORS 279B.425 to the contracting agency.
- 3) Brand Name or Equivalent. Nothing in this

section prohibits Rogue Valley Sewer Services from using a “brand name or equivalent” specification, from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by Rogue Valley Sewer Services, or from establishing a qualified product list.

[Ord. 05-01, 2005.]

### **3.05.110 Public contracts – Bid, performance and payment bonds.**

- 1) Solicitation Agent May Require Bonds. The solicitation agent may require bid security and a good and sufficient performance and payment bond even though the contract is of a class that is exempt from the requirement.
- 2) Bid Security. Except as otherwise exempted, the solicitations for all contracts that include the construction of a public improvement and for which the estimated contract price will exceed \$75,000 shall require bid security. Bid security for a request for proposal may be based on Rogue Valley Sewer Services’ estimated contract price.
- 3) Performance Bonds.
  - a) General. Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a performance bond.
  - b) Contracts Involving Public Improvements. Prior to executing a contract for more than \$50,000 that includes the construction of a public improvement, the contractor must deliver a performance bond in an amount equal to the full contract price conditioned on the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The performance bond must be solely for the protection of Rogue Valley Sewer Services and any public agency that is providing funding for the project for which the contract was awarded.
  - c) Cash-in-Lieu. The manager may permit the successful offeror to submit a cashier’s check or certified check in lieu

of all or a portion of the required performance bond.

4) Payment Bonds.

- a) General. Except as provided in these regulations, all public contracts are exempt from the requirement for the furnishing of a payment bond.
- b) Contracts Involving Public Improvements. Prior to executing a contract for more than \$50,000 that includes the construction of a public improvement, the contractor must deliver a payment bond equal to the full contract price, solely for the protection of claimants under ORS 279C.600.

5) Design/Build Contracts. If the public improvement contract is with a single person to provide both design and construction of a public improvement, the obligation of the performance bond for the faithful performance of the contract must also be for the preparation and completion of the design and related services covered under the contract. Notwithstanding when a cause of action, claim or demand accrues or arises, the surety is not liable after final completion of the contract, or longer if provided for in the contract, for damages of any nature, economic or otherwise and including corrective work, attributable to the design aspect of a design-build project, or for the costs of design revisions needed to implement corrective work.

6) Construction Manager/General Contractor Contracts. If the public improvement contract is with a single person to provide construction manager and general contractor services, in which a guaranteed maximum price may be established by an amendment authorizing construction period services following preconstruction period services, the contractor shall provide the bonds required by subsection (1) of this section upon execution of an amendment establishing the guaranteed maximum price. Rogue Valley Sewer Services shall also require the contractor to provide bonds equal to the value of construction services

authorized by any early work amendment in advance of the guaranteed maximum price amendment. Such bonds must be provided before construction starts.

7) Surety – Obligation. Each performance bond and each payment bond must be executed solely by a surety company or companies holding a certificate of authority to transact surety business in Oregon. The bonds may not constitute the surety obligation of an individual or individuals. The performance and payment bonds must be payable to Rogue Valley Sewer Services or to the public agency or agencies for whose benefit the bond is issued, as specified in the solicitation documents, and shall be in a form approved by the manager.

8) Emergencies. In cases of emergency, or when the interest or property of Rogue Valley Sewer Services probably would suffer material injury by delay or other cause, the requirement of furnishing a good and sufficient performance bond and a good and sufficient payment bond for the faithful performance of any public improvement contract may be excused, if a declaration of such emergency is made in accordance with the provisions of RVSSC 3.05.080(7), unless the Board of Directors requires otherwise.

[Ord. 05-01, 2005.]

**3.05.120 Public contracts – Electronic advertisement of public improvement contracts.**

In lieu of publication in a newspaper of general circulation in the Rogue Valley Sewer Services metropolitan area, the advertisement for an invitation to bid or request for proposals for a contract involving a public improvement may be published electronically by posting on Rogue Valley Sewer Services' website; provided, that the following conditions are met:

- 1) The placement of the advertisement is on a location within the website that is maintained on a regular basis for the posting of information concerning solicitations for projects of the type for which the invitation to bid or request for proposals is issued; and

- 2) The solicitation agent determines that the use of electronic publication will be at least as effective in encouraging meaningful competition as publication in a newspaper of general circulation in the Rogue Valley Sewer Services metropolitan area and will provide cost savings for Rogue Valley Sewer Services, or that the use of electronic publication will be more effective than publication in a newspaper of general circulation in the Rogue Valley Sewer Services metropolitan area in encouraging meaningful competition.

[Ord. 05-01, 2005.]

### **3.05.130 Appeal of debarment or prequalification decision.**

- 1) Right to Hearing. Any person who has been debarred from competing for Rogue Valley Sewer Services contracts or for whom prequalification has been denied, revoked or revised may appeal Rogue Valley Sewer Services' decision to the Board of Directors as provided in this section.
- 2) Filing of Appeal. The person must file a written notice of appeal with the Rogue Valley Sewer Services' manager within three business days after the prospective contractor's receipt of notice of the determination of debarment, or denial of prequalification.
- 3) Notification of Board of Directors. Immediately upon receipt of such notice of appeal, the manager will notify the Board of Directors of the appeal.
- 4) Hearing. The procedure for appeal from a debarment or denial, revocation or revision of prequalification shall be as follows:
  - a) Promptly upon receipt of notice of

appeal, Rogue Valley Sewer Services shall notify the appellant of the time and place of the hearing;

- b) The Board of Directors shall conduct the hearing and decide the appeal within 30 days after receiving notice of the appeal from the manager; and
  - c) At the hearing, the Board of Directors shall consider de novo the notice of debarment, or the notice of denial, revocation or revision of prequalification, the standards of responsibility upon which the decision on prequalification was based, or the reasons listed for debarment, and any evidence provided by the parties.
- 4) Decision. The Board of Directors shall set forth in writing the reasons for the decision.
  - 5) Costs. The Board of Directors may allocate the Board of Directors' costs for the hearing between the appellant and Rogue Valley Sewer Services. The allocation shall be based upon facts found by the Board of Directors and stated in the Board of Directors' decision that, in the Board of Directors' opinion, warrant such allocation of costs. If the Board of Directors does not allocate costs, the costs shall be paid by the appellant, if the decision is upheld, or by Rogue Valley Sewer Services, if the decision is overturned.
  - 6) Judicial Review. The decision of the Board of Directors may be reviewed only upon a petition in the circuit court of Jackson County filed within 15 days after the date of the Board of Directors' decision.

[Ord. 05-01, 2005.]

# **TITLE 4-STORMWATER MANAGEMENT**

## Chapters:

4.05 STORMWATER MANAGEMENT

4.10 DESIGN MANUAL



## Chapter 4.05 Stormwater Management

### Sections:

4.05.010 Purpose.

4.05.020 Definitions.

4.05.030 Stormwater utility program.

4.05.040 Reserved

4.05.050 Utility administration.

4.05.060 Reserved.

4.05.070 System of rates and charges.

4.05.080 Billing and collection.

4.05.090 Appeal of charges.

4.05.100 Water quality in storm sewers.

4.05.110 Development.

4.05.120 Inspection.

4.05.130 Enforcement and penalties.

4.05.140 Enforcement and penalties by DEQ.

4.05.150 Annual report to storm sewer utility customers.

### **4.05.010 Purpose**

1. General. The district finds and declares:
  - a) That absent effective maintenance, operation, regulation, and control, existing Stormwater drainage conditions in many areas within the district constitute a potential hazard to the health, safety and general welfare of the district.
  - b) That these areas are the ones included in the Oregon Department of Environmental Quality's (DEQ) National Pollution Discharge Elimination System (NPDES) Phase 2 permits which are within those jurisdictions contracting with RVSS for Stormwater quality management, known as RVSS Phase 2 communities.
  - c) The district's Board further finds that natural and manmade storm sewer facilities and conveyances constitute a storm sewer system and that effective improvement, regulation, and control of Stormwater through formation, by the district, of a Stormwater management program.
- 2) Establish Minimum Stormwater Requirements. The purpose of this chapter is to establish minimum Stormwater management requirements and controls to

protect and safeguard the health, safety, and general welfare of the public residing in watersheds within this jurisdiction. This chapter seeks to meet that purpose through the following objectives:

- a) Minimize increases in Stormwater runoff and prevent the discharge of non-Stormwater discharges into the storm sewer system, except those non-Stormwater discharges which do not degrade water quality as determined by the manager, or designee, and are specifically allowed by this chapter.
  - b) Minimize the discharge of specific pollutants into streams identified as water quality impaired on DEQ's 303(d) list or that have an established total maximum daily load (TMDL) for sediment or turbidity.
- 3) Applicability. This chapter shall be applicable to areas within the RVSS Stormwater quality management area, known as the RVSS Phase 2 communities and the White City storm sewer area. The following activities are exempt from the requirements of this chapter:
    - a) Any logging and agricultural activity which is consistent with an approved soil conservation plan or a timber management plan approved by the Oregon Department of Agriculture.
  - 4) Compatibility with Other Permit and Ordinance Requirements. This chapter is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this chapter should be considered minimum requirements, and where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for health, safety, and general welfare of the public or the environment shall be considered to take precedence.

#### 4.05.020 Definitions.

For the purposes of this chapter, see definitions specified in the Rogue Valley Stormwater Design Manual (SWQ Design Manual), which is incorporated herein by reference and definitions of the following:

- 1) “Accelerated erosion” means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.
- 2) “Board” means the Rogue Valley Sewer Services District’s Board.
- 3) “County” means Jackson County.
- 4) “Customer” or “person” means any individual; public or private corporation and its officers; partnership; association; firm; trustee; executor of an estate; the state or its departments, institutions, bureaus, agencies; county; district; political subdivision; or any other governmental or legal entity recognized by law.
- 5) “Developed parcel” means any parcel whose surface has been altered by grading, filling, or construction of any improvement.
- 6) “District” means Rogue Valley Sewer Services district, a Chapter 450 ORS special service district in the state of Oregon.
- 7) “Erosion and sediment control plan (ESCP)” means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
- 8) “Equivalent residential unit (ERU)” is equal to 3,000 square feet of impervious surface area. This is based on an average single-family residential parcel, which has an impervious surface area of 3,000 square feet.
- 9) “Illicit discharge” means any non-Stormwater discharge into the storm drainage system.
- 10) “Impervious surface area” means a surface that prohibits or limits water from soaking into the ground. Types of impervious surface include rooftops, traditional asphalt and concrete parking lots, driveways, roads, sidewalks, and pedestrian plazas. Note: Slatted decks are considered pervious. Gravel surfaces used for vehicular traffic are considered impervious.
- 11) “Industrial Stormwater permit” means a National Pollutant Discharge Elimination System permit issued to a commercial industry, or group of industries, which regulates the pollutant levels associated with industrial Stormwater discharges, or specifies on-site pollution control strategies.
- 12) “Maintenance agreement” means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of Stormwater management facilities.
- 13) “Mitigation” means on-site facilities, or practices, which reduce Stormwater quantity or improve Stormwater quality.
- 14) “Multifamily residential parcel” means any parcel of land containing two or more dwelling units.
- 15) “National Pollutant Discharge Elimination System (NPDES)” is the Federal Clean Water Act establishing specific permit requirements for the control of Stormwater discharge.
- 16) “Parcel” means the smallest separately segregated unit of land having an owner. A parcel has boundaries and surface area, and is documented with a property number by the county.
- 17) “Permit registrant” means the person that submits an application for a 1200-C permit with the Department of Environmental Quality or RVSS as an agent for DEQ.
- 18) “RVSS Phase 2 communities” means communities with which RVSS has established Intergovernmental Agreements, currently Central Point, Phoenix and Talent

and the areas outside of cities and within the county included in the Department of Environmental Quality's NPDES permit with RVSS.

- 19) "Single-family residential parcel" means any parcel of land containing a single-family unit.
- 20) "Stormwater quality management area" means the urbanized area as determined by the United States Environmental Protection Agency, based on the most recent federal census data. This area includes the cities of Central Point, Phoenix, and Talent as well as some urbanized portions of Jackson County.
- 21) "Stormwater system" means manmade storm sewer facilities, conveyances, and natural Stormwater systems, including designated open spaces, owned or maintained by the district or contracting jurisdictions that store, control, treat, and/or convey Stormwater.
- 22) "Stormwater utility program" or "program" means the program created by this chapter, which provides for the operation, maintenance, regulation and improvement of Stormwater facilities within Rogue Valley Sewer Services district.
- 23) "Undeveloped parcel" means any parcel that has not been altered by grading, filling, or construction.
- 24) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or manmade, which gathers or carries surface water.
- 25) "White City industrial storm drainage area" means that area of White City that is under RVSS jurisdiction for storm drainage. This is the industrial portion of White City, generally bounded by Highway 62, Avenue A, Table Rock Road, and Avenue H.  
[Ord. 06-03, 2006; Ord. 04-08 § 1(2), 2004.]

#### **4.05.030 Stormwater utility program.**

There is hereby created and established a Stormwater management program and a Stormwater utility fund and a service charge rate

structure. The district will have regulatory authority and responsibility for planning, design, construction, maintenance, administration and operation of district storm sewer conveyances and facilities, as well as responsibility for Stormwater quality management covered by the intergovernmental agreements with the RVSS Phase 2 communities. [Ord. 06-03, 2006; Ord. 04-08 § 1(3), 2004.]

#### **4.05.040 Reserved**

#### **4.05.050 Utility administration.**

The Stormwater management program and the storm sewer utility fund shall be administered by the RVSS manager and or designee. [Ord. 06-03, 2006; Ord. 04-08 § 1(5), 2004.]

#### **4.05.060 Reserved**

#### **4.05.070 System of rates and charges.**

- 1) Service Fees Imposed. The district will impose storm sewer utility fund rates and charges on each parcel of real property within the RVSS Phase 2 communities except publicly owned streets. The charges shall fund the administration, planning, design, construction, water quality management, operation, maintenance, and repair of existing and future storm sewer facilities. However, any property determined by the RVSS manager or designee to be more costly in time and/or money to bill than would be justified will be temporarily exempt.
- 2) Methods of Determining Contribution of Stormwater.
  - a) Contributions of Stormwater from nonresidential parcels, and residential parcels larger than duplexes, will be determined by measuring the amount of impervious surface.
  - b) Contributions of Stormwater from residential parcels will be determined by estimating the average residential impervious areas.
- 3) Method of Determining Service Fee Rates. Stormwater service fees shall be applied to each parcel of real property within the district, unless temporarily exempt, except

government-owned streets. Service fees shall be differentiated according to the following classifications:

- 4) Residential Parcels. Single-family residential and duplex parcels which are on separate tax lots shall constitute one ERU.
  - 5) Undeveloped Parcels. Undeveloped parcels shall be considered temporarily exempt and have no charges applied.
  - 6) Other Parcels. Charges for all other parcels shall be computed by multiplying the total ERUs for a parcel by the monthly rate. Total ERUs are calculated by dividing total square feet of impervious surface by 3,000 square feet (one ERU).
  - 7) Credits for on-site mitigation shall be determined in accordance with the SWQ Design Manual.
- [Ord. 06-03, 2006; Ord. 04-08 § 1(7), 2004.]

#### **4.05.080 Billing and collection.**

- 1) Utility Enterprise Fund. This chapter creates the storm sewer utility fund. All revenues received from Stormwater user fees shall be placed in the enterprise fund as a designated fund, to be left separate and apart from all other district funds. The collection, accounting, and expenditure of all storm sewer utility funds shall be in accordance with Oregon law.
- 2) Billing. The district shall bill, or cause to be billed, property owners for storm sewer utility services. Fees and charges shall be considered delinquent if not paid as determined by the procedures established by the district, and may be collected in accordance with RVSSC 8.50.030. In addition, the RVSS manager, or designee, is authorized to make such collections in accordance with ORS 450.880 and 454.225. [Ord. 06-03, 2006; Ord. 04-08 § 1(8), 2004.]

#### **4.05.090 Appeal of charges.**

- 1) Any nonresidential customer who disagrees with the Stormwater rate structure's application to his/her property may apply to

the manager, or designee, for a user fee adjustment. The adjustment request must state the grounds for adjustment and must be filed in writing with the manager, or designee, no later than 30 days after receipt of billing. The manager, or designee, shall review the request and basis for use charges to determine whether an error was made in the calculation or application of the fee. The manager, or designee, may approve an adjustment to the fee.

- 2) An appeal of the manager's, or designee's, decision may be brought before the Board within 30 days after the date of the manager's, or designee's, decision. The appeal must be in writing and address the decision that is appealed and state the reasons why the decision should be modified or reversed. Following receipt of an appeal, the Board shall set the matter for a hearing within a reasonable amount of time. The decision of the Board shall be final and conclusive.
- 3) If an appeal of charges is successful, credit will be applied to all charges from the time of the appealed billing, and will be reflected on a future billing after the appeal is granted. [Ord. 06-03, 2006; Ord. 04-08 § 1(9), 2004.]

#### **4.05.100 Water quality in storm sewers.**

- 1) General. The only substance allowed to be discharged into the public storm sewer are Stormwater, surface drainage, subsurface drainage, ground water, cooling water or nonpolluted water described in subsection (3)(a) of this section. Such water may be discharged only into storm sewer facilities which have adequate capacity for the accommodation of such water. Such discharged water shall comply with the SWQ Design Manual requirements.
- 2) Obstruction.
  - a) It is unlawful for any person to obstruct or contribute to the obstruction of the flow of Stormwater runoff or non-Stormwater runoff into any sump, retention basin, storm drain, curb and gutter, drain inlet, ditch, creek, or other associated structural controls that convey

- Stormwater and/or non-Stormwater runoff, unless the obstruction is authorized by the manager, or designee, and granted with the issuance of a permit signed by the manager, or designee.
- b) It is unlawful for a person to cover over any drain inlet for any reason or purpose, unless the obstruction is authorized and granted with the issuance of a permit signed by the manager, or designee. Installation of temporary sediment and/or erosion control measures are authorized, provided they are adequately maintained and do not cause flooding.
  - c) Private Storm Sewer Assets. Every person owning property through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.
  - d) Subsections (2)(a) and (b) of this section shall not apply during clean-up periods established by the district, provided the materials are placed according to any directions from the district and do not obstruct Stormwater facilities.
- 3) Discharge.
- a) Prohibition of Illegal Discharges. No person shall throw, dump, drain, or otherwise discharge, cause, or allow others under its control to throw, dump, drain, or otherwise discharge into the public storm sewer system any pollutants or waters containing any pollutants, other than Stormwater. The commencement, conduct, or continuance of any illegal discharge into the storm sewer system is prohibited. If any discharge is determined by the manager, or designee, to cause, or threaten to cause, a condition of pollution, contamination or nuisance, the discharge shall be stopped, treated and cleaned up to the maximum extent practicable by the person responsible for the discharge. The prohibition shall not apply to any non-Stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Oregon DEQ; provided, that the discharger is in full compliance with the requirements of the permit, waiver, or order and other applicable laws and regulations. The following discharges are allowed provided they do not, as determined by the manager, or designee, cause or threaten to cause a condition of pollution, contamination or nuisance:
    - i) Water line flushing;
    - ii) Lawn and landscape irrigation;
    - iii) Diverted stream flows;
    - iv) Rising ground waters;
    - v) Uncontaminated ground water infiltration;
    - vi) Uncontaminated pumped ground water;
    - vii) Discharges from potable water sources;
    - viii) Foundation drains;
    - ix) Air conditioning condensate;
    - x) Irrigation water;
    - xi) Springs;
    - xii) Water from crawl space pumps;
    - xiii) Footing drains;
    - xiv) Lawn watering;
    - xv) Individual residential car washing;
    - xvi) Flows from riparian habitats or wetlands;
    - xvii) Dechlorinated swimming pool discharges;
    - xviii) Street wash water;
    - xix) Discharges or flows from firefighting activities.
  - b) Prohibition of Illicit Connection.
    - i) The construction, use, maintenance or continued existence of illicit connections to the public storm sewer system is prohibited.
    - ii) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of

whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- iii) A person is considered to be in violation of this chapter if the person connects a line conveying sewage into the public storm sewer system, or allows such a connection to continue.
  - iv) Improper connections in violation of this chapter must be disconnected and redirected, if necessary, to an approved location.
- 4) **Industrial Activity Discharges.** Any person subject to an industrial activity NPDES Stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required prior to RVSS allowing discharges into the storm sewer system. The operator of the facility required to have an NPDES permit to discharge Stormwater associated with an industrial activity shall submit a copy of the permit to RVSS when that permit is requested.
- 5) **Construction Activity Discharges.** Any person subject to an RVSS construction permit or NPDES Stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required prior to RVSS allowing discharges into the public storm sewer system. A construction site required to have an NPDES permit to discharge Stormwater associated with construction activities shall submit a copy of the permit to RVSS when that permit is requested.
- 6) **Reportable Discharges including Spills.** Under ORS 466.605 and OAR 340-142-0050, the person who spills a contaminant, and the person who owns or has authority over the contaminant, are responsible for reporting any spill and for containing and cleaning up any spill. Any spills exceeding the limits in OAR 340-142-0050 shall be reported within 48 hours, in accordance with the approved RVSS spill response plan.

Note: Unknown chemicals should always be treated as though they are hazardous.

[Ord. 10-03, 2010; Ord. 06-03, 2006; Ord. 04-08 § 1(10, 11), 2004.]

#### **4.05.110 Development.**

- 1) **Projects Greater Than One Acre.** Construction activities which disturb more than one acre of land, or are part of a larger common plan of development or sale, are required to obtain a permit through RVSS regulating this activity. Applications, transfers, and notice of termination for permits shall be on the forms provided by Oregon DEQ.
- a) Construction activities that disturb one to five acres are required to obtain an RVSS construction permit. A copy of the RVSS construction permit and fee amounts are available on the RVSS website at [www.rvss.us](http://www.rvss.us).
  - b) Construction activities that disturb five acres or more are required to obtain an NPDES 1200-C permit from RVSS, a DEQ agent. A copy of the 1200-C permit application, forms, guidance documents and fee amounts are available at the DEQ website at [www.deq.state.or.us](http://www.deq.state.or.us).
  - c) **Transfer Permit Registration.** An owner or permit registrant must submit a DEQ approved transfer form prior to permit expiration, or prior to transfer of ownership or operation.
  - d) **Notice of Termination.** The permit registrant must officially terminate the permit by submitting DEQ's Notice of Termination form to RVSS.
  - e) **SWQ Design Manual.** All new development must comply with the design and performance standards outlined in the SWQ Design Manual approved by RVSS.
- 2) **Maintenance Agreement.** Stormwater treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include:
- a) Access to Stormwater treatment facilities at the site by RVSS for the purpose of

- inspection and repair by securing maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property.
- b) A legally binding covenant specifying the parties responsible for the proper maintenance of Stormwater treatment facilities.
  - c) Parties responsible for the operation and maintenance of a Stormwater management facility shall have the operations and maintenance manual available at all times. Record of maintenance and repairs for the last five years shall be retained and available for inspection by RVSS. A summary report of maintenance activities shall be submitted to RVSS by May 1st of each year.
  - d) If landscaping is part of Stormwater treatment, then the applicant must prepare and submit a detailed plan for management of vegetation at the site after construction, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetation cover is preserved.
- 3) Failure to Maintain Stormwater Management Facilities.
    - a) Under nonemergency conditions, if the responsible party fails or refuses to meet the maintenance agreement, RVSS shall notify the party responsible for maintenance of the Stormwater management facility in writing. Generally, upon receipt of that notice, the responsible person shall have 48 hours to maintain and/or repair the facility in an approved manner. If the conditions continue, RVSS, after reasonable notice, may conduct emergency measures in the event that the Stormwater management facility becomes a danger to public safety, health or general welfare. After proper notice, RVSS may assess the owner(s) of the facility a minimum charge of \$500.00 per Stormwater quality feature requiring maintenance or repair, or the actual cost of maintenance or repair work, whichever is greater, and any penalties for violations to this chapter.
    - b) Under emergency conditions, if time permits, RVSS will make every effort to contact the responsible party for emergency measures. If the emergency does not allow RVSS time to contact the responsible party, and/or they fail or refuse to conduct emergency measures immediately, RVSS may conduct emergency measures to prevent a danger to public safety, health or general welfare. RVSS may assess the owner(s) of the facility a minimum of \$500.00 per Stormwater quality feature or the actual cost of maintenance or repair work, whichever is greater, and any penalties for violations to this chapter (as allowed under RVSSC 4.05.130).
  - 4) Maintenance and Repair. After emergency measures are taken by RVSS in either subsection (1)(c)(ii)(1) or (2) of this section, the responsible party shall within 14 days provide RVSS with a new operations and maintenance plan detailing procedures to prevent any future emergency situations. If the responsible party fails or refuses to prepare the new operations and maintenance plan, RVSS may assess the owner(s) of the facility a penalty not to exceed \$2,000 per violation per day (as allowed under RVSSC 4.05.130).
  - 5) Erosion and Sediment Control Plan (ESCP). Unless specifically excluded from the requirements of this chapter, development proposals greater than one acre must include an ESCP; and development proposals less than one acre must include an ESCP if requested by RVSS. Plan requirements and standards are detailed in the SWQ Design Manual, RVSS construction permit and the NPDES 1200-C permit.
  - 6) Projects Less Than One Acre. Construction activities that disturb less than one acre are not required to obtain an RVSS construction

permit or NPDES 1200-C permit. Such projects, including single-family home construction, are required to meet all other provisions of this chapter.

[Ord. 1003, 2010; Ord. 06-03, 2006.]

#### **4.05.120 Inspection.**

- 1) **Right of Entry.** The permit registrant shall permit RVSS to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance.
- 2) **Security.** If a permit registrant permit has security measures in force that require proper identification and clearance before entry into its premises, they shall make the necessary arrangements prior to construction activities to allow access for RVSS.
- 3) **Access.** The permit registrant shall allow RVSS access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an RVSS construction permit or NPDES permit to discharge Stormwater.
- 4) The permit registrant shall allow the use of facilities for inspection and monitoring by RVSS. RVSS shall have the right to set up on any permitted facility such devices as are necessary in the opinion of RVSS to conduct monitoring and/or sampling of the facility's Stormwater discharge.
- 5) **Monitoring.** The permit registrant shall install monitoring equipment directed by RVSS as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the permit registrant at its own expense. Devices used to measure Stormwater flow and quality shall be calibrated to ensure accuracy.
- 6) **Removal of Obstruction.** The permit registrant shall remove any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled at the written or oral request of

RVSS and it shall not be replaced until authorized by RVSS. The costs of clearing such access shall be at the permit registrant's expense.

- 7) **Access Delays.** The permit registrant shall not cause unreasonable delays in allowing RVSS access to a permitted facility and any such delay will be a violation of this chapter. A person who is the operator of a facility with an NPDES permit to discharge Stormwater associated with industrial activity commits an offense if the person denies RVSS reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.
  - a) **Notice of Construction Commencement.** The permit registrant must notify RVSS for a preconstruction conference at least two working days prior to the commencement of construction. Regular inspections during construction activities shall be conducted by RVSS. Inspections shall be documented in writing as follows: The date and location of the inspection.
  - b) Whether construction is in compliance with this chapter including an approved ESCP and an RVSS construction permit or NPDES 1200-C permit.
  - c) Variations from the approved construction specifications.
  - d) Description of any violations to this chapter.
- 8) **As-Built Plans.** Applicants are required to submit actual "as-built" plans for storm sewer and Stormwater management practices located on-site after final construction. The plan shall include the final design specifications, manufacturer's submittals, operations and maintenance manual, and final as-built plans for sanitary sewer and Stormwater management facilities certified by a professional engineer registered in Oregon, unless otherwise approved by the district engineer, or designee. A final inspection by RVSS of the sanitary and storm sewer system is required.

[Ord. 10-03, 2010; Ord. 06-03, 2006.]



**4.05.130 Enforcement and penalties.**

This chapter may be enforced through RVSSC Title 8, including, without limitation, Chapter 8.50 RVSSC or by filing civil actions in the district court as provided by law. The district has sole discretion to decide whether to file a civil or criminal case for a violation. The district may file both, or one or the other. The possibility of an administrative remedy pursuant to RVSSC Title 8 shall in no way interfere with the district's right to prosecute violations of this chapter as criminal offenses. The district may use any of the remedies available under the law in both civil and criminal prosecution. If the district chooses to file both civil and criminal charges for the same violation, no civil penalties may be assessed, but all other remedies are available.

[Ord. 06-03, 2006; Ord. 04-08 § 1(13), 2004.]

**4.05.140 Enforcement and penalties by DEQ.**

Enforcement and penalties in RVSSC 4.05.130 are in addition to any enforcement action or penalties imposed by DEQ. Any monetary penalties imposed by DEQ on RVSS due to lack of compliance with this chapter by an owner or permit registrant will be passed on to the owner or permit registrant.

[Ord. 06-03, 2006.]

**4.05.150 Annual report to storm sewer utility customers.**

The manager or designee shall prepare an annual report, on a fiscal year basis, on the storm sewer utility fund which, if acceptable, shall be approved by the district's Board. This report shall summarize the financial activities of the utility and the major areas of expenditure, field activities, accomplishments, and the upcoming year's priorities.

[Ord. 06-03, 2006; Ord. 04-08 § 1(14), 2004. Formerly 4.05.140]

## Chapter 4.10 Design Manual

### Sections:

#### 4.10.010 Adopted.

**4.10.010 Adopted.**

The Board shall review the Rogue Valley Stormwater Quality Design Manual annually for adoption by resolution.

[Ord. 06-01, 2006.]

## **TITLE 5-STORM DRAINS**

### Chapters:

5.05 Storm Drain Specifications

5.10 Storm Drain Improvements

5.15 White City Industrial Area

## Chapter 5.05 Storm Drain Specifications

### Sections:

#### 5.05.010 Adoption.

#### 5.05.020 Penalties.

Amendments to the most current edition of the Oregon Standard Specifications are online at <http://www.oregonapwa.org>.

#### **5.05.010 Adoption.**

The Board of Directors of RVSS shall adopt construction specification standards by resolution.

[Ord. 89-4, 1989.]

#### **5.05.020 Penalties.**

If these standard specifications or other RVSS requirements set forth in this title are not followed, the provisions, including penalties, contained in Chapter 8.50 RVSSC, Penalties Other Than Industrial, shall apply.

[Ord. 07-03 § 1(A), 2007.]

## Chapter 5.10 Storm Drain Improvements

### Sections:

#### 5.10.010 Definitions

#### 5.10.020 General authority.

#### 5.10.030 Cost of storm drainage system.

#### **05-10-010 Definitions**

As used in this chapter, unless the context requires otherwise:

- 1) “Board” shall mean the Board of Directors of Rogue Valley Sewer Services.
- 2) “Improvement,” “project” or “installation” shall mean existing storm drain systems to be purchased, acquired, operated, maintained or improved, or the construction of new storm drains to serve benefited property.
- 3) “Manager” shall mean the manager of Rogue Valley Sewer Services.
- 4) “Owner,” “owner of land,” or “landowner” shall mean a vendee under a recorded land

sale contract or memorandum thereof, or, if none, the holder of the record title to the land in which such vendee or holder has a present interest equal to or greater than a life estate.

- 5) “Storm drain” shall mean all drainage works for draining, collecting, pumping or disposing of all natural surface precipitation, whether such works are manmade or natural drainage ways, and all facilities relating thereto.
- 6) “Remonstrance” shall mean a written objection to a specified project and/or financing plan stating the facts and basis for objection signed by the owner of land subject to a proposed project or assessment.
- 7) “RVSS” shall mean the Rogue Valley Sewer Services. [Ord. 89-3 §1, 1989.]

#### **5.10.020 General authority.**

Whenever the Board deems it expedient or necessary for the protection of the public health, safety and welfare, it may cause RVSS to:

- 1) Construct, maintain, improve or operate drainage systems, including trunk and lateral drains or any combination thereof, and related facilities, for any area within RVSS. Portions of such systems may be constructed outside RVSS where necessary or expedient.
- 2) Contract with any city or county, any district organized for a public purpose, any other governmental agency, or any person, partnership, association or corporation, for the use or joint operation of all or any portion of any storm drain system owned or controlled by any such city, county, district, agency, person, partnership, association or corporation.
- 3) Purchase or otherwise acquire all or any portion of any storm drainage system from any such city, county, district, governmental agency, person, partnership, association or corporation, on such terms as are fair and reasonable. Where the area served by such system or part thereof is situated within RVSS, RVSS may agree on such terms as are

fair and reasonable to furnish drainage functions for the area then served by such drainage system, and as a part of the purchase agreement, on such terms as are fair and reasonable, RVSS may assume liability for any outstanding bonded or other indebtedness incurred prior to the time of purchase or acquisition in connection with the facilities to be purchased.

[Ord. 89-3 § 2, 1989.]

#### **5.10.030 Cost of storm drainage system.**

The cost of any storm drainage system shall be borne as follows:

- 1) The cost of purchase or construction of a storm drainage system shall be borne by the area directly benefited by the system. The property within such area shall bear such cost in the manner provided in ORS 450.855.
- 2) The cost of operation, maintenance and improvement of storm drainage systems shall be borne by the area directly benefited by such systems. The property within such area shall bear such cost in the manner provided in ORS 450.880 and RVSSC 5.10.230.

[Ord. 89-3 § 3, 1989.]

## **Chapter 5.15 White City Industrial Area**

### Sections:

#### 5.15.010 Definitions.

#### 5.15.020 Storm drainage policy.

#### 5.15.030 Establishment of storm drain area – White City industrial area.

#### 5.15.040 Monthly storm drainage charges.

#### 5.15.050 Reduction for runoff control measures.

#### 5.15.060 Billing and collection of drainage charges.

Ord. 89-5 has been revised by Ord. 91-11.

#### **5.15.010 Definitions.**

As used in this chapter, except where the context otherwise requires:

- 1) “Board” shall mean the governing body of RVSS.
- 2) “Development” shall mean any manmade

change to improved or unimproved real property including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

- 3) “Drainage management” means the planning for and handling of surface water runoff so as to minimize its adverse impacts upon the public health, safety, and welfare; upon property, public or private; upon local economy and aesthetics. A “drainage management utility” is a body of ordinances, policies, practices and capital improvements by which this aim is accomplished.
- 4) “Impervious surfaces” are those hard surface areas located upon real property which either prevent or retard saturation of water into the land surface, as existed under natural conditions preexistent to development or improvement, and/or cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions pre-existent to development. Common impervious surfaces include, but are not limited to, rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and graveled, oiled, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.
- 5) “Improved premises” means any area which has been altered such that the runoff from the site is greater than that which could historically have been expected. Such a condition shall be determined by the RVSS manager after consultation with RVSS engineer.
- 6) “Improvement,” “project” or “installation” shall mean existing storm drain systems to be purchased, acquired, operated, maintained or improved, or the construction of new storm drains to serve benefited property.
- 7) “Log decks,” “log ponds” and “sawdust piles” shall mean areas larger than 3,000 square feet which are used exclusively for the storage of logs or sawdust, and for which

surface water runoff is minimized due to the nature of such storage.

- 8) “Manager” shall mean the manager of the Rogue Valley Sewer Services.
- 9) “Open drainage way” means a natural or man-made path which has the specific function of transmitting natural stream water or surface runoff water from a point of higher elevation to a point of lower elevation.
- 10) “Owner,” “owner of land,” or “landowner” shall mean a vendee under a recorded land sale contract or memorandum thereof, or, if none, the holder of the record title to the land in which such vendee or holder has a present interest equal to or greater than a life estate.
- 11) “Primary benefit area (PBA)” means the total impervious area of a parcel measured to the nearest one tenth of an acre.
- 12) “Remonstrance” shall mean a written objection to a specified project and/or financing plan stating the facts and basis for objection signed by the owner of property subject to a proposed project or assessment.
- 13) “Runoff control” is any means approved by the RVSS’s manager by which the peak rate of surface water runoff from developed land surfaces is reduced.
- 14) “RVSS” means Rogue Valley Sewer Services, Jackson County, Oregon.
- 15) “Secondary benefit area (SBA)” means the total area of a parcel, including impervious areas, measured to the nearest one-tenth of an acre.
- 16) “Storm drain” shall mean all drainage works for draining, collecting, pumping or disposing of all natural surface precipitation, whether such works are manmade or natural drainage ways, and all facilities relating thereto.

[Ord. 89-5 § 1, 1989.]

#### **5.15.020 Storm drainage policy.**

- 1) The improvement of both public and private storm drainage facilities through or adjacent to a new development shall be the responsibility of the developer. Said improvements shall comply with all applicable ordinances, policies and standards of RVSS. System development charges may be implemented at a later date.
- 2) No portion of this chapter or statement herein or subsequent Board interpretation of policies shall relieve the property owner of assessments or charges levied against their property for public facility improvement projects.
- 3) It is the policy of RVSS to participate in improvements to storm drainage facilities when authorized by the Board of Directors and when funds are available. To be considered for approval by the Board a facility must:
  - a) Be public;
  - b) Be a benefit of substance to the community;
  - c) If a piped system, be a design equivalent to at least a 24-inch diameter circular pipe of suitable material; or
  - d) Be a rehabilitation or replacement of existing public facilities.
- 4) RVSS shall manage public storm drainage facilities located within RVSS-owned land, rights-of-way, and RVSS easements that are not otherwise maintained by other governments or are to be maintained by agreement with other governments. Public facilities to be managed include but are not limited to:
  - a) Open drainage ways serving a drainage basin of at least 100 acres;
  - b) A piped drainage system and its related appurtenances which has been designed and constructed expressly for use by the general public and accepted by RVSS;
  - c) Roadside drainage ditches along unimproved streets and along improved streets where provided by agreement with the governmental agency having jurisdiction;
  - d) Flood control facilities (levees, dikes,

overflow channels, detention basins, retention basins, dams, pump stations, groundwater recharging basins, etc.) that have been designed and constructed expressly for use by the general public and accepted by RVSS;

- e) Performing occasional maintenance does not necessarily mean that RVSS has accepted specific facilities;
  - f) Acceptance of existing facilities or facilities hereafter constructed shall only take place when the specifications established by RVSS have been met and acceptance is acknowledged in writing by the RVSS manager.
- 5) Facilities not qualifying as public facilities include but are not limited to:
- a) Private parking lot storm drains;
  - b) Roof, footing, and area drains;
  - c) Drains not designed and constructed for use by the general public;
  - d) Drainage swales which collect surface water from a basin less than 100 acres;
  - e) Access drive culverts;
  - f) Facilities not located on property that have given RVSS easement or right-of-way rights for this purpose.
- 6) The employees of RVSS shall at all reasonable times have access to any premises served by RVSS for inspection, repair or the enforcement of the provisions of this chapter.
- 7) It is not, however, the purpose of this chapter to assume responsibility from property owners for the quality of water runoff.

#### **5.15.030 Establishment of storm drain area – White City industrial area.**

The White City industrial storm drain area is described in Attachment A of Ordinance 89-05, 1989. The premises contained within this area are declared to be directly benefited by the storm drain system acquired, maintained, operated and improved in accordance with the terms of this chapter.

[Ord. 895 § 3, 1989.]

#### **5.15.040 Monthly storm drainage charges.**

- 1) There is hereby levied and imposed upon all improved premises or developed areas, within the White City Industrial storm drain area just and equitable charges for storm drainage service or subsequent service maintenance, operation, improvement and extension and for establishment of a storm drainage utility account in the general fund for that purpose. The Board of Directors determines that property is furnished primary and secondary service. Primary service is proportionate to the amount of the property's impervious surface (PBA). Secondary service is based on total land area (SBA). The minimum service charge shall be that established for one full acre even if the parcel is smaller. Rates are defined in Chapter 9
- 2) Area measurements may be determined from records of the county assessor when available. Rates will be adjusted annually and shall not exceed reasonably required expenditures.

[Ord. 07-02, 2007; Ord. 89-5 § 4, 1989.]

#### **5.15.050 Reduction for runoff control measures.**

The storm drain rates shall be reduced for a property where approved runoff control measures have been taken. Rate reduction shall be in direct proportion with control measures which reduce runoff as determined by the manager. Such rate reduction may be adjusted from time to time. Conditions existing on August 30, 1988, are established as starting or initial conditions. Assessments for log decks, log ponds and sawdust areas where steps have been taken to control runoff will be equivalent to undeveloped areas. If the owner establishes to RVSS's satisfaction that all runoff from a property is disposed of without utilizing an RVSS-managed facility either directly or indirectly, there will be no charges made under the provisions of this chapter.

[Ord. 89-5 § 5, 1989.] 450.880 and 454.225.  
[Ord. 89-5 § 6, Att. A, 1989.]

## **TITLE 6-SEWER**

Chapters:

- 6.05 Local Improvement District Procedures
- 6.10 Public Sewer Extensions
- 6.15 Alternative Sewage Collection Systems
- 6.20 Sewer Line Replacements
- 6.25 Sanitary Sewer Collection System
- 6.30 Right of Entry

## Chapter 6.05 Local Improvement District Procedures

### Sections

#### 6.05.010 Definitions.

#### 6.05.020 Initiation of proceedings and report from the manager.

#### 6.05.030 Method of assessment and alternative methods of financing.

#### 6.05.040 Board's action on manager's report.

#### 6.05.050 Notice of hearing.

#### 6.05.060 Manner of doing work.

#### 6.05.070 Public hearing.

#### 6.05.080 Publication of ordinance and remonstrance.

#### 6.05.090 Remedies.

#### 6.05.100 Preconstruction assessment.

#### 6.05.110 Call for bids.

#### 6.05.120 Abandonment of proceedings.

#### 6.05.130 Post-construction assessment.

#### 6.05.140 Errors in assessment calculations.

#### 6.05.150 Assessment by consent and waiver.

#### 6.05.160 Reassessment.

#### 6.05.170 Satisfaction and discharge of liens.

#### 6.05.180 Curative provisions.

Code reviser's note: Ord. 72-1 has been revised by Ords. 73-2, 75-2 and 80-6.

### **6.05.010 Definitions.**

As used in this chapter, unless the context requires otherwise: "Board" shall mean the Board of Directors of Rogue Valley Sewer Services;

- 1) "Improvement" shall mean the connection to existing sewer facilities or construction of new sewer facilities to serve benefited property;
- 2) "Manager" shall mean the manager of Rogue Valley Sewer Services;
- 3) "Owner" shall mean the owner of the record title to real property, or, if there is a contract of sale of the property, the contract purchaser of the real property of record as shown on the last available complete assessment roll in the office of the Jackson County assessor or from contracts filed with the county assessor and reasonably available

for inspection;

- 4) "Remonstrance" shall mean a written objection to a specified project and financing plan signed by the owner of property subject to a proposed assessment; and
- 5) "RVSS" shall mean the Rogue Valley Sewer Services, Jackson County, Oregon.  
[Ord. 72-1 § 1, 1972.]

### **6.05.020 Initiation of proceedings and report from the manager.**

Whenever the Board shall deem it necessary for the protection of public health, safety, and welfare, upon its own motion, or upon the petition of the owners of more than one-half of the property to benefit specially from the improvement, to make any trunk, main or lateral sewer improvement, any storm drainage improvement or any related facility to be paid for in whole or in part by special assessment according to benefits, then the Board shall, by motion, direct the manager to have prepared by a registered professional engineer an engineering survey and written financial report for such project and file the same in the RVSS office. Unless the Board shall direct otherwise, such report shall contain the following matters:

- 1) A map or plat showing the general nature, location, and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof;
- 2) Plans, specifications, and estimates of the work to be done; provided, however, that where the proposed project is to be carried out in cooperation with any other governmental agency, the manager may adopt the plans, specifications and estimates of such agency;
- 3) An estimate of the probable cost of the improvement, including any legal, indirect, administrative and engineering costs attributable thereto;
- 4) An estimate of the assessable unit cost of the improvement to the specially benefited properties;
- 5) A recommendation as to the method of assessment to be used to arrive at a fair



apportionment of the whole or any portion of the costs of the improvement to the properties specially benefited;

- 6) The description and assessed value of each lot, parcel of land or portion thereof to be specially benefited by the improvement with the names and mailing addresses of the owners thereof; and
- 7) A statement that after review it is found that assessments against the property benefited by the project do not exceed double the assessed valuation of such property.

[Ord. 72-1 § 2, 1972.]

#### **6.05.030 Method of assessment and alternative methods of financing.**

- 1) The Board, in adopting a method of assessment of the costs of the improvement, may:
  - a) Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived; and
  - b) Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited.
- 2) Nothing contained in this chapter shall preclude the Board from using any other available means of financing improvements, including federal, state or county grants and aid, sewer charges, or connection fees, revenue bonds, general obligation bonds or any other legal means of finance. In the event that such other means of financing improvements are used, the Board may, in its discretion, levy part of the costs of the improvement.

[Ord. 72-1 § 3, 1972.]

#### **6.05.040 Board's action on manager's report.**

After the manager's report shall have been prepared, the Board may thereafter by motion approve the report, modify the report and approve it as modified, require the manager to supply additional or different information for such improvement and after the report is approved, order it filed in the RVSS office, or it may

abandon the improvement.

[Ord. 72-1 § 4, 1972.]

#### **6.05.050 Notice of hearing.**

After the Board shall have approved the manager's report as submitted or modified, the Board shall, by resolution, declare its intention to make such improvement, designate the improvement as to which an assessment is contemplated, describe the boundaries of the area to be assessed, provide the manner and method of carrying out the improvement, and shall direct the manager to give notice of such improvement by two publications, one week apart in a newspaper of general circulation within the RVSS, by posting said notice in at least three conspicuous places in the area directly benefited by and to pay for such improvements, and by mailing or personally delivering copies of such notice to the owners of the property to be assessed for the cost of such improvement, which said notice shall contain the following matters:

- 1) That the report of the manager is on file in the RVSS office and is subject to public examination;
- 2) A narrative description of the proposed construction and the location of the site of the proposed construction with reasonable certainty;
- 3) That the Board will hold a public hearing on the proposed improvement on a specified date which shall not be earlier than 17 days following the first publication notice, at which objections and remonstrance to such improvement will be heard by the Board, and that, if prior to such hearing, there shall be presented to the manager valid, written remonstrance by the owners of property against which more than 50 percent of the assessed cost is proposed to be levied, then the improvement shall be abandoned for at least six months, and the notice shall define remonstrance in accordance with this chapter;
- 4) A description of the property to be specially benefited by the improvement, either specifically or by reference to the document number of a recorded instrument recorded in

the official records of Jackson County, Oregon, specifically describing said boundaries, and the engineer's estimate of the unit cost of the improvement to the property to be specially benefited, and the total cost of the improvement to be paid for by special assessments to benefited property; and

- 5) If the Board intends to levy an assessment based upon the engineer's estimate of the cost of the improvement, the notice shall contain a statement that the costs proposed are estimates and will be the amount assessed against benefited properties subject to supplementary assessments or rebate assessments upon a determination of the actual total cost of the improvement. If the Board intends to delay assessment until the total actual cost of the improvement is determined, the notice shall contain a statement that the costs proposed are an estimate and not an assessment.

[Ord. 72-1 § 5, 1972.]

#### **6.05.060 Manner of doing work.**

The Board may provide in the improvement resolution that the construction work may be done in whole or in part by the RVSS, by a contract, or by any other governmental agency, or by any combination thereof.

[Ord. 72-1 § 6, 1972.]

#### **6.05.070 Public hearing.**

At the time of the public hearing on the proposed improvement, if the written remonstrance shall represent less than the amount required to defeat the proposed improvement, then the Board shall comply with ORS 450.855 and at that time or within 60 days thereafter shall adopt an ordinance specifying the improvement to be constructed for the area, directing the manager to have engineering plans and specifications prepared by a registered professional engineer and approved by the health division of the Department of Human Resources and the Department of Environmental Quality of the state of Oregon, the boundaries of the area, the method of apportioning the construction costs to the area directly benefited, and the method of financing the construction of the improvement, or the Board may, on its own motion, abandon the

improvement; provided, however, that in the event that valid written remonstrance by the owners of property against which more than 50 percent of the assessed cost is proposed to be levied shall be filed prior to said hearing, and if the Board shall determine that the improvement is necessary to the preservation of the public health and welfare, the Board may re-examine the manager's report of the proposed improvement and may re-approve the report as submitted or approve the same as modified and proceed as in this section provided in the first instance prior to the expiration of the six-month period referred to in RVSSC 6.05.050(3).

[Ord. 721 § 7, 1972.]

#### **6.05.080 Publication of ordinance and remonstrance.**

A copy of the ordinance shall be published once a week for two successive weeks in a newspaper of general circulation published in the area directly benefited. If, within 30 days after the last publication of such ordinance, written remonstrance against the proposed improvement are filed in the RVSS office by a majority of the owners of the land in the area directly benefited, no further proceedings shall be had in connection with the proposed construction. However, a modified proposal may be initiated within six months thereafter.

[Ord. 721 § 8, 1972.]

#### **6.05.090 Remedies.**

Subject to the curative provisions of RVSSC 6.05.180, and the right of the RVSS to reassess as provided in RVSSC 6.05.160, proceedings for writs of review and suits in equity may be filed not earlier than 30 days nor later than 60 days after the filing of written objections as provided herein. A property owner who has filed written objections with the RVSS prior to the public hearing may have the right to apply for a writ of review pursuant to ORS 223.401 and ORS 34.010 through 34.100 based upon the Board's exercising its functions erroneously or arbitrarily or exceeding its jurisdiction to the injury of some substantial right of such owner if the facts supporting such claim have been specifically set forth in the written objections. A property owner who has filed written objections with the RVSS prior to the public hearing may commence a suit

for equitable relief based upon a total lack of jurisdiction on the part of the RVSS; and if notice of the improvement shall not have been sent to the owner and if the owner did not have actual knowledge of the proposed improvement prior to the hearing, then the owner may file written objections alleging lack of jurisdiction with the RVSS within 30 days after receiving notice of knowledge of the improvement. No provision of this section shall be construed so as to lengthen any period of redemption or so as to affect the running of any statute of limitation. Any proceeding on a writ of review of suit in equity shall be abated if proceedings are commenced and diligently pursued by the Board to remedy or cure the alleged errors or defects. [Ord. 72-1 § 9, 1972.]

#### **6.05.100 Preconstruction assessment.**

If remonstrance are not filed by a majority of the owners of land in the area directly benefited, the Board may, in its discretion, direct the manager to prepare, or cause to be prepared, a proposed assessment of the respective parcels of property within the assessment district based upon the engineer's estimate of the cost of the improvement and file it in the RVSS office. Notice of such proposed assessment shall be mailed or personally delivered to the owner of each parcel proposed to be assessed, which notice shall state the amount of the assessment proposed on that property and shall fix a date, not less than 10 days from the date of said notice, by which time objections to said proposed assessment shall be filed with the manager of the RVSS. Any such objections shall state the grounds therefor. The Board shall consider such objections, and may adopt, correct, modify or revise the proposed assessments, and shall determine the amount of the assessment to be levied against each parcel of property within the RVSS according to the special and peculiar benefits accruing thereto from the improvement, and shall by order spread the assessments.

- 1) Within 10 days after the order of assessment has been adopted, the manager of the RVSS shall mail or personally deliver a notice of assessment to the owner of each parcel of property assessed. The notice of assessment shall recite the date of the assessment order, and shall give notice that upon the failure of

the owner of the property assessed to make application to pay the assessment in installments within two weeks from the date of the mailing of the notice, or upon the failure of the owner to pay the assessment in full within 30 days of the assessment order, that interest on the amount of the assessment shall commence to run from the date of the Bancroft bond issue sold to provide financing for the improvement at a rate not to exceed that authorized by law, and that the property assessed will be subject to foreclosure. Said notice shall further set forth a description of the property assessed, the name of the owner of the property, and the amount of each assessment. All assessments shall be paid to the Jackson County treasurer, who is custodian of the funds of the RVSS, and receipt shall be issued therefor.

- 2) After issuance of an order making an assessment by the Board, a copy of the order making the assessment, certified and acknowledged by the manager of the RVSS, shall be filed with the county clerk of Jackson County, Oregon. Upon being filed, the assessment shall constitute a lien against the land assessed. All assessment liens of the RVSS shall be superior and prior to all of the liens or encumbrances on the property insofar as the laws of the state of Oregon permit. Interest shall be charged from the date of the sale of the Bancroft bond issue sold to finance the improvement at a rate not to exceed that authorized by law until paid on all amounts not paid within 30 days from the date of the issuance of the order of assessment; and after expiration of 30 days from the date of the issuance of an order of assessment, the RVSS may proceed to foreclose or enforce collection of the assessment lien in the manner provided by the general law of the state of Oregon; provided, however, that the RVSS may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who shall be entitled under the laws of the state of Oregon to redeem such property.
- 3) In the case of preconstruction assessments, if

it is found upon completion of the project and determining the cost thereof that the amount of the assessment is insufficient to defray the expenses of the improvement, the Board may, by motion, declare such deficit and prepare a proposed supplemental assessment. The Board shall set a time for hearing of objections to such supplemental assessment, and shall direct the manager of the RVSS to publish one notice thereof in a newspaper of general circulation in the RVSS and to give notice to the property owners. After such hearing, the Board shall make a just and equitable assessment by order, which shall be certified and acknowledged by the manager and a copy thereof filed with the county clerk of Jackson County, Oregon, and notice of the supplemental assessment shall be mailed and the collection of the assessment shall be made as herein provided.

- 4) In the case of a preconstruction assessment, if it is found upon completion of the project and determining the cost thereof that the assessment previously levied upon any property is more than sufficient to pay the cost of such improvement, the Board must ascertain and declare the same by order, and when so declared, a copy of the order, certified and acknowledged by the manager of the RVSS, shall be filed with the Jackson County clerk as a credit upon the appropriate assessment, and notice shall be given to the owner of the property. In the event that any assessment has been paid, the person who paid the same, or his legal representative, shall be entitled to the repayment of such rebate credit, or the portion thereof which exceeds the amount unpaid on the original assessment.

[Ord. 72-1 § 10, 1972.]

#### **6.05.110 Call for bids.**

If remonstrance are not filed by a majority of the owners of the land in the area directly benefited by the improvement, following the sale of Bancroft bonds to finance the improvement (in the case of pre-construction assessments), or following the expiration of the remonstrance period referred to in RVSSC 6.05.080, the Board may, in its discretion, direct the manager to

prepare contract documents and advertise for bids for construction of all, or any part of, the improvement project on the basis of the Board-approved manager's report. In the event that any part of the work of the improvement is to be done under contract bids, then the Board shall determine the time and manner of advertisement for bids, and the contract shall be let to the lowest responsible bidder; provided, however, that the Board shall have the right to reject all bids when they are deemed unreasonable or unsatisfactory. The RVSS shall provide for the bonding of all contractors and for the faithful performance of any contract and the payment of all obligations incurred thereunder, let under its authority, and the provisions thereof in case of default shall be enforced by action in the name of the RVSS. If the Board finds, upon opening the bids for the work of such improvement, that the lowest responsible bid is substantially in excess of the engineer's estimate, it may, in its discretion, provide for the holding of a special hearing of objections to the proceeding with the improvement on the basis of such bid, and may direct the manager to publish one notice thereof in a newspaper of general circulation in the RVSS and give written notice to each property owner within the area directly benefited by the project. [Ord. 72-1 § 11, 1972]

#### **6.05.120 Abandonment of proceedings.**

The Board shall have full power and authority to abandon and rescind proceedings for improvement made under this chapter at any time prior to the final completion of such improvements; and if liens have been assessed upon any property under such procedure, they shall be canceled, and any payments made on such assessments shall be refunded to the person paying the same, his assigns, or legal representatives.

[Ord. 72-1 § 12, 1972.]

#### **6.05.130 Post-construction assessment.**

If the Board has undertaken construction of the improvement, after the work is done and cost thereof has been actually determined, the Board shall determine whether the property benefited shall bear all or a portion of the costs. The manager or other person designated by the Board shall prepare the proposed assessment to the

respective parcels of property within the assessment district, and shall file it in the RVSS office. Notice of such proposed assessment shall be mailed or personally delivered to the owner of each parcel proposed to be assessed, which notice shall state the amount of the assessment proposed on that property, and shall fix a date, not less than 10 days from the date of said notice, by which time objections to said proposed assessments shall be filed with the manager of the RVSS. Any such objections shall state the grounds therefor. The Board shall consider such objections and may adopt, correct, modify or revise the proposed assessments, and shall determine the amount of the assessment to be levied against each parcel of property within the RVSS according to the special and peculiar benefits accruing thereto from the improvement, and shall by order spread the assessments.

- 1) With 10 days after the order of assessment has been adopted, the manager of the RVSS shall mail or personally deliver a notice of assessment to the owner of each parcel of property assessed. The notice of assessment shall recite the date of the assessment order, and shall state that, upon failure of the owner of the property assessed to make application to pay the assessment in installments within two weeks from the date of the mailing of the notice, or upon the failure of the owner to pay the assessment in full within 30 days from the date of the assessment order, then interest shall commence to run on the assessment at a rate not to exceed that authorized by law, and that the property assessed will be subject to foreclosure. Said notice shall further set forth a description of the property, and the amount of each assessment. All assessments shall be paid to the Jackson County treasurer, who is custodian of the funds of the RVSS, and receipt shall be issued therefor.
- 2) After issuance of an order making an assessment by the Board, a copy of the order making the assessment, certified and acknowledged by the manager of the RVSS, shall be filed with the county clerk of Jackson County, Oregon. Upon being filed, the assessment shall constitute a lien against the land assessed. All assessment liens of the RVSS shall be superior and prior to all the

liens or encumbrances on the property insofar as the laws of the state of Oregon permit. Interest shall be charged at a rate not to exceed that authorized by law until paid on all amounts not paid within 30 days from the date of the issuance of the order of assessment; and after expiration of 30 days from the date of the issuance of the order of assessment, the RVSS may proceed to foreclose or enforce collection of the assessment lien in the manner provided by the general law of the state of Oregon; provided, however, that the RVSS may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who shall be entitled under the laws of the state of Oregon to redeem such property.

[Ord. 72-1 § 13, 1972.]

#### **6.05.140 Errors in assessment calculations.**

Claimed errors in the calculation of assessments shall be called to the attention of the manager of the RVSS, who shall determine whether there has been an error in fact. If the manager of the RVSS shall find there has been an error in fact, he shall recommend to the Board an amendment to the order of assessment to correct such error, and upon enactment of such amendment, the manager of the RVSS shall make the necessary correction. The manager of the RVSS shall certify the correction to the Jackson County clerk and shall send a correct notice of assessment by mail to the owner of the property assessed.

[Ord. 72-1 § 14, 1972.]

#### **6.05.150 Assessment by consent and waiver.**

When the owner or owners of all of the property to be benefited by an improvement request for the improvement in writing to the RVSS and give written consent to the construction of the improvement and express waiver of objections to or irregularity in connection with the sewer line extension or connection and assessment therefor and waive objections to the imposition of a lien on the real property owned respectively by such owner or owners, the Board may enter an order assessing such real property for the cost of all or a portion of said improvement without further notice of hearing.

[Ord. 72-1 § 15, 1972.]

#### **6.05.160 Reassessment.**

Whenever an assessment, deficit, or reassessment for any improvement which has been made by the RVSS has been or shall be set aside, annulled, declared or rendered void, or its enforcement restrained by any court of this state, or any federal court having jurisdiction thereof, or when the Board shall be in doubt as to the validity of such assessment, deficit assessment or reassessment, or any part thereof, then the Board may make a reassessment as provided in ORS 223.405 to 223.485.

[Ord. 72-1 § 16, 1972.]

#### **6.05.170 Satisfaction and discharge of liens.**

From time to time, the Board shall order filed with the clerk of Jackson County the satisfaction and discharge of the liens against lands on which assessments have been paid in full.

[Ord. 72-1 § 17, 1972.]

#### **6.05.180 Curative provisions.**

No improvement assessment shall be rendered invalid by reason of a failure of the manager's report to contain all of the information required by RVSSC 6.05.020, or by reason of a failure to have all of the information required to be in the improvement resolution, the assessment order, the notices required to be published and mailed, nor by the failure to list the name of, or mail notice to, the owner of any property as required by this chapter, or by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and the Board shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

[Ord. 72-1 § 18, 1972.]

### **Chapter 6.10 Public Sewer Extensions**

#### Sections:

6.10.010 Consistency with Jackson County land use plan.

Code reviser's note: Ord. 74-4 has been revised

by Ord. 80-12.

#### **6.10.010 Consistency with Jackson County land use plan.**

- 1) RVSS shall verify that any new sewer construction is consistent with the Jackson County land use plan, as applicable.
- 2) RVSS shall submit each proposed sewer extension to be constructed predominantly abatement of health hazards and pollution to the Jackson County department of health for review and input on need for the extension based on cases, failures, etc., on record at the department. The health department may request input on septic failures and soil conditions, etc., from the sanitation division of the department of planning and development and prepare a consolidated report. Any report submitted by the department of health will be forwarded to RVSS in a timely manner based on project time frame.

### **Chapter 6.15 Alternative Sewage Collection Systems**

#### Sections:

6.15.010 Conditions under which STE systems are allowed

6.15.020 Design and construction standards.

6.15.030 Maintenance responsibility of RVSS.

6.15.040 Responsibility of user.

6.15.050 Record keeping.

6.15.060 Penalties.

#### **6.15.010 Conditions under which STE systems are allowed.**

Rogue Valley Sewer Services may allow construction of septic tank effluent (STE) systems or other alternative sewer systems in areas where traditional gravity sewers are not practical due to the terrain. The RVSS manager shall be the sole judge of the practicality of gravity sewers.

[Ord. 00-02, 2000.]

#### **6.15.020 Design and construction standards.**

All new STE systems and extensions of existing STE systems shall be designed in accordance with Department of Environmental Quality and

RVSS design standards and shall be reviewed and approved by RVSS prior to construction. Construction methods and materials shall be in accordance with the design criteria for septic tank effluent and pressure sewer construction plans adopted by RVSS.

[Ord. 00-02, 2000.]

#### **6.15.030 Maintenance responsibility of RVSS.**

- 1) RVSS will own and be responsible for the operation and maintenance of all septic tanks and pumps within the system. This maintenance shall include pumping excess solids from tanks, pump repair and replacement as needed. All tanks, pumps and other equipment shall be located on the users' property within an easement dedicated to RVSS. The easement shall exclude all other utilities and give RVSS the right to operate, maintain and replace all equipment as needed.

[Ord. 00-02, 2000.]

- 2) Exceptions: RVSS will not accept maintenance responsibility for septic tanks, pumps, or other alternative sewer systems for the following reasons:
  - a) Alternative system from an individual property discharges directly into a gravity sewer main 6 inches in diameter or larger.
  - b) Alternative system was not constructed in accordance with RVSS standards. In these cases, RVSS will assume maintenance responsibility if the property owner improves the system to meet RVSS standards.

#### **6.15.040 Responsibility of user.**

The user shall pay a monthly service fee as described in RVSSC 9.05.040. The user shall not allow any nonsewage waste water or Stormwater to be introduced into the system. The user shall not tamper with or make any modifications or repairs to the tanks, pumps, control panels or other components of the system. The power supply for the pumps shall be provided by the user. 6.15.050 Sewer Line Replacements

In the event that equipment is damaged due to actions of the user, the user shall be responsible

for the cost of making repairs.

[Ord. 00-02, 2000.]

#### **6.15.050 Record keeping.**

RVSS shall keep records of all of the addresses, tax lots, and owners who are served by STE systems for billing purposes. RVSS shall also keep maintenance records and schedules indicating the frequency of routine maintenance and repairs for each tank.

[Ord. 00-02, 2000.]

#### **6.15.060 Penalties.**

Any person found to be in violation shall be subject to penalties in RVSSC Title 8.

[Ord. 00-02, 2000.]

### **Chapter 6.20 Sewer Line Replacements**

#### Sections:

6.20.010 Service lateral policy.

6.20.020 Financial assistance for main line replacement.

6.20.030 Sewer back-ups and line replacements.

6.20.010 Service lateral policy.

#### **6.20.010 Service Lateral Policy**

- 1) Sewer Service Line Defined. Sewer service lines (also sometimes referred to as sewer laterals on building sewer lines) generally fall into two categories: individual connections and private sewer systems:
  - a) Individual connections are pipes which convey the sewage from a single property to the sewer main.
  - b) Private sewer systems serve multiple buildings on a single property, such as a mobile home park or an industrial campus.
- 2) Public Sewer Main Defined. A public sewer main is a pipe which is constructed to convey sewage from multiple sources towards the treatment plant. A public main must meet certain minimum design and construction standards as defined by RVSS and the Department of Environmental Quality. Sewers which do not meet these standards and have not been specifically accepted by RVSS are not considered to be public sewers. The maintenance of these sewers is the responsibility of the property owners.

- 3) **Construction.** The initial construction of the service line is the responsibility of the property owner. Construction must be done in accordance with RVSS standards. The property owner must obtain a permit for the lateral construction and pay all related fees prior to the start of construction. New sewer lines must be inspected by RVSS or an agent acting on behalf of RVSS.
  - 4) **Routine Maintenance.** The property owner shall be responsible for all maintenance of the service line. This includes preventing prohibited discharges and keeping the pipe free of obstructions.
  - 5) **Major Rehabilitation.** As resources allow, RVSS will repair or replace service lines located within a public right-of-way that are broken or deteriorated to the point that they can no longer function properly. It is the responsibility of the property owner to determine that the pipe is damaged and that the damage is within the right-of-way. When it is determined that such damage was not caused by the private service, RVSS will reimburse the owner for the reasonable cost of having a plumber locate the damaged pipe.
    - a) If RVSS undertakes a repair at the request of a property owner and determines that there is no pipe damage, the cost of the repair work shall be charged to the property owner.
    - b) The property owner shall be responsible for repair of service lines that are located outside of the right-of-way.
  - 6) **Illicit Connections.** RVSS will conduct investigations as needed to identify and locate Stormwater and other illicit connections. When such connections are identified, the property owner will be notified and will be given 30 days to remove the connection. If the connection is not removed in the specified time period, RVSS may require compliance as allowed by law, including RVSS completing the required work, and charge the property owner for the expenses and impose such penalties as are allowed by ordinance.
  - 7) **Shared Service Lines.** Shared service lines (defined as laterals serving more than one lot, parcel, or tax lot) are prohibited in new construction. It is the responsibility of the owners connected to the services to maintain these lines and replace them as needed.
  - 8) **Main Line Rehabilitation.** In conjunction with a main line rehabilitation project, RVSS may choose to reconstruct service lines within the public right-of-way. This will be done at no cost to the property owner. The property owner will be responsible for the work if it is extended onto private property, or RVSS will perform the work and bill the owner.
  - 9) **Assumption of Maintenance Responsibility.** RVSS may, in its sole discretion, assume responsibility of private sewers.
  - 10) **Relinquishment of Maintenance Responsibility.** RVSS may relinquish responsibility for sewers which are constructed on private property and serve only one tax lot. Prior to relinquishing this responsibility RVSS will flush and complete a television inspection of the pipe. The property owner will be notified that he/she will assume responsibility for the sewer 90 days in advance. The property owner will be provided with copies of the latest television inspection reports upon request. Upon relinquishment the property owner will be responsible for maintenance of the pipe.
  - 11) **Lower Elevations..** When any plumbing inlet or any finished floor is below the elevation of the upstream manhole, the owner assumes all responsibility for sewage backups.
- 6.20.020 Financial assistance for main line replacement.**
- RVSS may enter into an agreement with a property owner to finance the construction or reconstruction of sewer mains and laterals, when the Board of Directors finds that it is in the interest of the public and in the interest of RVSS. Such agreement will include the following:
- 1) The legal description of the real property to



be served by such construction.

- 2) That the resident or property owner responsible for connection to the public sewer system shall
  - a) Contract with an independent contractor for said construction subject to the rules, regulations and ordinances of the authority; or
  - b) At RVSS's sole option, grant the authority an easement and license to construct, or cause to be constructed, a sewer service line on said property at its costs, which costs shall include engineering, supervision, inspection, administration, and actual construction costs.
- 3) The resident or property owner shall consent to and undertake a repayment of all or part of said costs incurred by RVSS, together with reasonable interest, by monthly installments which shall be added to and become a part of the monthly sewer service charge to such property.
- 4) The resident or property owner shall be responsible for maintenance of the sewer service line following construction.
- 5) Upon default or a change of use or ownership of the property served by said sewer service line, the unpaid balance of said costs shall be declared to be fully due and payable and shall be added to and become a part of the sewer service charge made for said property at the next monthly billing.
- 6) Collection of the sewer service charges which include the cost of said construction, with interest, whether or not accelerated as herein provided, shall be subject to collection as provided in ORS 454.225.
- 7) Upon payment in full of said costs, with interest, the authority shall abandon and release all easements and licenses relating to said sewer service line that it may have acquired for the construction thereof.
- 8) All costs related to the construction of sewer

service lines and modification of building drains, when authorized by the Board pursuant to this chapter, shall be paid from the account within the General Fund 01 of the authority and all sewer service charges allocated to meet the costs of such construction, with interest, shall be paid into said account.

- 9) In order to encourage individual property owners, RVSS shall offer the following to owners of property who replace their existing service line; provided, that there are no new plumbing fixtures and no new main line connections:
    - a) Pay the necessary service line permit;
    - b) Pay one-third of the total cost of replacing the line from the building to the main; and
    - c) Provide financing at the same rate and provisions as described in RVSSC 6.25.120(2) for a period not to exceed five years; provided, that the property owner signs necessary papers to allow a lien on the property for the remaining costs, and the line is replaced, from the main, all of the way up to the building.
- [Res. 05-14, 2005; Res. 03-28, 2003.]

#### **6.20.030 Sewer back-ups.**

- 1) As resources allow, RVSS will clean and inspect all of its sanitary sewer lines and pump stations. When such inspection indicates that lines must be repaired or replaced, RVSS will take care of such lines, again as resources allow.
- 2) When it is learned that a back-up occurred, RVSS will respond as follows:
  - a) Notify the Department of Environmental Quality as required;
  - b) Fix the cause of the problem if it is in the sewer main or in a service lateral up to a private property line.

## **Chapter 6.25 Sanitary Sewer Collection System**

### Sections:

#### 6.25.010 Definitions.

#### 6.25.020 Requests for sanitary sewer service.

6.25.030 Repealed.  
6.25.040 Collection system reimbursement fee.  
6.25.050 Reimbursement agreements.  
6.25.060 LID assessments.  
6.25.070 CSDC reimbursement.  
6.25.080 Other costs.  
6.25.090 Deferral of fees and charges for certain properties.  
6.25.100 Collection of deferred fees and charges.  
6.25.110 Deferment of payment of assessments.  
6.25.120 Financing.  
6.25.130 Reasonable conditions.  
6.25.140 Alternate procedures.  
6.25.150 Related ordinances.

Code reviser's note: Ord. 98-10 has been revised by Ords. 00-03, 01-01 and 03-01.

#### **6.25.010 Definitions.**

- 1) "Board" means the Board of Directors of RVSS.
- 2) "Collection system" means the sanitary sewer system that conveys wastewater from service connections to the main interceptors. Collection system facilities include sewer mains, lift stations, and manholes. The Upper and Lower Bear Creek interceptors and the White City trunk main are not considered part of the collection system.
- 3) "Collection system development charge (CSDC)" means a reimbursement fee related to the existing collection system and/or an improvement fee relating to future collection system needs.
- 4) "Direct access to sewer" means that a property is considered to have direct access to sewer when there is a main line adjacent to or in close proximity to the property such that sewer service can be provided without the extension of main line.
- 5) "Equivalent residential units (ERUs)" means a unit of sewer usage equivalent to a single-family residential dwelling unit. For the purposes of this chapter one ERU is equivalent to 350 gallons per day of actual or estimated wastewater flow. These are also known as equivalent dwelling units or EDUs.
- 6) Front-Foot Fee. The front-foot fee is abolished as of spring, 2006.
- 7) "Improvement fee" means a fee for costs associated with capital improvements to be constructed.
- 8) "Local improvement district (LID)" means an entity established for financing purposes consisting of neighboring properties jointly seeking sanitary sewer service. Property owners within an LID are responsible for paying assessments to cover the cost of constructing the project.
- 9) "Local improvement district assessment" means the costs of local improvements required to extend sewer service to an LID, divided by the total number of ERUs existing or anticipated within the LID at the time it is formed. LID assessments provide the mechanism for allocating the cost of providing sewer service to the LID.
- 10) "Local improvements" means construction projects that are required to provide benefits only to an individual property, development, or local improvement district (LID) but are not designed to provide service beyond the project area. Local improvement costs are generally the responsibility of individual property owners, developers, or LIDs and include the cost of construction to the development of the smallest allowable sized pipe.
- 11) "Manager" means the manager of the RVSS.
- 12) "Regional interceptor development charge" means a fee designed to cover construction costs of the regional interceptor system.
- 13) "Regional system development charge" means a fee designed to cover construction costs of the wastewater treatment plant.
- 14) "Reimbursement agreement" means an agreement between RVSS and an LID, developer, or property owner providing for

the potential reimbursement of new local improvement or system costs incurred to extend sewer service. Reimbursement agreements are limited to five years and contain specific provisions as described herein.

- 15) "Reimbursement assessment" means the fee collected from a property as defined in a reimbursement agreement.
- 16) "Reimbursement fee" means a fee for costs associated with capital improvements already constructed or under construction as defined by ORS 223.299(3).
- 17) "RVSS" means the Rogue Valley Sewer Services.
- 18) "Septic tank effluent gravity (STEG) system" means customer sewage disposal system that allows effluent to flow by gravity from septic tanks into the collection system.
- 19) "Septic tank effluent pump (STEP) systems" means sewage disposal systems that pump effluent from septic tanks into the collection system.
- 20) "Special assessment bonds" means bonds issued on behalf of LIDs to finance local improvement costs, CSDCs, SDCs, and other costs associated with constructing sewer facilities and extending sewer lines to provide sewer service to an LID. RVSS may use alternate methods of financing as well.
- 21) "System development charge" means a reimbursement fee, improvement fee, or combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit or connection to a capital improvement. "System development charge" does not include a fee reflecting the average cost of inspecting and installing connections to the collection system, a fee assessed or collected as part of an LID, a charge in lieu of an LID assessment, or the cost of complying with requirements or conditions imposed by a land use decision.

- 22) "System improvements" means capital facilities that provide general system-wide benefits to customers of RVSS. System improvements of the collection system include sewer mains, manholes, and lift stations. System improvements are distinguished from local improvements in that they are designed to provide service beyond the initial project area.

[Ord. 06-05 §§ 2, 3, 4, 2006; Ord. 06-04, 2006; Ord. 06-02 § 6, 2006; Ord. 98-10 § 1, 1998.]

#### **6.25.020 Requests for sanitary sewer service.**

Property owners seeking sanitary sewer service can be grouped into one or more of the following classifications:

- 1) Local Improvement Districts. An LID represents a group of properties that jointly seek sanitary sewer service and, in the opinion of RVSS, would be most efficiently served by extending service to all properties within the LID at the same time. The LID procedures in Chapter 6.05 RVSSC, as amended, must be followed for special assessment bond financing.

Each property within the LID is assigned a proportionate share of the project construction costs based on the number of anticipated ERUs at the time the LID is formed. Other normal fees, such as the CSDC, regional SDC, and IDC charges must also be paid.

- 2) Large Lot Private Development. Large private development projects generally involve a single developer working with a private engineer and contractor to design and construct required local improvements to RVSS's specifications. Constructed facilities, as well as necessary easements, are dedicated to RVSS. SDCs are due and payable as provided in Section 2.20.080(7).
- 3) Individual Requests. At the discretion of the manager, individual lots may be served by a longer service lateral in lieu of main line extension, provided that the owner(s) execute an irrevocable waiver of remonstrance against a future LID. Property owners are

responsible for the full cost of improvements needed to provide service, as well as the CSDC and other applicable SDCs and fees. If the property may be served by a future sewer project, the manager may allow temporary service to the property. In such cases, the owner must sign a temporary service agreement supporting any future sewer construction and waiving remonstrance against the same, thereby agreeing to pay their fair share of the future sewer construction. The temporary service agreement will be recorded and will be binding upon all successors in interest to the owners.

[Ord. 06-05 § 4, 2006; Ord. 06-04, 2006; Ord. 06-02 § 7, 2006; Ord. 98-10 § 2, 1998.]

#### **6.25.030 Front-foot charge.**

*Repealed by Ord. 06-02.* [Ord. 98-10 § 3, 1998.]

#### **6.25.040 Collection system reimbursement fee.**

All new development or new connections to RVSS's sewer collection system, or increased development or usage by existing customers, must bear an equitable share of the cost associated with the existing sanitary sewer collection system. The CSDC shall be calculated using a system buy-in methodology that is based on the estimated replacement cost of the collection system, less a depreciation adjustment that reflects the age and estimate useful life of the facilities. CSDCs are charged on an ERU basis. The methodology for calculating the CSDC is described in detail in the Sanitary Sewer System Development Charge Methodology report, prepared by Shaun Pigott Associates, Donovan Enterprises, dated February 24, 2004. The amount of the fee shall be adopted and periodically updated by resolution of RVSS.

An agreement between RVSS and the city of Medford dated September 23, 1985, exempts land owned by the city on that date that is located within the county and may connect to the North Medford trunk from paying the CSDC. All other properties served by RVSS must pay this fee. (See Resolution No. 98-25 or current rate resolution for Eagle Point and Central Point areas.)

[Ord. 06-05 §§ 4, 5, 2006; Ord. 98-10 § 4, 1998.]

#### **6.25.050 Reimbursement District.**

- 1) RVSS may create a reimbursement district when a developer, constructs a sewer main that directly benefits property not owned or controlled by the developer. For the purpose of reimbursement districts, "developer" means any private or public entity that initiates the construction of a sewer extension. For gravity sewer construction, "direct benefit" means that the benefited property can connect to the new sewer main without further mainline construction. For pump stations, "direct benefit" means the area upstream from the pump station that could be served by the station.
- 2) Application: A developer, owner, or public entity wishing to create a reimbursement district shall submit an application to the manager. The application shall include the following items:
  - a) Contact information for the entity financing the construction of the sewer.
  - b) A detailed cost estimate of the sewer construction.
  - c) A map identifying the owners of the properties that would benefit from the sewer construction.
- 3) Manager's Report: The manager shall prepare a report identifying the location of the project, estimated costs, and proposed assessments against each property.
- 4) Public Hearing Notification: RVSS shall schedule a public hearing to receive input on the proposed project. RVSS shall notify all property owners within the proposed reimbursement district about the hearing at least 14 days, but not more than 30 days, before the scheduled hearing. Notice shall be made by regular mail or by personal service. If notification is made by mail, notice shall be deemed made on the date the letter of notification is posted. Failure of any owner to be so notified shall not invalidate or otherwise affect any Reimbursement District Ordinance or any Board decision to approve or not approve the same.

- 5) **Public Hearing:** A public hearing shall be held in which all parties and the general public shall be given the opportunity to express their views pertaining to the proposed Reimbursement District.
- 6) **Reimbursement District Ordinance:** After the close of the public hearing the Board shall determine if the proposed Reimbursement District meets the following criteria:
  - a) The estimated costs are reasonable based on current construction costs.
  - b) The properties included in the proposed Reimbursement District will benefit from the sewer construction.
  - c) The proposed method of assessment and allocation of costs is reasonable.

If the proposed Reimbursement District meets these criteria, the Board shall adopt an ordinance establishing the Reimbursement District. The ordinance will establish the boundaries of the Reimbursement District, identify the formula used for calculating the assessments and cost allocations, and give an estimated cost for each benefitted property.

- 7) **Reimbursement District Final Ordinance:** After the construction has been complete, the developer/owner/public entity shall submit a summary of the final costs along with supporting documentation to the manager. The cost summary must be submitted within 90 days after final acceptance of the project (not including the warranty period). If costs are not submitted within this time frame the Reimbursement District shall immediately expire without further action.

The manager shall review the costs and prepare a report showing the final cost allocation to each benefitted property, based on the actual costs.

The manager shall schedule a second hearing in accordance with parts 4 and 5 of this section. At the conclusion of the hearing, if the Board determines that the project was completed in compliance with this section, the Board will adopt a final ordinance

identifying the final cost allocation for each benefitted property within the Reimbursement District. The final cost allocation for any property shall not be greater than the estimated cost established in part 6 of this section.

- 8) **Reimbursement District Agreement:** The Reimbursement District Final Ordinance shall instruct the manager to enter into an agreement with the developer. The agreement will identify the benefitted properties and the cost allocated to each of these properties, as well as the procedure for collecting the assessments.
- 9) **Notice of Decision:** RVSS shall notify all affected property owners after the Final Ordinance has been adopted.
- 10) **Imposition of Reimbursement Requirement:** Properties within the Reimbursement District shall be required to pay the reimbursement assessment prior to obtaining a permit to connect to the sewer.
- 11) **Calculation of Reimbursement**
  - a) The reimbursement for each residential property shall be based on dwelling units and the reimbursement for non-residential property shall be based on acreage and frontage.

The reimbursement required from each property shall be calculated by first determining the portion of the entire project which shall be charged to the residential properties and the portion of the project to be charged to the non-residential properties. The formula for this is:

- i) Multiply 50% of the total approved cost times the acreage of all of the residential property, divided by the total acreage in the Reimbursement District.
- ii) Multiply 50% of the total approved cost times the frontage of all of the residential property along the improvement divided by the entire frontage of all the properties within

- the district.
- iii) The sum of a. and b. is the portion of the total cost of the project that is allocated to the residential property.
- iv) The remainder is the portion of the total cost of the project that is allocated to all the non-residential property.

For reimbursement districts that do not involve frontage (i.e. pump stations) the entire approved cost will be allocated based on acreage.

- b) The reimbursement required of each residentially zoned property shall be calculated by dividing the total residential cost allocation in c. above by 64% of the maximum density of the area of all the residential lots within the Reimbursement District. This calculation determines the dwelling unit cost. The reimbursement shall be based on the number of dwelling units requesting connection.
  - c) The reimbursement required from each non-residentially zoned property in the Reimbursement District shall be calculated as follows:
    - i) Multiply 50% of the total approved non-residential cost times the acreage of a single parcel divided by the total non-residential acreage in the Reimbursement District
    - ii) Multiply 50% of the total approved non-residential cost times the frontage of a single parcel divided by the total non-residential frontage along the improvement of the entire Reimbursement District.
    - iii) The sum of a. and b. is the assessment for the particular parcel.
- 12) Inflation Index Applied to Reimbursements: Reimbursements shall be adjusted on July 1 of each year based on the U.S. National CPIU published by the Bureau of Labor Statistics. The amount of the adjustment shall be equal to the previous calendar year's annual average CPIU.

- 13) Collection of Reimbursement: The

reimbursement must be paid prior to issuance of a development or connection permit.

- 14) Disposition of Reimbursement District Funds: RVSS shall deliver reimbursement funds to the developer within 90 days of receipt. RVSS shall collect an amount for administrative costs equal to 5% of the reimbursement. This cost shall be deducted from the reimbursement provided to the developer.

The developer is responsible for ensuring that RVSS has adequate contact information. If the developer cannot be located, any reimbursement collected will be forfeited.

- 15) Expiration: Reimbursement Districts shall expire 20 years after the date of the Final Ordinance. No reimbursement fees will be collected after expiration.

#### **6.25.060 LID assessments.**

LID assessments will be calculated by dividing the total cost of the project, less connection costs, SDCs and other fees by the number of ERUs within the project. Each parcel will then be assessed based on the number of ERUs on the parcel. Vacant lots shall be assessed based on the number of ERUs allowed under the current zoning.

If the construction low bid in a nonmandated LID project is 10 percent or more greater than the total cost estimate given to property owners during the district formation, all owners will be sent a certified letter explaining the increase. The project will continue unless a majority of all owners respond in writing within 20 days of the mailing of the letter that they do not support the project.

Additional connections to the main line constructed for the LID, whether from property not included in the original LID or from changes in use of property included in the original LID, will be assessed at the same per ERU rate as the original LID.

Properties which obtain sewer service by extending the main line will be assessed a

prorated assessment calculated by subtracting the length of new main line constructed from 150 feet and dividing the result by 150 feet. The quotient of this calculation multiplied by the standard ERU rate will be the rate applied to these connections.

LID assessments will be in effect for 20 years after the completion of the project. No LID assessment will be collected for new connections after the 20 years have expired. All current accounts on the LID will receive a pro rata share of the money received from this assessment less 10 percent, which will be retained by RVSS to cover administrative costs.

[Ord. 11-02, 2011; Ord. 06-04, 2006; Ord. 06-02 § 5, 2006; Ord. 98-10 § 6, 1998.]

#### **6.25.070 CSDC reimbursement.**

RVSS may require a developer, LID, or private property owner to construct improvements in excess of what would be required to merely serve the current project, i.e., system improvements. This would normally be done where there is significant potential for development upstream from the current project. The excess improvements may include larger diameter pipe, larger capacity pump stations, alternate routing, or a combination of the three.

RVSS may reimburse the developer/owner for the difference in construction cost between the required improvements and the improvements that would have been required to serve only the current project. The developer/owner shall provide RVSS with sufficient documentation so that both parties can agree upon a fixed amount for RVSS to contribute prior to starting construction. The manager shall review the cost of construction to ensure accuracy and may make appropriate adjustments to ensure that the reimbursement is fair to both RVSS and the developer/owner. The reimbursement will be made in the form of a credit against the CSDC owed on the parcels being developed. This reimbursement does not preclude the owner/developer from entering into a separate reimbursement agreement as described in RVSSC 6.25.050. In order to compute reimbursement for upsizing, the construction cost will be based on the actual cost of pipe at the time

of construction, the actual cost of the backfill material, and the current prevailing wage rate for laborers and material movers in Region 8 (Jackson and Josephine County). These figures will be entered into the attached formula to determine the amount of reimbursement due. No extra payment will be made for paving, engineering, surveying, or other related expenses. Special consideration will be made when RVSS requires sewers to be installed at depths greater than 10 feet, where there is rock excavation and RVSS requires a pipe size increase of 50 percent or more; or where the increased pipe size also requires increased manhole size. In these instances, RVSS staff will negotiate a price to cover the costs associated with the extra work. See Appendix II of the ordinance codified in this chapter for a formula to calculate the amount.

If the amount of the reimbursement exceeds the CSDC owed, RVSS may enter into an agreement whereby the developer/owner is reimbursed from the CSDC collected from future connections. Such a reimbursement agreement shall be structured similarly to the agreement described in RVSSC 6.25.050.

RVSS may, at its discretion, forego any reimbursement agreements and directly reimburse the owner/developer with money from the CSDC fund.

[Ord. 06-05 § 4, 2006; Ord. 06-04, 2006; Ord. 06-02 § 8, 2006; Ord. 98-10 § 7, 1998.]

#### **6.25.080 Other costs.**

In addition to paying applicable LID assessments, reimbursement assessments, and CSDCs, it is the property owner's responsibility to pay for the following items:

- 1) Construction of the Service Lateral to the Structure. Where a service lateral has already been partly constructed, the new connection will be an extension of the existing lateral. Where no service lateral has been constructed, the new connection will be at the sewer main and will require a tap and a tap fee paid to RVSS. All construction remains the responsibility of the property owner.
- 2) Permit and Inspection Fee. This fee covers the administrative cost for issuance of the

permit and inspection of the lateral by RVSS inspectors.

- 3) Abandoning Septic Tank. This must be done in accordance with the Oregon Department of Environmental Quality regulations.
- 4) Paying regular sewer service charge when the structure is connected to the sewer system.
- 5) Paying applicable Regional Treatment Plant System Development Charge and Collection SDCs. The SDCs may be included as part of the assessment in LID projects to allow for financing if such assessment is adequately secured by the value of the properties served. [Ord. 06-05 § 4, 2006; Ord. 06-04, 2006; Ord. 06-02 § 9, 2006; Ord. 9810 § 8, 1998.]

#### **6.25.090 Deferral of fees and charges for certain properties.**

RVSS may defer collection of the CSDC for certain properties in order to reduce pressure on properties to develop or to support limited use of certain types of property. The following deferrals are explicitly allowed by this chapter:

- 1) Property used for recreational purposes predominantly by persons under 14 years of age will have the CSDC deferred by 50 percent.
- 2) The Board may, at its sound discretion, defer any or all of the CSDC on any parcel when the Board determines that it is in the best interest of RVSS to allow such deferral. [Ord. 06-05 § 4, 2006; Ord. 06-04, 2006; Ord. 06-02 § 10, 2006; Ord. 98-10 § 9, 1998.]

#### **6.25.100 Collection of deferred fees and charges.**

If there is additional development, a change of use, or a city annexation/withdrawal on land that has received a deferral of fees and charges, the deferred amount would become due.

If the deferred land is within an LID, and the amount of the deferral was added to the assessments borne by the remainder of the property within the LID, and the deferral terminates within five years of the completion of the project, RVSS shall reimburse a pro rata share

of the deferred fees, less 10 percent which is retained by RVSS for administrative purposes, to each of the current owners of the property originally assessed as part of the LID. [Ord. 98-10 § 10, 1998.]

#### **6.25.110 Deferment of payment of assessments.**

Any property owner unable to pay CSDCs or other charges due RVSS should contact RVSS to apply for deferral of payment.

- 1) Those qualifying for the state of Oregon senior deferral program may apply to this program on forms available at RVSS.
- 2) Others may apply directly to RVSS. The Board of Directors may, at its sound discretion, upon application of the owner of the benefited property, defer the collection of all or a part of the amount levied against said property when it appears to the Board that the cost of the improvement to the property benefited is disproportionate to the value of the improvement to the property, or is not within the capability of the owner to pay.
- 3) In determining the appropriateness of the charges, the Board shall take into consideration the following factors:
  - a) The actual use made of the property at the time application for deferment of payment is made.
  - b) The highest and best use to which the benefited property is suited.
  - c) The relative financial capability of the owner of the benefited property to pay the sewer charges levied by RVSS upon such property. The owner, on a form prescribed by RVSS, shall submit financial information to the Board. The Board also has the right to require credit information.
- 4) Sums deferred under this section shall be payable in full with interest upon either a change of use of the property to create or increase the need for sewage collection service or a transfer of the benefited property by voluntary conveyance or by operation of law.



- 5) The Board may, at its sound discretion, continue in part the deferment herein provided in the event of a transfer or conveyance of less than the entire parcel benefited in the portion retained and to the extent hardship continues.
- 6) If the Board approves a deferral of reimbursement assessments, RVSS shall pay the reimbursement amount stipulated in the agreement to the original developer out of the CSDC fund.
- 7) If ownership of the entire property is changed and the financial hardship terminated, or the county or other governmental entity with superior lien rights initiates foreclosure process, all accrued interest shall be due and payable; however, the new owners may elect to pay the principal on the deferred charges by installments over a 10-year period.
- 8) Deferred assessments will be reviewed every five years to determine if the financial hardship still exists. Property owners may be required to submit a new deferment application at this time. If the Board determines that the property owners' position has improved to the point that they are able to pay, the deferment will be revoked and the assessment due. Affected property owners will be eligible for financing as described in RVSSC 6.25.120.

[Ord. 12-02, 2012; Ord. 06-05 §§ 4, 6, 7, 2006; Ord. 98-10 § 11, 1998.]

#### **6.25.120 Financing.**

- 1) Financing of LID Assessments. Financing for local improvement district assessments is available through RVSS for a period not to exceed 20 years. If bonds are sold to finance the improvements, the interest rate before the bond sale shall be set at the prime interest rate on the date of project completion plus two percent.

If assessment bonds are sold, the rate will be adjusted to the net effective rate on the bond issue plus 1.5 percent per annum, i.e., net interest cost 5.23 percent, assessment changed to 6.73 percent.

If bonds are not sold to finance the project, the interest rate will be set at the prime interest rate plus two percent. This rate will remain fixed for the life of the loan.

- 2) Financing of Assessments Other Than LID Assessments. Financing of assessments and other fees may be available through RVSS for a period of time not to exceed 10 years. The interest rate shall be the prime interest rate on the date of financing application plus two percent. This rate will remain fixed for the life of the loan.

This financing is allowed only if RVSS determines there are sufficient resources available and applicant meets credit requirements. An agreement, consent, waiver, and lien form must be signed and recorded.

See also RVSSC 2.05.030, which under certain conditions allows a lien to be in second position, with higher interest rates.

- 3) Financing of Assessments Other Than LID Assessments. Subdivisions, Commercial or Multi-Unit Developments of Three or More Units. Financing of assessments and other fees may be available through RVSS for a period of time not to exceed 10 years. The interest rate shall be equal to the prime interest rate plus 2% at the date of application as reported by the Medford Mail Tribune or USA Today. The interest rate shall remain constant for the life of the loan.

The financing is allowed only if RVSS determines there are sufficient resources available and applicant meets credit requirements. An agreement must be signed, approved by the Board and recorded. Permits or other approvals shall not be given until the Board approves the financing.

[Ord. 11-03, 2011; Ord. 98-10 § 12, 1998.]

#### **6.25.130 Reasonable conditions.**

In approving a sewer connection, RVSS, through its manager or designated staff, may impose conditions deemed to be reasonable and necessary to ensure compliance with standards of

the ordinances of RVSS as well as State Plumbing Codes and to otherwise protect the health, safety and general welfare of the surrounding area and community as a whole. These conditions may include, but are not limited to, the following:

- 1) Making improvements reasonably related to the connection such as improving existing lines or manholes;
- 2) Requiring the installation or appropriate public facilities and services and dedication of land to accommodate public facilities when needed;
- 3) Requiring the installation or modification of sewer lines, manholes, or other public facilities;
- 4) Providing access so that ongoing and emergency maintenance may be performed without damage to the property;
- 5) Any other conditions which are reasonable in scope and which have a reasonable nexus to the connection.

[Ord. 98-10 § 13, 1998.]

#### **6.25.140 Alternate procedures.**

Notwithstanding this chapter, the Board may use any other just and reasonable methods of determining or apportioning the extent of benefit derived, charges levied, deferrals, or financing authorized by law if, in the sole discretion of the Board, such methods are in the best interest of RVSS.

[Ord. 98-10 § 14, 1998.]

#### **6.25.150 Related ordinances.**

Related ordinances and resolutions of RVSS include:

- 1) Chapter 6.05 RVSSC, Local Improvement District Procedures;
- 2) Ordinance 91-7, System Development

Charges;

- 3) Chapter 9.10 RVSSC, Permits and Service Fees;
- 4) Resolution 91-15, regional water quality control plant SDC;
- 5) Chapter 9.05 RVSSC, Service Classification Schedules;
- 6) Resolution 95-10, financing of service lines;
- 7) Ordinance 96-2, Eagle Point SDS;
- 8) Ordinance 96-8, sewer service to the city of Central Point;
- 9) Resolution 97-4, Interceptor Development Charge;
- 10) Resolution 98-25, collection system reimbursement fee;
- 11) Resolution 91-14, collection system reimbursement fees.

[Ord. 98-10 § 15, 1998.]

## **Chapter 6.30 Entry to Private Property**

### Sections

#### 6.30.010 Entry to Private Property

RVSS may enter upon private property to take corrective action to stop an active sewer overflow that poses an immediate threat to a public health or welfare. Acceptance of RVSS service constitutes consent to such entry. RVSS may assess the property owner for its actual costs incurred in correcting the overflow. Assessment of costs shall be in addition to any other fines or penalties that may be applied under RVSSC.

# **TITLE 7-INDUSTRIAL WASTE PRETREATMENT**

## CHAPTERS:

7.05 GENERAL PROVISIONS

7.10 PROHIBITIONS AND STANDARDS

7.15 SPILL PREVENTION/SLUG CONTROL PLAN PROVISIONS

7.20 PERMITS

7.25 PRETREATMENT, FLOW MEASUREMENT, AND SAMPLING FACILITIES

7.30 MONITORING, INSPECTION, AND REPORTING

7.35 VIOLATIONS

7.40 INDUSTRIAL WASTEWATER SEWER SERVICE CHARGES

PRIOR LEGISLATION: ORDS. 83-1, 92-3 AND 03-02.

## Chapter 7.05 General Provisions

### Sections:

7.05.010 General provisions.

7.05.020 Administration.

7.05.030 Connection approval required.

7.05.040 Sanitary sewer/storm drain.

7.05.050 Definitions of terms commonly used.

7.05.060 Abbreviations.

### **7.05.010 General provisions.**

- 1) This title sets forth uniform requirements for users with discharges of pollutants from nondomestic sources into the wastewater treatment system and enables compliance with all applicable state and federal laws, including the Clean Water Act, the General Pretreatment Regulations (40 CFR Part 403), and Oregon Administrative Rules (OAR) Chapter 340. The objectives of this title are:
  - a) To prevent the introduction of pollutants into the wastewater treatment system that will interfere with or damage the operation of the treatment system;
  - b) To prevent the introduction of pollutants into the wastewater treatment system which will pass through the treatment system, inadequately treated, into the Rogue River or its tributaries or the atmosphere or otherwise be incompatible with the treatment system;
  - c) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level that allows its beneficial use;
  - d) To protect both municipal personnel who may come into contact with sewage, sludge and effluent in the course of their employment, as well as protecting the general public;
  - e) To preserve the hydraulic capacity of the wastewater treatment system;
  - f) To improve the opportunity to recycle and reclaim wastewater and sludge from the system;
  - g) To provide for equitable distribution of the cost of operation, maintenance and improvements of the wastewater treatment system, and to provide for the efficient use of the wastewater treatment system for the benefit of the user;

- h) To ensure the regional water reclamation facility complies with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws that the wastewater treatment system is subject to.

- 2) This title provides for the regulation of all users who discharge nondomestic waste into the wastewater treatment system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for all users, authorizes monitoring and enforcement activities, requires user reporting, and provides for the setting of fees for the equitable distribution of costs.
- 3) The WRD Manager shall initiate contact with the jurisdictional participant regarding any restrictive action within their jurisdiction. In an emergency, contact shall be initiated with the jurisdictional participant at the earliest practical time.

[Ord. 08-02 § 11.100, 2008.]

### **7.05.020 Administration.**

Except as otherwise provided herein, the WRD Manager shall administer, implement, and enforce the provisions of this title. Any powers granted to or duties imposed upon the WRD Manager may be delegated by the Manager to a duly authorized city employee. This title is gender neutral and the masculine gender shall include the feminine and vice versa. "Shall" is mandatory; "may" is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

[Ord. 08-02 § 11.101, 2008.]

### **7.05.030 Connection approval required.**

No industrial waste connection shall be made to the sanitary sewer system without prior approval of the manager/WRD Manager. All conditions allowing industrial waste connection to the sewer system defined in the industrial waste discharge permit shall be satisfied prior to system connection. Jurisdictional participants shall assure that the industrial user completes the application for sewer use permit form and

forwards same to the WRD Manager and Rogue Valley Sewer Services.  
[Ord. 08-02 § 11.102, 2008.]

#### **7.05.040 Sanitary sewer/storm drain.**

It is unlawful to discharge, permit the discharge, or permit or allow a connection that will result in the discharge of sewage or industrial waste into a storm drain.  
[Ord. 08-02 § 11.103, 2008.]

#### **7.05.050 Definitions of terms commonly used.**

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this title, shall have the meanings hereinafter set forth in this section, whether appearing in capital or lower case form.

- 1) "Act" or "the Act" means the federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
- 2) "Applicable pretreatment standards" means the most stringent regulation for any specified pollutant regulated by degree or amount by this title, local limits, state of Oregon pretreatment standards, or national categorical pretreatment standards.
- 3) "Approval authority" means the Oregon Department of Environmental Quality (DEQ).
- 4) Authorized Representative of the Industrial User. If the industrial user is a corporation, "authorized representative" shall mean:
  - a) The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major

capital investment recommendations; initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit (or general permit (optional)) requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- c) If the industrial user is a partnership, association, or sole proprietorship, an "authorized representative" shall mean a general partner or the proprietor.
  - d) If the individual user is representing federal, state or local governments, or an agent thereof, an "authorized representative" shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.
  - e) The individuals described in subsections (4)(a) through (d) of this section may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the authorization is submitted to the WRD Manager.
- 5) "Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the bio-chemical oxidation of organic matter under standard laboratory procedure, five days at a temperature of 20 degrees centigrade, expressed as a concentration (milligrams per liter (mg/l)).

- 6) “Best management practices (BMP)” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in RVSSC 7.10.010(A) and (B) (40 CFR 403.5(a)(1) and (b)). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- 7) “Categorical pretreatment standard” or “categorical standard” means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of industrial users and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405 through 471, incorporated herein by reference.
- 8) “Categorical industrial user” means an industrial user subject to a categorical pretreatment standard or categorical standard.
- 9) “City” means the city of Medford.
- 10) “COD” means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- 11) “Control authority” means the city of Medford Regional Water Reclamation Facility.
- 12) “Combined sewer or system” means a conduit or system of conduits in which both sewage and Stormwater are transported.
- 13) “Commercial building” means all buildings or premises used for any purpose other than a dwelling unit, but not an industrial user.
- 14) Compatible Pollutant. The words “compatible pollutant” shall mean biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants that the treatment plant is designed to treat.
- 15) “Composite sample” means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on either an increment of flow or time.
- 16) “Cooling water” means the water discharged from any use such as air conditioning, cooling or refrigeration, to which the only pollutant added is heat.
- 17) “Daily maximum” means the maximum of any effluent samples for a pollutant collected during a calendar day.
- 18) “Daily maximum limit” means the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- 19) “Department of Environmental Quality” or “DEQ” means the Oregon Department of Environmental Quality or where appropriate the term may also be used as a designation for the Director of the Department or other duly authorized official of the Department.
- 20) “Direct discharge” means the discharge of treated or untreated wastewater directly to the waters of the state of Oregon.
- 21) “Discharge” means the discharge or the introduction of pollutants into the wastewater treatment system from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

- 22) “Environmental Protection Agency” or “U.S. EPA” means the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of said agency.
- 23) “Existing source” means any source of discharge that is not a new source.
- 24) “Extra strength industrial waste discharge” shall be defined as industrial, commercial, or hospital industrial wastes discharged into the sewer system containing a total of more than 60 pounds of biochemical oxygen demand or suspended solids in any one day and having an average strength in excess of 300 ppm of biochemical oxygen demand or suspended solids.
- 25) “Garbage” means solid wastes originating from the preparation, cooking and dispensing of foods, and from the handling, storage, and sale of produce.
- 26) “Grab sample” means a sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
- 27) “Holding tank waste” means any waste which has been stored in holding tanks, chemical toilets, campers, trailers, septic tanks, or vacuum-pump tank trucks.
- 28) “Indirect discharge” means the introduction of pollutants into a publicly owned treatment works from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.
- 29) “Industrial user” or “user” means a source of indirect discharge.
- 30) “Industrial waste” means any liquid, solid, or gaseous waste discharged into a sanitary sewer, which by characteristic, quantity, or constituent exceeds normal domestic levels. Includes any industrial or commercial discharge that meets the above-stated criteria.
- 31) “Industrial waste discharge permit” means a permit to discharge industrial wastes into the wastewater collection and treatment system issued under the authority of this title and which prescribes certain discharge requirements and limitations.
- 32) “Industrial waste pretreatment program” means the program approved by the Department of Environmental Quality regulated through the National Pollution Discharge Elimination System waste discharge permits, and administered by the regional water reclamation facility for the purpose of complying with federal, state, and local regulations governing industrial waste discharge to the wastewater treatment system.
- 33) “Interceptor” means a sanitary sewer, which receives the flow from a number of trunk, main, or lateral sewers and transports it to a treatment plant or other point of disposal. Generally, an interceptor collects the flow from a number of trunks, mains, or laterals that would otherwise discharge to a natural outlet.
- 34) “Instantaneous limit” means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.
- 35) “Interference” means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:
- a) Inhibits or disrupts the wastewater treatment system, its treatment processes or operations, or its sludge processes, use or disposal; and
  - b) Therefore is a cause of a violation of any requirements of the city’s NPDES permit (including an increase in the magnitude

- or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory provisions and regulations or permits issued hereunder (or more stringent federal, state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA)), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act.
- 36) “Jurisdictional participant” means the participant that has the legal jurisdiction within certain defined boundaries as now or hereafter constituted.
- 37) “Lateral” means a sanitary sewer that will receive the flow from service connections and discharge into a main, trunk, or interceptor.
- 38) “Leachate” means a solution or product obtained when a liquid percolates through a material and results in dissolving and transporting of soluble materials.
- 39) “Local limit” means a technically based pollutant limit specific to the ability of the treatment plant to treat the pollutant so it does not upset or inhibit the treatment process, pass through to the Rogue River, or limit or inhibit the beneficial use of sludge and treated effluent.
- 40) “Main” means a sanitary sewer which will receive the flow from one or more laterals and which will discharge into a trunk or interceptor.
- 41) “Manager” means the legal representative for the jurisdictional participant.
- 42) Manager/WRD Manager. This notation indicates joint action by the jurisdictional participant and the WRD Manager. Both will be cosignatories to the action. The manager is considered the legal representative for the jurisdictional participant. The WRD Manager is the responsible authority in administering the industrial waste pretreatment program.
- 43) “May” is permissive.
- 44) “Medical waste” means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- 45) “Monthly average” means the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- 46) “Monthly average limit” means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- 47) “National Pollutant Discharge Elimination System (NPDES) Permit” means a permit issued by the Oregon Department of Environmental Quality, which prescribes operating and effluent limitations relating to the treatment of sewage.
- 48) “National pretreatment standard” means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to Section 403.5 of the Act.



- 49) The term “new source” means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section; provided, that:
- a) The building, structure, facility or installation is constructed at a site at which no other source is located; or
  - b) The building, structure, facility or installation completely replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
  - d) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (49)(a) of this section but otherwise alters, replaces, or adds to existing process or production equipment.
  - e) Construction of a new source as defined under this subsection has commenced if the owner or operator has:
    - i) Begun or caused to begin as part of a continuous on-site construction program:
      - (1) Any placement, assembly, or installation of facilities or equipment; or
      - (2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
    - ii) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies, do not constitute a contractual obligation under this subsection.
- 50) “Participant” means a governmental entity that is party to the regional sewer agreement and subsequent amendments, between the Rogue Valley Sewer Services and city of Medford.
- 51) “Pass through” means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, are a cause of a violation of any requirement of the city’s NPDES permit (including an increase in the magnitude or duration of a violation).
- 52) “Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context. This definition includes all federal, state, or local governmental entities.

- 53) "pH" means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in moles per liter of solution.
- 54) "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewerage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- 55) "Pollution" means the manmade or man-induced alteration of chemical, physical, biological, and radiological integrity of water.
- 56) "Pretreatment" or "treatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the wastewater treatment system. The reduction or alteration may be obtained by physical, chemical, or biological process, or process changes by other means, except intentional dilution as a partial or complete substitute for adequate treatment.
- 57) "Pretreatment requirement" means any substantive or procedural requirement, related to pretreatment, other than categorical standards and prohibitive discharge standards, imposed on an industrial user.
- 58) "Pretreatment standards" or "standards" shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- 59) "Prohibited pollutant" means any pollutant contained in the discharge to the wastewater treatment system, which is prohibited in its entirety or regulated by degree or amount by this title.
- 60) "Prohibited discharge standards" or "prohibited discharges" means absolute prohibitions against the discharge of certain types or characteristics of wastewater as established by EPA, DEQ and/or the WRD Manager.
- 61) "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow and conditions normally prevailing in public sewers.
- 62) "Publicly owned treatment works" or "POTW" means a treatment works, as defined by Section 212 of the Act (33 U.S.C. Section 1292), which is owned by (the city). This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.
- 63) Regional Committee. The regional committee is made up of one representative of each participant that collects and discharges wastewater to the regional water reclamation facility. The primary function of this committee is to review and approve the schedule of charges for wastewater treatment, and to resolve appeals as provided in this title, conduct informational and fact-gathering hearings, both to and from users, staff and the technical advisory group, and such other duties as may be assigned under the terms of this title, the regional sewer agreement, and any subsequent amendments to that agreement.

- 64) “Regional Water Reclamation Facility (RWRF)” means that portion of the wastewater treatment system designed to provide treatment of sewage and industrial waste. The wastewater treatment plant and duly authorized representatives.
- 65) “Regional facilities” means the components of the wastewater treatment system used to intercept and treat domestic and industrial wastewater within the boundaries of the contributors to the regional water reclamation facility.
- 66) “Sanitary sewer” means a pipe or conduit designed or used to transport sewage and to which Stormwater, surface and ground waters are not admitted intentionally.
- 67) “Sewage” means human excrement and gray water (household showers, dishwashing operations, etc.).
- 68) “Sewer system” means all components of the wastewater treatment system used to collect and treat domestic and industrial wastewater within the boundaries of the contributors to the regional water reclamation facility.
- 69) “Sewer user” means every person using any part of the wastewater treatment system.
- 70) “Shall” is mandatory.
- 71) Significant Industrial User. Except as provided in subsection (71)(b) of this section, the term “significant industrial user” shall mean:
- a) Industrial users subject to categorical pretreatment standards; and
  - b) Any other industrial user that:
    - i) Discharges an average of 25,000 GPD or more of process wastewater;
    - ii) Contributes a process waste-stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
  - iii) Is designated as significant by the WRD Manager on the basis that the industrial user has a reasonable potential for causing pass through or interference.
  - iv) Upon a finding that an industrial user meeting the criteria in subsection (71)(a)(ii) of this section has no reasonable potential for adversely affecting the sewer system’s operation or for violating any pretreatment standard or requirement, the WRD Manager may in accordance with 40 CFR 403.8(f)(6) determine that such industrial user is not a significant industrial user.
- 72) “Slug load” or “slug discharge” means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in RVSSC 7.10.010. A slug discharge is any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW’s regulations, local limits or permit conditions.
- 73) “Standard methods” means the examination and analytical procedures set forth in Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.
- 74) “Storm drain” means a conduit designed or used exclusively to transport Stormwater.
- 75) “Stormwater” means any flow occurring during or following any form of natural precipitation and resulting thereof, including snowmelt.

- 76) “Suspended solids” or “total suspended solids (TSS)” means solids that either float on the surface or are in suspension in water, wastewater, or other liquids; and which are removable by laboratory filtering in accordance with procedures set forth in standard methods.
- 77) Technical Advisory Group. The technical advisory group is comprised of the managers and administrators, or other representatives, of the participants. The primary function of this committee is to make recommendations to the regional committee on the following matters:
- a) technical information, rates, system development charges, and other matters requested by the regional committee.
- 78) “Toxic pollutants” means one of the pollutants or combination of those pollutants listed as toxic in regulations promulgated by the Environmental Protection Agency under the provision of Section 307 (33 U.S.C. 1317) of the Act.
- 79) “Treatment plant” means that portion of the regional wastewater system designed to provide treatment of sewage and industrial waste.
- 80) “Treatment plant effluent” means any discharge of pollutants from the wastewater treatment plant into waters of the state. Includes reclaimed, reused, or recycled wastewater that has been treated.
- 81) “Upset” means an exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the discharge requirements set forth in this title or existing permit due to factors beyond the reasonable control of the discharger, and excluding noncompliance caused by operation error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- 82) “User” means any person who contributes or causes or allows the contribution of sewage or industrial wastewater into the wastewater treatment system, including persons who contribute such wastes from mobile sources.
- 83) “Wastewater” means the liquid and water carried industrial wastes, or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which is contributed to the wastewater treatment system.
- 84) “Wastewater treatment system” or “system” means the components of the sewer system used to intercept and treat domestic and industrial wastewater within the boundaries of the contributors to, and including, the treatment plant. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant.
- 85) “WRD Manager” means the city of Medford water reclamation division (WRD) superintendent or duly designated representative with authority to administer the industrial waste pre-treatment program and respond to the requirements [Ord. 08-02 § 11.105, 2008.] of regulatory agencies with respect to the National Pollutant Discharge Elimination System (NPDES) permit held by the regional water reclamation facility. [Ord. 08-02 § 11.104, 2008.]

#### **7.05.060 Abbreviations.**

The following abbreviations shall have the designated meanings:

BOD biochemical oxygen demand  
 BMP best management practice  
 BMR baseline monitoring report  
 CFR Code of Federal Regulations  
 COD chemical oxygen demand

CIU categorical industrial user  
 DEQ Oregon Department of Environmental  
 Quality  
 EPA U.S. Environmental Protection Agency  
 gpd gallons per day  
 IU industrial user  
 l liter  
 mg milligrams  
 mg/l milligrams per liter  
 NSCIU nonsignificant categorical industrial user  
 NPDES National Pollutant Discharge  
 Elimination System  
 OAR Oregon Administrative Rules  
 O&M operation and maintenance  
 POTW publicly owned treatment works  
 RCRA Resource Conservation and Recovery  
 Act  
 RWRF regional water reclamation facility  
 SIC standard industrial classification  
 SIU significant industrial user  
 SNC significant noncompliance  
 SWDA Solid Waste Disposal Act, 42 U.S.C.  
 6901, et seq.  
 U.S.C. United States Code  
 TSS total suspended solids  
 WRD water reclamation division

## Chapter 7.10 Prohibitions and Standards

### Sections:

7.10.010 Prohibitive discharge standards.

7.10.020 National categorical pretreatment standards.

7.10.030 State pretreatment standards.

7.10.040 Local limits.

7.10.050 Denial, termination, or limitation of discharge.

7.10.060 Best management practices.

7.10.070 Dilution prohibition.

7.10.080 Right to revision.

7.10.090 Tenant responsibility.

### **7.10.010 Prohibitive discharge standards.**

- 1) General Prohibitions. Except as hereinafter provided, no person shall discharge any wastewater containing pollutants in sufficient quantity (flow or concentration), either singly or by interaction with other pollutants, to pass through or interfere with the wastewater system; to injure or interfere with any

wastewater treatment process; to interfere with the use of or disposal of treatment plant sludge; to constitute a hazard to humans or animals; to create a toxic effect in the receiving waters of the sewer system; to exceed the limitation set forth in a national pretreatment standard; or to exceed a local limit established by the WRD Manager.

- 2) Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
  - a) Any pollutant which may, by itself or by interaction with other substances, create a fire or explosion hazard, or be injurious in any other way to the sewer system. Included in this prohibition are waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees centigrade using the test methods specified in 40 CFR
  - b) Any wastes, wastewaters or substances having a pH less than 5.0 or more than 12.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the sewer system.
  - c) Solid or viscous substances in amounts which will cause obstruction to the flow in a sewer system resulting in interference, such as, but not limited to, grease, garbage, solids with particles greater than one-quarter inch in any dimension.
  - d) Any pollutant, including oxygen demanding pollutants, released in a discharge at a flow rate and/or pollution concentration which will cause interference with the POTW.
  - e) Any wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the collection system greater than 190 degrees Fahrenheit, or which will cause the wastewater treatment plant influent to exceed 104 degrees Fahrenheit. The WRD Manager may require thermal loading reduction

from industrial users with the potential for thermal impact on the sanitary sewer system.

- f) Any pollutant that results in the presence of toxic gases, vapors or fumes within the sewer system in a quantity that may cause worker health and safety problems.
- g) Any waters or wastes containing sludges or screenings from tank bottom contents, industrial sump bottom contents, grease or oil trap wastes, plating or metal finishing wastes.
- h) Any noxious or malodorous liquids, gases, solids, or other wastewaters, which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for maintenance and repair.
- i) Any fat, oils or greases, including but not limited to petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- j) Any substance that may cause the treatment plant effluent or any other residues, sludges, or scum to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the system cause the regional water reclamation facility to be in noncompliance with sludge use or disposal regulations, or permits issued under Section 405 of the Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or other state requirements applicable to the sludge use and disposal practices being used by the regional water reclamation facility.
- k) Any wastewater containing any radioactive waste or isotopes except as specifically approved by the WRD Manager in compliance with applicable state or federal regulations.
- l) Materials which exert or cause:
  - i) Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or of

dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

- ii) Unusual chlorine demand or concentrations in such quantities as to constitute a significant load on the treatment plant, or that violate worker health and safety limits.
- m) Any trucked or hauled pollutants, including holding tank wastes, except at discharge points designated by the WRD Manager.
- n) Any medical wastes including but not limited to recognizable portions of the human or animal anatomy.
- o) Any wastes containing detergents, surface-active agents, or other substances that may cause excessive foaming in the wastewater treatment system.
- p) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, cooling water and unpolluted industrial wastewater.
- q) Any material identified as hazardous waste according to 40 CFR Part 261 except as specifically authorized by the WRD Manager.
- r) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent or any single reading over 10 percent of the lower explosive limit of the meter.

[Ord. 08-02 § 11.201, 2008.]

#### **7.10.020 National categorical pretreatment standards.**

Users must comply with the categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405 through 471.

- 1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the WRD Manager may impose equivalent concentration or mass limits in accordance with subsections (4) and (5) of this section.
- 2) When the limits in a categorical pretreatment standard are expressed only in terms of mass

of pollutant per unit of production, the WRD Manager may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.

- 3) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the WRD Manager shall impose an alternate limit in accordance with 40 CFR 403.6(e).
- 4) When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the city convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the WRD Manager. The city may establish equivalent mass limits only if the industrial user meets all the conditions set forth in subsections (4)(a)(i) through (iv) of this section.
  - a) To be eligible for equivalent mass limits, the industrial user must:
    - i) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;
    - ii) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment;
    - iii) Provide sufficient information to establish the facility's actual average daily flow rate for all waste streams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
    - iv) Not have daily flow rates, production levels, or pollutant levels that vary so

significantly that equivalent mass limits are not appropriate to control the discharge; and

- v) Have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.
- b) An industrial user subject to equivalent mass limits must:
  - i) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
  - ii) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
  - iii) Continue to record the facility's production rates and notify the WRD Manager whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in subsection (4)(a)(iii) of this section. Upon notification of a revised production rate, the WRD Manager will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
  - iv) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subsection (4)(a)(i) of this section so long as it discharges under an equivalent mass limit.
- c) When developing equivalent mass limits, the WRD Manager:
  - i) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;
  - ii) Upon notification of a revised production rate, will reassess the

- equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
- iii) May retain the same equivalent mass limit in subsequent individual wastewater discharge permit terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to RVSSC 7.10.070. The industrial user must also be in compliance with RVSSC 7.35.240 regarding the prohibition of bypass.
- 5) The WRD Manager may convert the mass limits of the categorical pretreatment standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users. The conversion is at the discretion of the WRD Manager.
  - 6) Once included in its permit, the industrial user must comply with the equivalent limitations developed in this section in lieu of the promulgated categorical standards from which the equivalent limitations were derived.
  - 7) Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or four-day average, limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.
  - 8) Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the WRD Manager within two business days

after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the WRD Manager of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.

[Ord. 08-02 § 11.202, 2008.]

#### **7.10.030 State pretreatment standards.**

State requirements and limitations on dischargers to the treatment plant shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this or any other applicable ordinance.

[Ord. 08-02 § 11.203, 2008.]

#### **7.10.040 Local limits.**

The WRD Manager is authorized to establish and revise from time to time local limits pursuant to 40 CFR 403.5(c). The pollutant limits (local limits) will be established to protect against pass through and interference. No significant industrial user (SIU) shall discharge wastewater containing in excess of the limits established by the WRD Manager. The local limit shall have precedence if it is more stringent than the categorical pretreatment standard for the industrial user, and shall be enforced as the standard at the point of discharge to the sewer system. The local limit shall be identified in the industrial waste discharge permit of the industrial user discharging the pollutant.

The local limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for the total metal unless indicated otherwise. The WRD Manager may impose mass limitations in addition to concentration-based limitations.

All new domestic wastewaters from restrooms, showers, drinking fountains, etc., unless specifically included as part of a categorical pretreatment standard, shall be kept separate from all industrial wastewaters until the industrial wastewaters have passed through a required pretreatment system and the industrial user's



monitoring facility. When directed to do so by the WRD Manager, any industrial user may be required to separate existing domestic waste streams. The WRD Manager shall endeavor to keep the regional committee apprised of the status of local limits and pollutant levels. [Ord. 08-02 § 11.204, 2008.]

#### **7.10.050 Denial, termination, or limitation of discharge.**

The WRD Manager or manager may deny, condition, or terminate the discharge of industrial wastes to the sewer system where such discharges do not meet the requirements of this title or other applicable pretreatment standards.

Notwithstanding prior acceptance of industrial wastes into the treatment plant, if the WRD Manager or manager finds that an industrial waste from a particular commercial or industrial occupancy or a class of wastes from similar commercial or industrial occupancies constitute a nuisance or may create a hazard to the collection system or treatment plant or receiving waters, or have an adverse effect on reclaimed wastewater, then the WRD Manager or manager may limit the characteristics or volume of such wastes, or may terminate the acceptance, or may deny acceptance. Notice of the limitation, termination, or denial, shall be given to the sewer user in the manner as in a notice of violation. It is unlawful for any person to discharge or permit the discharge of industrial wastes in violation of this notice.

[Ord. 08-02 § 11.205, 2008.]

#### **7.10.060 Best management practices.**

The WRD Manager or manager may require commercial and/or industrial users to implement best management practices to restrict and/or condition discharges to the sanitary sewer system to meet the requirements of this title or other applicable pretreatment standards or requirements.

[Ord. 08-02 § 11.206, 2008.]

#### **7.10.070 Dilution prohibition.**

No user shall intentionally increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with

the limitations contained in the national pretreatment standards, or in any other pollutant limitation developed by this title or the state. It is understood that an industry may vary water usage in the ordinary course of processing. This section is not intended to interfere with this flexibility. [Ord. 08-02 § 11.207, 2008.]

#### **7.10.080 Right to revision.**

The regional water reclamation facility reserves the right to establish, by ordinance or in wastewater permits, more stringent limitations or requirements for discharges to the wastewater treatment system, if deemed necessary to comply with the objectives presented in this title.

[Ord. 08-02 § 11.208, 2008.]

#### **7.10.090 Tenant responsibility.**

Any person who shall occupy the industrial user's premises as a tenant under any rental or lease agreement shall be jointly and severally responsible for compliance with the provisions of this title in the same manner as the owner.

[Ord. 08-02 § 11.209, 2008.]

### **Chapter 7.15**

#### **Spill Prevention/Slug Control Plan Provisions**

##### **Sections:**

7.15.010 Spill prevention/slug control.

7.15.020 Spill/slug reporting.

#### **7.15.010 Spill prevention/slug control.**

Each user shall provide protection from accidental spill and slug discharges of prohibited materials or other substances regulated by this title which may interfere with the wastewater treatment system. Facilities, equipment, materials, etc., to prevent accidental spills and slug discharges of prohibited materials shall be provided and maintained at the owner or user's own cost and expense.

Industrial users having a history of, or possessing the potential for, accidental spills and/or slug discharges that could upset the treatment plant or cause a violation of the treatment plant's NPDES permit shall submit and implement a spill prevention/slug control program or take such other action that may be necessary to control slug discharges. A spill prevention/slug control plan

shall be submitted to the WRD Manager within 90 days of notification of requirement by the WRD Manager.

Any user who commences contribution to the treatment plant after the effective date of the ordinance codified in this title shall not be permitted to introduce pollutants into the system until accidental spill/slug discharge procedures have been submitted and approved by the WRD Manager. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this title, or all other laws and regulations governing the use, storage, and transportation of hazardous substances.

The plan shall include at least the following elements and shall be available for inspection at the facility during normal business hours:

- 1) A description of discharge practices, including nonroutine batch discharges;
- 2) A description of process chemicals and stored chemicals;
- 3) Provisions for immediate notification of the WRD Manager of any accidental and/or slug discharge, with follow-up written notification within five days per RVSSC 7.15.020;
- 4) A description of the potential points of entry into the sewer system;
- 5) A description of the measures or other actions to be taken to prevent entry at the described points before a spill occurs;
- 6) Measures to be taken in the event of a spill of prohibited or restricted materials to contain them;
- 7) A description of employee training in the prevention and control of spills.

[Ord. 08-02 § 11.300, 2008.]

#### **7.15.020 Spill/slug reporting.**

In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the WRD Manager of the incident. The notification shall include location

of discharge, type of waste, concentration and volume, and corrective actions. Failure to comply shall cause the user to be in violation of this title.

- 1) Notice to Employees. A notice shall be permanently posted on the user's bulletin Board or other prominent place advising employees whom to call in the event of an upset or accidental discharge. Employers shall ensure that all employees who may cause or allow such a dangerous discharge to occur are advised of the emergency notification procedure.
- 2) Written Notice. Within five days following an accidental discharge, the user shall submit to the WRD Manager a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the wastewater treatment system, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed by this title or other applicable law.
- 3) Preventive Measures. Direct or indirect connections or entry points which could allow spills or uncontrolled discharges of prohibited or restricted substances to enter the sewer system shall be eliminated, labeled, or controlled so as to prevent the entry of wastes in violation of this title. The manager/WRD Manager may require the industrial user to install or modify equipment or make other changes necessary to prevent such discharges as a condition of issuance of an industrial waste discharge permit or as a condition of continued discharge into the sewer system. A schedule of compliance shall be established by the WRD Manager, which requires completion of the required actions within the shortest reasonable period of time. Violation of the schedule without an extension of time granted by the WRD Manager is a violation of this title.

[Ord. 08-02 § 11.301, 2008.]

## Chapter 7.20 Permits

### Sections:

- 7.20.010 Wastewater survey.
- 7.20.020 Permit authority.
- 7.20.030 Requirement for a permit.
- 7.20.040 Existing users.
- 7.20.050 Application for an industrial waste discharge permit.
- 7.20.060 Wastewater permit reissuance/renewal.
- 7.20.070 Application information and baseline monitoring report (BMR).
- 7.20.080 Application signatories and certifications.
- 7.20.090 Issuance of industrial waste discharge permits.
- 7.20.100 Modification of permits.
- 7.20.110 Permit transfer.
- 7.20.120 Trucked and hauled pollutant permits.
- 7.20.130 Wastewater permit revocation.
- 7.20.010 Wastewater survey.

### **7.20.010 Wastewater Survey**

When requested by the WRD Manager, an industrial user shall submit information on the nature and characteristics of their wastewater by completing a wastewater survey. The WRD Manager is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete the survey shall be considered a violation of this title. [Ord. 08-02 § 11.400, 2008.]

### **7.20.020 Permit authority.**

The WRD Manager shall have the authority to establish industrial waste discharge permit limitations to the extent necessary to comply with this title as well as the national pretreatment standards including current categorical pretreatment standards and waste discharge requirements as promulgated by the U.S. Environmental Protection Agency and the Oregon State Department of Environmental Quality; to protect the public health and safety; to protect the receiving water quality; to protect the sewer system; to protect the ability to reclaim wastewater; and to comply with all other applicable federal and state laws. [Ord. 08-02 § 11.401, 2008.]

### **7.20.030 Requirement for a permit.**

It shall be unlawful for a significant industrial user to discharge wastewater into the sanitary sewer system without first applying for and obtaining a wastewater permit from the WRD Manager. Any violation of the terms and conditions of the wastewater permit shall be deemed a violation of this title and subjects the industrial user to the sanctions set out in this title. Obtaining a wastewater permit does not relieve a permittee of its obligation to obtain other permits required by federal, state, or local law.

The WRD Manager may require other industrial users to obtain wastewater permits as necessary to carry out the purposes of this title. [Ord. 08-02 § 11.402, 2008.]

### **7.20.040 Existing users.**

The requirements for a permit listed in this title are applicable to all users. Existing users that are discharging to the sewer system without an industrial waste discharge permit may be required to apply for such permit. The determination for requirement shall be made by the WRD Manager in accordance with the requirements established in this title. The user shall be notified in writing of the requirement for a permit and shall be allowed to continue discharging into the sewer system until a permit is issued or denied; provided, that the characteristics and concentrations of wastes discharged are not in excess of the amounts established in this title. Discharges allowed under these conditions shall meet all other applicable requirements of this title.

A completed application for an industrial waste discharge permit shall be submitted to the WRD Manager within 90 days after permit requirement notification was received. [Ord. 08-02 § 11.403, 2008.]

### **7.20.050 Application for an industrial waste discharge permit.**

Any significant industrial user proposing to begin or recommence discharging industrial wastes into the wastewater treatment system must apply for and obtain a wastewater discharge permit prior to beginning or recommencing such discharge.

Application for an industrial waste discharge permit shall be made to the WRD Manager on forms provided by the regional water reclamation facility. The application shall not be considered complete until all information identified on the form is provided, unless specific exemptions are granted by the WRD Manager.

Completed applications shall be submitted to the WRD Manager within 90 days prior to the date the discharge is to begin.

Contents of the permit application shall be subject to the confidentiality conditions of this title.

[Ord. 08-02 § 11.404, 2008.]

#### **7.20.060 Wastewater permit reissuance/renewal.**

A user with an existing permit shall apply for permit reissuance or renewal by submitting a complete permit application in accordance with the requirements of this title a minimum of 45 days prior to the expiration of the user's existing permit.

[Ord. 08-02 § 11.405, 2008.]

#### **7.20.070 Application information and baseline monitoring report (BMR).**

An applicant for an industrial waste discharge permit shall be required to provide the following pertinent information on appropriate forms supplied by the city:

- 1) Name, address, and location (if different from address); the legal name and owner's name, if different; as well as the officer entitled to sign documents on behalf of the business. Contact information.
- 2) List of all environmental control permits held by or for the business or facility.
- 3) A description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used at the facility, which are or could accidentally or intentionally be discharged to the sanitary sewer system. Include all products produced by type, amount, and processes.

- 4) A description of the nature, average production rate, and SIC code for each of the process operations conducted, including the identification of applicable pretreatment standards.
- 5) Schematic process diagram indicating the flow of materials and water from start to completed product for each unit process generating wastewater. Include all sewers, floor drains, and all points of discharge from each process to the sewer system.
- 6) List of toxic substances or pollutants that potentially could be present in the wastewater discharge. Include substances that could enter due to accidental spill or slug discharge.
- 7) List of substances or constituents that potentially could be present in the wastewater discharge, which, if otherwise disposed of, would be considered a hazardous waste under 40 CFR Part 261. Include the name of the hazardous waste, the EPA Hazardous Waste Number, and the type of potential discharge (continuous, batch, or other).
- 8) Average daily and maximum daily flow rates in gallons per day. Include flow measurement information for process streams regulated by pretreatment standards and include flow information for other waste streams that might be considered dilute waste streams. Also include any routine or seasonal variations, batch discharges, etc., and information regarding waste strengths for the various types of discharges. Also include time and duration of discharges, the location for monitoring all wastes covered by the permit.
- 9) Measurement of Pollutants.
  - a) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.
  - b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the WRD Manager, of

- regulated pollutants in the discharge from each regulated process.
- c) Instantaneous, daily maximum, and long term average concentrations, or mass, where required, shall be reported.
  - d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in RVSSC 7.30.040. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the WRD Manager or the applicable standards to determine compliance with the standard.
  - e) Sampling must be performed in accordance with procedures set out in RVSSC 7.30.020.
- 10) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on RVSSC 7.30.050(3)(b).
- 11) Provide statement of certification concerning compliance or noncompliance with applicable pretreatment standards. The statement shall be reviewed by an authorized representative of the user and certified to by a qualified professional. Measurements of pollutant concentrations to verify compliance if required must be representative of daily operations and include reported values for daily maximum and average concentration (or mass, where required).
- 12) Any other information as may be deemed by the WRD Manager to be necessary to evaluate the permit application.
- [Ord. 08-02 § 11.406, 2008.]

#### **7.20.080 Application signatories and certifications.**

- 1) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in RVSSC 7.30.080.

- 2) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the WRD Manager prior to or together with any reports to be signed by an authorized representative.

[Ord. 08-02 § 11.407, 2008.]

#### **7.20.090 Issuance of industrial waste discharge permits.**

The WRD Manager shall evaluate the data furnished by the user in the industrial waste discharge permit application and may require the user to provide additional information. After evaluation and acceptance of the data furnished, the WRD Manager may issue or deny an industrial waste discharge permit subject to terms and conditions provided in this title. Copies of all permits shall be sent to the manager.

- 1) General Conditions.
  - a) Industrial waste discharge permits shall be issued or denied by the WRD Manager within 45 days after a completed application is received. If no determination is made within this time period, the application will be deemed denied. Industrial waste discharge permits shall contain conditions that meet the requirements of this title as well as those of applicable state and federal laws and regulations.
  - b) If pretreatment facilities are needed to meet the discharge requirements in the discharge permit, the permit shall require the installation of such facilities.
  - c) Whenever a discharge permit requires installation or modification of treatment facilities or a process change necessary to meet discharge standards or spill control requirements, a compliance schedule shall be included which establishes the date for completion of the changes and any appropriate interim dates. Interim dates for the commencement and completion of major events shall be no more than 90 days apart.

- d) The WRD Manager may deny approval to issue a discharge permit if the discharge will result in violations of local, state, or federal laws or regulations; will overload or cause damage to any portion of the treatment plant; or will create an imminent or potential hazard to personnel.
- e) Permits shall contain the following elements:
  - i) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date.
  - ii) A statement that the wastewater discharge permit is nontransferable without prior notification to the WRD Manager in accordance with RVSSC 7.20.110, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
  - iii) Effluent limits and best management practices based on applicable pretreatment standards.
  - iv) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.
  - v) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with RVSSC 7.30.050(3)(b).
  - vi) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
  - vii) Requirements to control slug discharge, if determined by the WRD Manager to be necessary.
  - viii) Any grant of the monitoring waiver by the WRD Manager (RVSSC 7.30.050(3)(b)) must be included as a condition in the user's permit.
- 2) Specific Permit Conditions. Industrial waste discharge permits shall be expressly subject to all provisions of this title and all other applicable regulations, user charges, and fees adopted by the participants. Permits may contain the following:
  - a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a sewer;
  - b) Mass limits of discharge where deemed appropriate;
  - c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization consistent with the capacity of the collection and treatment system;
  - d) Requirements for installation and maintenance of pretreatment facilities, flow measurement devices, inspection and sampling facilities;
  - e) Requirements for the submission of reports and compliance schedules;
  - f) Requirements for submission of technical reports or discharge reports required by the WRD Manager, by provisions of the national pretreatment standards or to support monitoring requirements of the pretreatment program;
  - g) Requirements for maintaining and retaining plant records relating to wastewater discharge and affording authorized representatives access thereto;
  - h) Other conditions as deemed appropriate to ensure compliance with this title.
- 3) Nondischarging Categorical Industrial Users. Nondischarging industries that have industrial processes that would otherwise be subject to national categorical pretreatment standards and requirements (nondischarging categorical industrial users or NDCIUs) including NDCIUs with zero-discharge categorical limits, that have a potential to discharge, shall be issued no-discharge control mechanisms.

“Potential to discharge” means hard plumbing connected to the POTW’s sanitary sewer in the proximity of the industry’s processing area and/or in areas where hazardous chemicals or hazardous wastes are stored. This includes plumbing with shut-off valves and plumbing that has been plugged with temporary or removable plugs. Plumbing that is not connected to sanitary sewer or has been permanently disconnected or cemented shut would not constitute a potential to discharge and issuance of a no-discharge control mechanism would not be required. Examples that constitute potential to discharge include floor drains, cleanup sinks and industrial process discharge lines connected to the sewer.  
[Ord. 08-02 § 11.408, 2008.]

#### **7.20.100 Modification of permits.**

- 1) An industrial waste discharge permit may be modified for good and valid cause at the written request of the permittee or at the discretion of the WRD Manager. Copies of all permit modifications shall be sent to the manager. Examples of when a permit may be modified may be including, but not limited to, the following reasons:
    - a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
    - b) To address significant alterations or additions to the user’s operation, processes, or waste-water volume or character since the time of the individual wastewater discharge permit issuance;
    - c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
    - d) Information indicating that the permitted discharge poses a threat to the city’s POTW, city personnel, or the receiving waters;
    - e) Violation of any terms or conditions of the individual wastewater discharge permit;
    - f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
  - g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
  - h) To correct typographical or other errors in the individual wastewater discharge permit; or
  - i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with RVSSC 7.20.110.
- 2) Permittee modification requests shall be submitted to the WRD Manager and shall contain a detailed description of all proposed changes in the discharge. The WRD Manager may request any additional information needed to adequately prepare the modification or assess its impact. The WRD Manager may deny a request for modification if the change will result in violations of federal, state, or local laws or regulations; will overload or cause damage to any portion of the sewer system; or will create an imminent or potential hazard to personnel.
  - 3) If a permit modification is made at the direction of the WRD Manager, the permittee shall be notified in writing of the proposed modification and may have at least 30 days to make appropriate changes. The WRD Manager may require the industrial user to immediately comply with the revised permit.
  - 4) The adjustment of any existing local limit in accordance with the requirements of this title shall necessitate a permit modification for permits containing a previously established local limit. A change in discharge standards may require local limit adjustment.
  - 5) A modification to the permittee’s discharge permit must be issued before any significant increase is made in the volume or level of pollutants in an existing permitted discharge to the sanitary sewer system.
  - 6) Changes in the discharge involving the introduction of waste stream or streams not previously included in the industrial waste

discharge permit application or involving the addition of new pollutants shall be considered a new discharge, requiring submission of a new permit application.

[Ord. 0802 § 11.409, 2008.]

#### **7.20.110 Permit transfer.**

Industrial waste discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the WRD Manager and provision of a copy of the existing permit to the new owner/user. If no changes are made to the operation by the new owner, the approval shall be completed in at least 30 days. Certification by the new owner or new user that no significant changes in operation have occurred may be required. If modifications are made in the operation, or if a new use of the premises is planned by the new user, a permit modification or issuance of a new permit shall be required.

[Ord. 08-02 § 11.410, 2008.]

#### **7.20.120 Trucked and hauled pollutant permits.**

The WRD Manager may issue or deny a permit to authorize discharge of trucked and hauled pollutants subject to the terms and conditions provided by this title.

[Ord. 08-02 § 11.411, 2008.]

#### **7.20.130 Wastewater permit revocation.**

Wastewater permits may be revoked for any of the following reasons:

- 1) Failure to notify the regional water reclamation facility of significant changes to the wastewater prior to the changed discharge;
- 2) Falsifying self-monitoring reports;
- 3) Tampering with monitoring equipment;
- 4) Refusing to allow the regional water reclamation facility timely access to the facility premises and records;
- 5) Failure to meet effluent limitations;

- 6) Failure to pay fines;
- 7) Failure to pay sewer charges;
- 8) Failure to meet compliance schedules;
- 9) Failure to provide advance notice of the transfer of a permitted facility;
- 10) Failure to timely correct a violation of any pretreatment standard or requirement, or any terms of a wastewater discharge permit or this title.
- 11) Permits may be voided upon nonuse, cessation of operations, or transfer of business ownership. All are void upon the issuance of a new wastewater permit. [Ord. 08-02 § 11.412, 2008.]

### **Chapter 7.25**

#### **Pretreatment, Flow Measurement, and Sampling Facilities**

Sections:

7.25.010 General.

7.25.020 Pretreatment facilities.

7.25.030 Flow measurement and sampling facilities.

7.25.040 Sampling manhole.

7.25.050 Grease interceptors and other pretreatment.

7.25.060 Combustible gas detection meter.

#### **7.25.010 General**

Any requirement contained in this chapter may be incorporated as part of an industrial waste discharge permit and made a condition of issuance of such permit; may be required as part of a permit modification; or made a condition of the acceptance of the waste from a facility. Progress reports and compliance schedules shall be provided in accordance with the requirements established in this title.

[Ord. 08-02 § 11.501, 2008.]

#### **7.25.020 Pretreatment facilities.**

- 1) If treatment facilities, operation changes, or process modifications at an industrial discharger's facility are needed to comply with any requirements of this title or are necessary to meet any applicable state or



federal requirements, the manager/WRD Manager may require that such facilities be constructed or modifications or changes be made within a specified time period, taking into consideration construction time, impact of the untreated waste on the sewer system, economic impact on the facility, impact of the waste on the marketability of the treatment plant sludge or reclaimed wastewater, and any other appropriate factor.

- 2) Any facilities required to pretreat wastewater to a level acceptable to the WRD Manager shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities, operating procedures, and/or process modifications shall be submitted to and acceptable to the WRD Manager before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge under the provisions of this title. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the WRD Manager prior to the user's initiation of the changes.

[Ord. 08-02 § 11.502, 2008.]

#### **7.25.030 Flow measurement and sampling facilities.**

If so directed by the WRD Manager or manager, flow measurement, sampling devices, access facilities, and related equipment shall be installed by the user discharging the waste, at the user's expense, and shall be maintained by the user so as to be in safe condition, in proper operating condition at all times, and readily accessible to the requesting authority during periods of industrial activity of any type. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.

The flow measurement and sampling station shall be located and constructed in a manner acceptable to the requesting authority. Complete plans on all phases of the proposed installation including all equipment proposed for use, shall be submitted to

the WRD Manager for approval prior to construction.

[Ord. 08-02 § 11.503, 2008.]

#### **7.25.040 Sampling manhole.**

The manager/WRD Manager may require a discharger to install and maintain at the discharger's expense a suitable manhole in the discharger's branch sewer to allow observation, sampling and measurement of all industrial wastes being discharged into the sewer system. It shall be constructed in accordance with plans approved by the WRD Manager and shall be designed so that flow measuring and sampling equipment may be conveniently installed. Access to the manhole shall be available for monitoring purposes at all times when wastewater is being produced and/or discharged.

[Ord. 08-02 § 11.504, 2008.]

#### **7.25.050 Grease interceptors and other pretreatment.**

Grease, oil, and sand interceptors shall be provided, operated, and maintained when, in the opinion of the WRD Manager or manager, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful substances; except that such interceptors shall not be required for residential users. All interceptors shall be of a type and capacity approved by the requesting authority and shall be located as to be readily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly as needed by the owner at his expense. All grease, oil, and sand interceptors shall be installed in conformance with the most recent revision of the Oregon Plumbing Specialty Code, the rules adopted thereunder, and any statute or rule of the general applicability administered by the State of Oregon Building Codes Division.

[Ord. 08-02 § 11.505, 2008.]

#### **7.25.060 Combustible gas detection meter.**

Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

[Ord. 08-02 § 11.506, 2008.]

## Chapter 7.30 Monitoring, Inspection, and Reporting

### Sections:

#### 7.30.010 General

#### 7.30.020 Waste sampling and monitoring.

#### 7.30.030 Inspection and entry requirements.

#### 7.30.040 Analytical requirements.

#### 7.30.050 Reporting requirements.

#### 7.30.060 Notification of changed conditions.

#### 7.30.070 Records retention and confidentiality.

#### 7.30.080 Application signatories and certification.

#### 7.30.090 Provision on fraud and false statements.

#### 7.30.100 Hazardous waste notification.

#### 7.30.110 Violation notification.

#### 7.30.120 Potential problem notification.

#### 7.30.130 Seasonal operation notification.

### **7.30.010 General**

The WRD Manager has the authority to carry out all inspection, surveillance, and monitoring activities necessary to determine compliance or noncompliance with applicable pretreatment standards and requirements.

[Ord. 08-02 § 11.601, 2008.]

### **7.30.020 Waste sampling and monitoring.**

- 1) Wastes discharged into the public sewers shall be subject to periodic inspection and a determination of character and concentration. For wastes discharged by users with an effective industrial waste discharge permit, the determinations shall be made at least annually with the option for more frequent intervals if any pollutant potentially exceeds any limit established by this title. Sampling shall be carried out by customarily accepted methods to reflect the effect of pollutants upon the treatment plant and to determine the existence of hazardous conditions defined elsewhere in this title.

Samples of wastewater being discharged into the sewer system shall be representative of the discharge and shall be taken after treatment. The sampling method shall be one approved by the WRD Manager and done in accordance with good engineering practice.

Except as indicated below, wastewater samples collected for the purposes of determining industrial user compliance with pretreatment standards and requirements must be obtained using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the WRD Manager may authorize the use of time proportional sampling.

- a) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.
- b) Samples that are taken by the authority of the WRD Manager for the purposes of determining compliance with the requirements of this title shall be split with the WRD Manager and the industrial user (or a duplicate sample provided in the instance of fats, oils, and greases) if requested before or at the time of sampling.

- 2) The manager/WRD Manager may require waste sampling and monitoring by the user at the user's expense if information and/or data is needed to determine compliance with pretreatment standards, determine the treatability of the waste, establish a sewer rate charge, or determine any other factor which is related to the operation and maintenance of the sewer system. The locations, frequencies, and types of sampling and monitoring shall be determined by the WRD Manager.

[Ord. 08-02 § 11.602, 2008.]

### **7.30.030 Inspection and entry requirements.**

The WRD Manager shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this title and any individual wastewater discharge permit or order issued hereunder. Users shall allow the WRD Manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- 1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with

its security guards so that, upon presentation of suitable identification, the WRD Manager shall be permitted to enter without delay for the purposes of performing specific responsibilities.

- 2) The WRD Manager shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
  - 3) The WRD Manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.
  - 4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the WRD Manager and shall not be replaced. The costs of clearing such access shall be borne by the user.
  - 5) Unreasonable delays in allowing the WRD Manager access to the user's premises shall be a violation of this title.
- [Ord. 08-02 § 11.603, 2008.]

#### **7.30.040 Analytical requirements.**

All pollutant analyses, including sampling techniques, to be submitted as part of a permit application or compliance report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the WRD

Manager or other parties approved by DEQ and the RWRF.

Industrial user process control data analyses may be performed by methods that are not EPA approved methods, but shall be by methods approved by the WRD Manager. Analyses performed by non-EPA approved methods may be used for routine process evaluations, but may not be used for compliance verification or reporting.

[Ord. 08-02 § 11.604, 2008.]

#### **7.30.050 Reporting requirements.**

Any user may be required to report the status of their wastewater discharge concerning compliance with the requirements of this title. The frequency of the reports shall be determined by the WRD Manager. If a user subject to reporting requirements monitors any pollutant more frequently than required by the WRD Manager, the results of this monitoring shall be included in the required report.

- 1) Baseline Monitoring Reports. Within 180 days after the effective date of a categorical pre-treatment standard, or 180 days after the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the municipal system shall be required to submit to the RWRF a report that contains the information listed in subsection (1)(a) of this section. At least 90 days prior to commencement of their discharge, new sources, including existing users that have changed their operation or processes so as to become new sources, shall be required to submit to the RWRF a report that contains the information listed in subsection (1)(a) of this section. A new source shall also be required to report the method it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

- a) The information required by this section includes:

- i) Identifying Information. The user shall submit the name and address of the facility including the name of the operator and owners, contact information, description of activities, facilities, and plant production processes on the premises;
- ii) Permits. The user shall submit a list of any environmental control permits held by or for the facility;
- iii) Description of Operation.
  - (1) The user shall submit a brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram that indicates points of discharge to the system from the regulated processes;
  - (2) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
  - (3) Number and type of employees, hours of operation and proposed or actual hours of operation;
  - (4) Type and amount of raw materials processed (average and maximum per day);
  - (5) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- iv) Flow Measurement. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the system from regulated process streams and other streams as necessary to allow use of the combined waste stream formula set out in 40 CFR 403.6(e), as well as time and duration of discharges;
- v) Measurement of Pollutants. The user shall indicate the location for monitoring all wastes covered by the permit. Also:
  - (1) The industrial user shall identify the categorical pretreatment standards applicable to each regulated process;
  - (2) In addition, the industrial user shall submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be performed in accordance with procedures set out in 40 CFR 136. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the WRD Manager or the applicable standards to determine compliance with the standard;
  - (3) A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. All other pollutants will be measured by composite samples obtained through flow proportional sampling techniques. Samples may be obtained through time proportional sampling techniques or through four grab

samples if the user proves to the satisfaction of the city that such samples will be representative of the discharge;

- vi) Special Certification. A statement, reviewed by an authorized representative of the industrial user and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operations and maintenance (O&M) and/or additional pretreatment is required in order to meet the pretreatment standards and requirements;
  - vii) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule will not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in this title;
  - viii) Signatory Requirement. All baseline-monitoring reports must be signed and certified in accordance with the requirements of this title.
- 2) Compliance Deadline Reports. Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, following commencement of the introduction of wastewater into the municipal wastewater system, any industrial user subject to such pretreatment standards and requirement shall submit to the RWRf a report containing the information described in RVSSC 7.20.070 and 7.30.050(1)(a)(i). For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the

user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with RVSSC 7.30.070.

- 3) Periodic Compliance Reports.
- a) All significant industrial users must, at a frequency determined by the WRD Manager, submit no less than twice per year (June and December, or on dates specified) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a best management practice (BMP) or pollution prevention alternative, the user must submit documentation required by the WRD Manager or the pretreatment standard necessary to determine the compliance status of the user.
  - b) The city may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:
    - i) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility; provided, that the sanitary wastewater is not regulated by an applicable categorical standard and

- otherwise includes no process wastewater.
- ii) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See RVSSC 7.20.070.
  - iii) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
  - iv) The request for a monitoring waiver must be signed in accordance with RVSSC 7.05.050(4), and include the certification statement in RVSSC 7.30.090.
  - v) Nondetectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
  - vi) Any grant of the monitoring waiver by the WRD Manager must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the WRD Manager for three years after expiration of the waiver.
  - vii) Upon approval of the monitoring waiver and revision of the user's permit by the WRD Manager, the industrial user must certify on each report with the statement in RVSSC 7.30.090 that there has been no increase in the pollutant in its waste stream due to activities of the industrial user.
  - viii) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately comply with the monitoring requirements of RVSSC 7.30.060(3), or other more frequent monitoring requirements imposed by the WRD Manager, and notify the WRD Manager.
  - ix) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.
  - c) All periodic compliance reports must be signed and certified in accordance with RVSSC 7.30.090.
  - d) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
  - e) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the WRD Manager, using the procedures prescribed in RVSSC 7.30.020 and 7.30.040, the results of this monitoring shall be included in the report.
    - i) Compliance Schedules and Progress Reports. If additional pretreatment, monitoring equipment, process control, or equipment modification will be required to meet the pretreatment standards established under this title, the manager/WRD Manager may require the user to provide progress reports and compliance schedules. The compliance schedule shall be subject to WRD Manager approval or may

be established by the WRD Manager at his discretion. The schedule shall define the shortest schedule to provide the required action. The completion date in this schedule shall not be later than the compliance date established for the applicable categorical pretreatment standard. The following conditions shall apply to this schedule:

- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment requirements. Such events include hiring an engineer, completing preliminary plans, completing final plans; executing contract for major components, commencing construction, completing construction, start up and full operation. Interim dates for major events shall not be more than 90 days apart.
- (2) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the WRD Manager including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than 90 days elapse between such progress reports to the WRD Manager.

[Ord. 08-02 § 11.605, 2008.]

#### **7.30.060 Notification of changed conditions.**

Each industrial user is required to notify the WRD Manager of any planned significant changes to the industrial user's operations or pretreatment systems that might alter the nature, quality, or volume of its wastewater; this includes any change in spill or slug discharge potential.

- 1) The WRD Manager may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition.
- 2) The WRD Manager may modify an existing wastewater permit to accommodate the change.
- 3) No industrial user shall implement the planned changed condition(s) until the WRD Manager has responded to the industrial user's notice.
- 4) For purposes of this requirement, flow increases of 15 percent or greater and the discharge of any previously unreported pollutant shall be deemed significant.

[Ord. 08-02 § 11.606, 2008.]

#### **7.30.070 Records retention and confidentiality.**

Industrial users shall retain and make available for inspection and copying all records and information required to be retained under 40 CFR 403.12(o); this includes information associated with best management practices and any waivers data or information. These records shall remain available for a period of at least three years, or at least three years after a waiver has expired.

- 1) Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, and monitoring programs, and from inspection and sampling activities conducted by the WRD Manager shall be available to the public without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the WRD Manager that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state laws.

- a) Wastewater pollutants, characteristics, and other effluent data as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.
  - b) When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to this title, the National Pollutant Discharge Elimination System (NPDES) program, and in enforcement proceedings involving the person furnishing the report.
- 2) All users subject to this title shall retain and preserve for no less than three years all records of information resulting from any monitoring activities (including records associated with best management practices) required by this title. Such records shall include for all samples the date, sample location, method, and time of sampling and the names of the person or persons taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques/methods used; and results of such analyses.
  - 3) All records, which pertain to matters that are the subject of any enforcement or litigation activities pursuant hereto, shall be retained and preserved by the user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

[Ord. 08-02 § 11.607, 2008.]

### **7.30.080 Application signatories and certification.**

- 1) Certification of Permit Applications, User Reports and Initial Monitoring Waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance

with RVSSC 7.20.070; users submitting baseline monitoring reports under RVSSC 7.30.050(1); users submitting reports on compliance with the categorical pretreatment standard deadlines under RVSSC 7.30.050(2); users submitting periodic compliance reports required by RVSSC 7.30.050(3)(a), and users submitting an initial request to forego sampling of a pollutant on the basis of RVSSC 7.30.050(3)(b). The following certification statement must be signed by an authorized representative:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- 2) Certification of Pollutants Not Present. Users that have an approved monitoring waiver based on RVSSC 7.30.050(2)(b) must certify on each report with the following statement that there has been no increase in the pollutant in its waste-stream due to activities of the user:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR \_\_\_\_\_ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of \_\_\_\_\_ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under RVSSC 7.30.050(3).

[Ord. 08-02 § 11.608, 2008.]



### **7.30.090 Provision on fraud and false statements.**

Any reports required under the authority of this title and any other documents required to be submitted to the WRD Manager or maintained by the industrial user shall be subject to enforcement provision of this title, and municipal and state law relating to fraud and false statements. In addition, the industrial user shall be subject to:

- 1) The provisions of 18 U.S.C. Section 1001 relating to fraud and false statements;
- 2) The provisions of Section 309(c)(4) of the Clean Water Act, as amended, governing false statements representation or certification; and
- 3) The provisions of Section 309(c)(6) regarding responsible corporate officers.

[Ord. 08-02 § 11.609, 2008.]

### **7.30.100 Hazardous waste notification.**

All industrial users shall notify the WRD Manager, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the sewer system of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA Hazardous Waste Number and the type of discharge (continuous, batch, or other).

[Ord. 08-02 § 11.610, 2008.]

### **7.30.110 Violation notification.**

If sampling performed by a user indicates a violation, the user shall notify the WRD Manager within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis within 30 days after becoming aware of the violation. If sampling performed by the city indicates a violation, the city may require the user to perform the repeat sampling and continue to sample until the user is in compliance. The analytical results must be submitted to the WRD Manager within 30 days after becoming aware of the violation.

[Ord. 08-02 § 11.611, 2008.]

### **7.30.120 Potential problem notification.**

All industrial users shall notify the WRD Manager immediately of all discharges that could cause problems to the wastewater treatment system including any slug loadings.

[Ord. 08-02 § 11.612, 2008.]

### **7.30.130 Seasonal operation notification.**

- 1) Any user discharging more than 10,000 gallons per day shall notify the WRD Manager and the jurisdictional participant at least seven days prior to commencing discharge to the sewer system if the user has not been discharging wastewater at industrial rates for a 30-day period prior to restarting. Notification seven days prior to the first discharge allows the treatment plant to prepare the biological system for increased loading. Information supplied should include approximate hours of operation, number of shifts, and estimated production rates in gallons per day and strength of waste for the first week of operation.

- 2) Any user discharging more than 10,000 gallons per day in a seasonal operation shall notify the WRD Manager and the jurisdictional participant at least seven days in advance of a shutdown anticipated to be 30 days or greater in duration.

[Ord. 08-02 § 11.613, 2008.]

## **Chapter 7.35 Violations**

### Sections

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### **7.35.010 Violations**

A violation shall be considered to have occurred when any requirement of this title has not been met; when a written request of the manager/WRD Manager, made under the authority of this title, is not met within the specified time; when a condition of a permit or contract issued under the authority of this title is not met within the specified time; when effluent limitations are exceeded, regardless of intent or accident; or when false information has been provided by the discharger.

The remedies provided for in this title are not exclusive. The manager/WRD Manager may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the manager/WRD Manager may take other action against any user when the circumstances warrant. Further, the manager/WRD Manager is empowered to take more than one enforcement action against any noncompliant user.

[Ord. 08-02 § 11.701, 2008.]

### **7.35.020 Notice of violation.**

Upon determination by the WRD Manager that a violation has occurred or is occurring, the manager/WRD Manager may issue a notice of violation to the discharger which outlines the violation and the potential liability as well as any proposed enforcement actions. The notice may further require correction of the violation within a specified period of time, and may require written confirmation of the correction and a description of the efforts made to correct the violation. The notice shall be personally delivered to the user's premises or be sent by

certified mail. In an emergency, notice may be given orally, but shall be confirmed in writing at the earliest practical time. Notice by mail is presumed to be received by the addressee on the third day after mailing.

[Ord. 08-02 § 11.702, 2008.]

### **7.35.030 Failure to correct violation.**

Whenever an industrial user continues to violate the provisions of this title, permits or orders issued hereunder, or any other pretreatment requirement, the manager/WRD Manager shall initiate monetary penalties, grant extensions for correction of the violation, halt or prevent the discharge of the pollutants, or terminate the discharge. Such other action as may be appropriate for legal and/or equitable relief may also be sought by the manager/WRD Manager including, but not limited to, civil or criminal actions.

1) In the event a user shall fail to correct any violation within the time specified by the manager/WRD Manager, the manager/WRD Manager may initiate monetary penalties. The penalties may be initiated with or without the initiation of judicial proceedings. When, in the opinion of the manager/WRD Manager, it is necessary to initiate monetary penalties, the following shall apply:

a) For the first, second, third, and fourth calendar months a violation continues beyond the time limit provided for correction thereof, the user shall be assessed the graduated penalties listed below. Any violation occurrence within the calendar month is considered a continuing violation.

i) First calendar month beyond the time limit for correction, a total of the following applicable amounts:

(1) Volume – \$1.65 per 1,000 gallons in excess of the established permit limitations; plus

(2) BOD and/or SS – \$0.17 per pound of BOD and/or suspended solids in excess of the established permit limitation; plus

- (3) pH – \$15.00 per occurrence per increment less than a pH of 5.5 or greater than a pH of 10.0 for any excursion that exceeds a 10-minute duration in any 60-minute period; plus
  - (4) Late reports – \$40.00; plus
  - (5) Pollutants – standard penalty, \$500.00 per pollutant per day that exceeds the daily maximum permit discharge limitation.
- ii) Second calendar month beyond the time limit for correction, a total of the following applicable amounts:
  - (1) Volume – \$3.30 per 1,000 gallons in excess of the established permit limitations; plus
  - (2) BOD and/or SS – \$0.33 per pound of BOD and/or suspended solids in excess of the established permit limitation; plus
  - (3) pH – \$30.00 per occurrence per increment less than a pH of 5.5 or greater than a pH of 10.0 for any excursion that exceeds a 10-minute duration in any 60-minute period; plus
  - (4) Late reports – \$80.00; plus
- iii) Pollutants – standard penalty, \$1,000 per pollutant per day that exceeds the daily maximum permit discharge limitation. Third calendar month beyond the time limit for correction, a total of the following applicable amounts:
  - (1) Volume – \$6.60 per 1,000 gallons in excess of the established permit limitations; plus
  - (2) BOD and/or SS – \$0.68 per pound of BOD and/or suspended solids in excess of the established permit limitation; plus
  - (3) pH – \$60.00 per occurrence per increment less than a pH of 5.5 or greater than a pH of 10.0 for any excursion that exceeds a 10-minute duration in any 60-minute period; plus
  - (4) Late reports – \$160.00; plus
  - (5) Pollutants – Standard penalty, \$2,000 per pollutant per day that exceeds the daily maximum permit discharge limitation.
- iv) Fourth calendar month beyond the time limit for correction, \$4,000 per day for any violation condition.
  - (1) Penalties for pH shall be assessed in accordance with the following increments:
    - First increment 4.5 to 5.5 or 11.0 to 10.0
    - Second increment 3.5 to 4.5 or 12.0 to 11.0
    - Third increment Less than 3.5 or greater than 12.0
- b) For situations where permit limits have not been established for BOD or SS, the penalty may be assessed per pound of BOD and/or suspended solids in excess of 60 pounds in any one day.
- c) For situations where permit limitations have not been established for pollutants, the penalty may be assessed for values that exceed requirements established in this title.
- d) For situations where pollutant violations are excessive, the following shall apply:
  - i) Penalties for pollutants may be assessed at two times the standard penalty per pollutant per day that exceeded the daily maximum permit discharge limitation by two times the daily maximum value but less than three times the daily maximum value.
  - ii) Penalties for pollutants may be assessed at three times the standard penalty per pollutant per day that exceeded the daily maximum permit discharge limitation by three times or more the daily maximum limitation value.
- e) The continuation of a violation beyond the time limit provided for correction thereof shall be deemed a separate

- offense for each day in which any such violation shall occur.
- f) Fines and penalties resulting from failure to correct violations within the time specified by the manager/WRD Manager are due and payable by the user within 14 days after receipt of billing. Fines collected shall go into the trust fund for operation and maintenance of the treatment plant.
- 2) If in the opinion of the WRD Manager conditions warrant and the violation situations are not determined to be emergencies, an extension may be granted to allow additional time to correct the violation. Violation extensions are granted at the discretion of the WRD Manager and may be revoked if any of the violation extension conditions are not met. The following requirements shall be met for any violation extension:
    - a) Immediate reduction of pollutant parameters to reasonable levels (levels determined by the WRD Manager).
    - b) No later than 30 days after notification of extension, the user shall furnish a schedule developed by a qualified professional engineer of process control and/or equipment modifications that will achieve consistent compliance with established requirements. Provide a thorough evaluation performed by a qualified professional engineer showing wastewater treatment capabilities relative to current and anticipated future loads, include schematic flow diagrams for each major wastewater generating activity, and a complete description of corrective measures planned to achieve consistent compliance with established requirements. The schedule and evaluation shall be submitted to the WRD Manager for review and approval prior to implementation. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge under the provisions of this title.
  - c) No later than 45 days after notification of extension, the user shall begin implementation of approved engineer's recommendations.
  - d) No later than 90 days after notification of extension, the user shall complete all corrective measures.
- 3) With or without the initiation of judicial proceedings, the manager/WRD Manager may halt or prevent any discharge of pollutants into the sewer system and may physically terminate a discharge into the sewer system when:
    - a) The user has failed to correct any violation within the time specified by the WRD Manager in the notice of violation or the notification of extension.
    - b) The user has failed to pay costs or penalties within the time specified which he has been required to pay in accordance with the requirements of this title.
    - c) A violation creates an emergency situation. An "emergency situation" is defined as a situation in which, in the opinion of the WRD Manager, action must be taken as rapidly as possible in order to prevent or reduce a present or potential danger or hazard to the environment, the sewer system or any person or property. Includes any situation that reasonably appears to present an imminent endangerment to the health or welfare of persons.
  - 4) A notice of termination shall be provided to the discharger prior to physically terminating the discharge.
    - a) In situations that are determined by the WRD Manager not to be emergencies, the notice of termination shall be in writing and shall contain the reasons for the termination, the effective date, and notice of the opportunity for an informal hearing before the WRD Manager at least 10 days before the effective termination date. The notice shall be personally delivered or sent by certified mail to the

business address of the user at least 30 days prior to the effective termination date.

- b) In situations that are determined by the WRD Manager to be emergencies, the initial notice of termination may be oral or written and the termination of the discharge may be immediate.
  - i) If oral notice is given, it shall be given to the authorized representative of the user personally or by telephone and shall be followed within two working days by written notice that is mailed or delivered to the business address of the user. If the authorized representative cannot be reached, oral notice may be given to a person who is apparently in charge of the user's office or facility. The effective date of the termination in emergencies may be immediately after oral or written notice has been given as required in this subsection.
  - ii) The emergency notice of termination shall inform the user of the opportunity for an informal hearing before the WRD Manager at the earliest practical date.

[Ord. 08-02 § 11.703, 2008.]

#### **7.35.040 Public participation requirement.**

A list of industrial users which were determined by the WRD Manager to be in significant noncompliance with applicable pretreatment requirements shall be published at least annually in the largest daily newspaper published in the service area of the treatment plant.

A significant industrial user will have been in significant noncompliance if its violation meets one or more of the following criteria. (Any industrial user may be determined to be in significant noncompliance (SNC) if it has shown to have violated subsection (3), (4) or (8) of this section):

- 1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any

magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

- 2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- 3) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- 4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;
- 5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- 6) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, report on compliance with categorical pretreatment standards, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- 7) Failure to accurately report noncompliance;
- 8) Any other violation or group of violations, which may include a violation of best

management practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

[Ord. 08-02 § 11.704, 2008.]

#### **7.35.050 Consent orders.**

The WRD Manager may enter into consent orders, assurance of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders and shall be judicially enforceable.

[Ord. 08-02 § 11.705, 2008.]

#### **7.35.060 Show cause hearing.**

The WRD Manager may order any industrial user that causes or contributes to violation(s) of this title, wastewater permits, orders issued hereunder, or any other pretreatment requirement to appear before the WRD Manager and show cause why a proposed enforcement action should not be taken. Notice shall be served on the industrial user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any authorized representative of the industrial user. Whether or not the industrial user appears as notified, immediate enforcement action may be pursued following the hearing date. [Ord. 08-02 § 11.706, 2008.]

#### **7.35.070 Compliance orders.**

When the WRD Manager finds that an industrial user has violated or continues to violate this title, permits or orders issued hereunder, or any other pretreatment requirement, the WRD Manager may issue an order to the industrial user responsible for the discharge directing that, following a specific time period, sewer service shall be discontinued unless adequate treatment

facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. Furthermore, the WRD Manager may continue to require such additional self-monitoring after consistent compliance has been achieved.

[Ord. 08-02 § 11.707, 2008.]

#### **7.35.080 Injunctive relief.**

Whenever an industrial user has violated or continues to violate the provisions of this title, permits or orders issued hereunder, or any other pretreatment requirements, the manager/WRD Manager may petition a court of competent jurisdiction for the issuance of a temporary or permanent injunction, as may be appropriate, which restrains or compels the specific performance of the wastewater permit, order, or other requirement imposed by this title on activities of the industrial user. Such other action as may be appropriate for legal and/or equitable relief may also be sought by the manager/WRD Manager. The court shall grant an injunction without requiring a showing of a lack of an adequate remedy at law.

[Ord. 08-02 § 11.708, 2008.]

#### **7.35.090 Civil penalties.**

Any industrial user which has violated or continues to violate this title, any order or permit hereunder, or any other pretreatment requirement shall be liable to the manager/WRD Manager for a maximum civil penalty of \$3,000 per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each business day during the period of this violation.

- 1) The manager/WRD Manager may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred.
- 2) In determining the amount of civil liability, the court shall take into account all relevant

circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factors as justice requires.

- 3) Where appropriate, the manager/WRD Manager may accept mitigation projects in lieu of the payment of civil penalties where the project provides a valuable service and the industrial user's expense in undertaking the project is at least 150 percent of the civil penalty.

[Ord. 08-02 § 11.709, 2008.]

#### **7.35.100 Cease and desist orders.**

When the WRD Manager finds that an industrial user has violated or continued to violate this title, permits or order issued hereunder, or any other pretreatment requirement, the WRD Manager may issue an order to the industrial user directing it to cease and desist all such violations and directing the user to:

- 1) Immediately comply with all requirements.
- 2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. [

Ord. 08-02 § 11.710, 2008.]

#### **7.35.110 Administrative fines.**

Notwithstanding any other section of this title, any user which is found to have violated any provision of this title, permits and orders issued hereunder, or any other pretreatment requirement may be fined in an amount not to exceed \$3,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each business day during the period of violation.

- 1) Assessments may be added to the user's next scheduled sewer service charge and the WRD Manager may use such other collection remedies as may be available for other service charges and fees.

- 2) Unpaid charges, fines, and penalties may, after 30 days, be assessed an additional penalty of 20 percent of the unpaid balance and interest shall accrue thereafter at a rate of seven percent per month. Furthermore, these unpaid charges, fines and penalties, together with interest therefrom, shall constitute a lien against the individual user's property.

- 3) Industrial users desiring to dispute such fines must file a written request for the WRD Manager to reconsider the fine along with full payment of the fine amount within 10 days of being notified of the fine. Where the WRD Manager believes a request has merit, he shall convene a hearing on the matter within 15 days of receiving the request from the industrial user. In the event the user's appeal is successful, the payment together with any interest accruing thereto shall be returned to the industrial user. The RWRF may add the costs of preparing administrative enforcement actions, such as notices and orders to the fine.

[Ord. 08-02 § 11.711, 2008.]

#### **7.35.120 Criminal prosecution.**

- 1) Any industrial user who willfully or negligently violates any provisions of this title, any orders or permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000 per violation per day or imprisonment for not more than one year or both.

- 2) Any industrial user who knowingly makes any false statement, representations, or certifications in any application, record, report, plan or other documentation filed or required to be maintained pursuant to this title, or wastewater permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this title shall, upon conviction, be punished by a fine of not more than \$1,000 per violation per day or imprisonment for not more than one year or both.

[Ord. 08-02 § 11.712, 2008.]

**7.35.130 Restoration of service.**

Sewer service shall not be restored until all penalties and charges, including the expense of removal, closing and restoration, shall have been paid or mutually agreed upon terms concluded and the cause for discontinuance of service corrected.

[Ord. 08-02 § 11.713, 2008.]

**7.35.140 Search warrants.**

If the WRD Manager has been refused access to a building, structure, or property, or any part thereof, and if the WRD Manager has probable cause to believe that there may be a violation to this title, or that there is a need to inspect as part of a routine inspection program of the RWRP designed to protect the overall public health, safety and welfare of the community, then upon application by the city attorney, an appropriate municipal court judge may issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the WRD Manager in the company of a uniformed police officer.

[Ord. 08-02 § 11.714, 2008.]

**7.35.150 Emergency suspensions.**

The WRD Manager may suspend the wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge, which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons, interferes with the operation of the municipal wastewater system, or which may present an endangerment to the environment.

- 1) Any industrial user notified of a suspension of its wastewater permit shall immediately stop or eliminate its contribution. In the event of an industrial user's failure to immediately comply voluntarily with the suspension order, the WRD Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the system, its receiving stream, or endangerment to any individuals. The WRD Manager may allow the industrial user to

recommence its discharge when the user has demonstrated to the satisfaction of the RWRP that the period of endangerment has passed, unless termination proceedings are initiated against the user.

- 2) An industrial user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrences to the WRD Manager prior to the date of any show cause or termination hearing.

[Ord. 08-02 § 11.715, 2008.]

**7.35.160 Termination of permit.**

In accordance with the wastewater revocation section of this title (RVSSC 7.20.130) and in addition to other provisions of this title, any industrial user which violates conditions of this title, wastewater permits, or orders issued hereunder is subject to permit termination.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and may be offered an opportunity to show cause why the proposed action should not be taken.

[Ord. 08-02 § 11.716, 2008.]

**7.35.170 Cost recovery.**

- 1) The manager/WRD Manager may recover all verifiable costs resulting from a discharge not in compliance with this title, including but not limited to the repairing of damages to the sewer system, additional treatment costs, additional maintenance costs, and the paying of fines and penalties assessed the treatment plant by regulatory agencies. The costs may be in addition to any fines and penalties assessed the user in other sections.
- 2) Notice of intent to recover shall be by letter to the discharger, sent by certified mail, which states the specific violation, the penalties and damages sustained by the sewer system, the costs of those damages and penalties, and the costs determined as



attributable to the discharge and, therefore, billed to the user.

- 3) The recovery costs are due and payable by the user within 30 days after the notice is sent.  
[Ord. 08-02 § 11.717, 2008.]

#### **7.35.180 Appeals.**

A final decision by the WRD Manager to adopt a rule establishing or modifying technically based local limits may be appealed by any jurisdictional participant or any industrial user. A final decision by the WRD Manager concerning the issuance, denial or modification of an industrial waste discharge permit, concerning an alleged violation of this title or penalty therefor, or concerning a service charge for industrial waste may be appealed by the waste discharger affected by such action. Such decisions may be appealed to the regional committee by mailing a written notice of appeal to the WRD Manager not later than 21 days after the effective date of the decision or 21 days after notice was mailed or otherwise given to the person, whichever is later. All appeals shall be first considered by the technical advisory group, which shall make a recommendation to the regional committee. The matter shall be decided by the regional committee within 60 days after receipt of the notice of appeal. The decision of the regional committee on the appeal shall be final and binding.

[Ord. 08-02 § 11.718, 2008.]

#### **7.35.190 Conflict.**

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this title are hereby repealed to the extent of such inconsistency or conflict.

[Ord. 08-02 § 11.719, 2008.]

#### **7.35.200 Severability.**

If any provision of this title is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

[Ord. 08-02 § 11.720, 2008.]

#### **7.35.210 Water supply severance.**

Whenever an industrial user has violated or continues to violate the provisions of this title, orders, or permits issued hereunder, water service

to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

[Ord. 08-02 § 11.721, 2008.]

#### **7.35.220 Affirmative defense.**

- 1) An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions of this title if it can prove that it did not know or have reason to know that its discharge would cause pass through or interference and that either:
  - a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to and during the pass through or interference; or
  - b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the treatment plant was regularly in compliance with its NPDES permit, and in the case of interference, in compliance with applicable sludge use or disposal requirements.
- 2) The intentional diversion of waste streams from any portion of an industrial user's treatment facility shall be an affirmative defense to an enforcement action brought against the industrial user if the user can demonstrate that such a bypass was unavoidable to prevent loss of life, personal injury, or severe property damage. In order to be eligible for the affirmative defense, the industrial user must demonstrate that there was no feasible alternative to the bypass and submit notice of the bypass as required by 40 CFR 403.17.

The establishment of an affirmative defense under the provisions of this section does not relieve the user of liability for damages or extraordinary costs incurred by the wastewater treatment system as a result of the discharge.

[Ord. 08-02 § 11.722, 2008.]

#### **7.35.230 Operating upsets.**

Any user which experiences an upset in operation which places the user in a temporary state of noncompliance with this title or an industrial wastewater discharge permit issued pursuant to this title shall inform the WRD Manager of the upset immediately. The user shall also submit, within 24 hours of becoming aware of the upset, a description of the discharge and its causes, the period of noncompliance (if not corrected, the time noncompliance is anticipated to end), and the steps being taken to reduce, eliminate and prevent recurrence of the noncompliance.

If the information is given orally, the user must also submit a written report containing such information within five days.

An upset shall be an affirmative defense to an enforcement action brought against a user for violating a pretreatment standard and requirement if the following conditions are met:

- 1) The user can identify the cause of the upset.
- 2) The facility was operating in a prudent and workmanlike manner at the time of the upset and complied with applicable O&M procedures.
- 3) The upset was reported in accordance with the requirements of this section.

Noncompliance caused by operational error, improperly designed pretreatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation does not constitute an upset.

The establishment of an affirmative defense under the provisions of this section does not relieve the user of liability for damages or extraordinary costs incurred by the wastewater treatment system because of the discharge.

[Ord. 08-02 § 11.723, 2008.]

### **7.35.240 Bypass.**

- 1) For the purposes of this section:
  - a) "Bypass" means the intentional diversion of waste streams from any portion of a user's treatment facility.
  - b) "Severe property damage" means substantial physical damage to property,

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

- 2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (3) and (4) of this section.

### **3) Bypass Notifications.**

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

### **4) Bypass.**

- a) Bypass is prohibited, and the WRD Manager may take an enforcement action against a user for a bypass, unless:
  - i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

- ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - iii) The user submitted notices as required under subsection (C) of this section.
- b) The WRD Manager may approve an anticipated bypass, after considering its adverse effects, if the WRD Manager determines that it will meet the three conditions listed in subsection (4)(a) of this section.

[Ord. 08-02 § 11.724, 2008.]

## Chapter 7.40 Industrial Wastewater Sewer Service Charges

### Sections:

7.40.010 Wastewater Strength Determination

7.40.020 Wastewater volume determination.

7.40.030 Wastewater rate determination.

7.40.040 Pretreatment charges and fees.

### **7.40.010 Wastewater Strength Determination**

Each person discharging industrial wastes into the sanitary sewer system may, at his option, or shall, when directed by the manager/WRD Manager, construct and maintain an approved control manhole, together with such flow measurement, flow sampling, and sample storage facilities for all waste entering the public sewer as may be required by the manager/WRD Manager. These facilities may be used to obtain flow and wastewater characteristics for use as a basis for an industrial wastewater service charge. These facilities will be installed and maintained at the discharger's expense.

In lieu of directing the construction of measurement, sampling and sample storage

facilities, the manager/WRD Manager may require each person discharging industrial wastes into the sanitary sewer system to procure and test, at the discharger's expense and in a manner approved by the WRD Manager, sufficient composite samples on which to base and compute the person's industrial wastewater service charge. The WRD Manager may, at his option, procure and test the wastewater discharge to determine the wastewater strength for use as a basis for an industrial wastewater service charge. At least three consecutive or separate 24-hour composite waste samples shall be taken for the initial year. Additional composite waste samples shall be taken at least once during each subsequent 18-month period to determine changes in wastewater strengths.

A composite sample is a series of samples mixed together to approximate the average strength of discharge to the sewer. The sampling period may include any 24-consecutive-hour period, not necessarily midnight to midnight. All measurement methods shall be approved by the WRD Manager.

The WRD Manager shall determine which industrial waste discharges require sampling to determine waste strengths and shall, in accordance with this section, determine the wastewater strengths.

[Ord. 08-02 § 11.801, 2008.]

### **7.40.020 Wastewater volume determination.**

The wastewater volume shall be determined based on actual flow measurement. In the event that actual flow measurement is not provided, the industrial wastewater charge shall be computed using the metered water flow to the premises as a basis for water flow. Metered water flow shall include all water delivered to or used on the premises and which is discharged to the sanitary sewer system. Cooling waters or water not discharged to a sanitary sewer shall be separately metered at the user's expense using deduct meters or any other manner approved by the WRD Manager. WRD Manager approval shall be obtained prior to allowing deduction of such flow from the total water used on the premises in computing the industrial wastewater sewer service charge. All metered water flows shall be

metered at the user's expense. Allowances may be made in accordance with the requirements of this section.

[Ord. 08-02 § 11.802, 2008.]

#### **7.40.030 Wastewater rate determination.**

Extra strength industrial waste discharge shall be defined as industrial, commercial, or hospital industrial wastes discharged into the sewer system containing a total of more than 60 pounds of biochemical oxygen demand or suspended solids in any one day and having an average strength in excess of 300 ppm of biochemical oxygen demand or suspended solids.

- 1) **Composite Charge Rate.** For each extra strength industrial waste discharger, the composite charge rate shall normally be employed. The composite charge rate shall be based on the average of composited samples obtained in accordance with the provisions of the wastewater strength determination section of this title (RVSSC 7.40.010) and the wastewater volume as determined in accordance with the provisions of the wastewater volume determination section of this title (RVSSC 7.40.020).

The rate shall be established per 300 ppm of biochemical oxygen demand or suspended solids, or fraction thereof, in excess of the first 300 ppm of biochemical oxygen demand or suspended solids per 1,000 gallons of water. The rate shall be for the higher concentration of either BOD or suspended solids, but not assessed for both.

- 2) **Other Charge Rates.** If unusual effluent conditions make the calculations by the composite method impossible or unrealistic, another method of sampling and computation may be implemented by the WRD Manager.
- 3) **Allowances.**
  - a) Appropriate allowances may be made, at the discretion of the WRD Manager, for the volume of domestic sewage at permissible limits of strength. The domestic sewage allowance shall be based on a ratio of 1,000 gallons per month for each 27 employees using the sanitary sewer system.

- b) Favorable consideration will be given to users that can discharge compatible wastes during low flow periods of the night and on weekends. Case-by-case consideration will be given to those users at the discretion of the WRD Manager, to make rate adjustments commensurate with decreased impact on the sanitary sewer system.

- c) In the event wastewater volume determination is computed using metered water flow and deduct meters are not utilized, special allowances may be made, at the discretion of the WRD Manager, for water consumption or loss based on verifiable industry standards (e.g., evaporation, use in product, etc.).

- 4) **Adjustments.** The WRD Manager may check sewage strength as outlined in this section and give notice that extra strength charges be adjusted where applicable at any time in accordance with the most recent analysis.

- 5) **Resampling Request – Fees.** Any user may request the WRD Manager to resample wastewater at no charge if 18 months or more have elapsed since the last such sampling. If less than 18 months have elapsed since the last sampling, then requests for the WRD Manager to resample wastes shall be submitted in writing and may require payment for a resampling fee. The resampling fee for each day of sampling shall be established by the WRD Manager.

- 6) **Implementation of Charges.** Changes in extra strength charges shall be effective for the month next following the month in which notice of adjustment was given.

[Ord. 08-02 § 11.803, 2008.]

#### **7.40.040 Pretreatment charges and fees.**

The RWRF may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the RWRF's pretreatment program, which may include:

- 1) Fees for permit applications including the cost of processing such applications;

- 2) Fees for monitoring, inspection, and surveillance procedures, including the cost of reviewing monitoring reports submitted by industrial users;
- 3) Fees for reviewing and responding to accidental discharge procedures and construction;
- 4) Fees for filing appeals;
- 5) Expenses incurred in collecting and analyzing samples of the industrial user's discharge;
- 6) Other fees and expenses as the RWRF may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this title and are separate from all other fees, fines, and penalties chargeable by the RWRF. [Ord. 08-02 § 11.804, 2008.]

# **TITLE 8-WASTEWATER DISPOSAL**

## CHAPTERS:

8.05 DECLARATION OF POLICY

8.10 DEFINITIONS

8.20 USE OF PUBLIC SEWERS REQUIRED

8.25 CONSTRUCTION STANDARDS FOR PUBLIC SEWERS AND SERVICE CONNECTIONS

8.30 BUILDING SEWERS AND CONNECTIONS

8.35 CONSTRUCTION STANDARDS FOR BUILDING SEWERS

8.40 PRIVATELY ENGINEERED AND CONSTRUCTED SYSTEMS

8.45 PROHIBITED PRACTICES

8.50 PENALTIES OTHER THAN INDUSTRIAL

8.55 APPEALS

8.60 SEVERABILITY AND CONFLICT

Code reviser's note: Ord. 83-1 has been revised by Ord. 98-9. Ord. 83-1 §§ 4, 5, and 6 have been repealed and are now covered in Title 7 RVSSC.

## Chapter 8.05 Declaration of Policy

### Sections:

#### 8.05.010 Declaration.

##### **8.05.010 Declaration.**

It is hereby declared to be the policy of the Rogue Valley Sewer Services to plan and to provide sewerage collection and disposal services within the entire RVSS area. It is further declared to be the policy of the RVSS to provide and offer sewage collection and disposal services for such areas adjacent to the RVSS as may, in the judgment of its Board of Directors, be feasibly served upon such terms and conditions as may be determined by the RVSS and, where applicable, the cities of Medford, Central Point, Eagle Point, Talent, Phoenix and Jacksonville.

The rules and regulations as hereinafter set forth in this title shall be applicable to the disposal of sewage into the RVSS sewerage system whether delivered from within or from without the RVSS.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 101, 1983.]

## Chapter 8.10 Definitions

### Sections:

#### 8.10.010 Definitions of terms commonly used.

#### 8.10.020 Definition of additional terms.

##### **8.10.010 Definitions of terms commonly used.**

Unless the context specifically indicates otherwise, the following words, terms, and phrases when used in this title shall have the meanings hereinafter set forth in this chapter, whether appearing in capital or lowercase form.

- 1) "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
- 2) "Board of Directors" or "Board" means the Board of Directors of RVSS.
- 3) "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes

within or adjoining the building or structure and conveys the same to the building sewer which begins at a point five feet outside the established line of the building or structure including any structural projection except eaves.

- 4) "Building sewer" means that part of the horizontal piping of a drainage system which extends from the end of the building drain and which receives the discharge of the building drain and conveys it to a service connection, individual sewage disposal system or other point of disposal and is under the jurisdiction of the RVSS, is not maintained by the RVSS, but by the property owner.
- 5) "Dwelling units" means buildings and structures that are constructed and used primarily for residential purposes.
- 6) "Engineer" means the engineer, licensed by the State of Oregon, and duly appointed by a local government agency or the owner of private sewers to supervise and direct the design and construction of local sewerage facilities, acting personally or through agents or assistants duly authorized by him, such agents or assistants acting within the scope of the particular duties assigned to them.
- 7) "Horizontal pipe" means any pipe or fitting which is installed in a horizontal position or which makes an angle of not more than 45 degrees with the horizontal.
- 8) "Joint-use trunk agreement" means the agreement between the RVSS and any local government agency or person providing for the delivery or receipt of wastewater to or from the RVSS sewerage system and the acceptance or delivery by the RVSS of such wastewater.
- 9) "Local government agency" means any legally constituted city, town, county, special district, or other public agency under whose jurisdiction local sewerage facilities may be constructed or operated.

- 10) "Natural outlet" means an outlet into a pond, lake, stream, river, ditch, watercourse, or other body of surface water.
- 11) "Plant" means the Medford Regional Water Quality Control Plant at 1100 Kirtland Road, Central Point, Oregon.
- 12) "Plant Manager" means the Manager of the Medford Regional Water Quality Control Plant, or his duly designated representative, with authority to administer the industrial waste pretreatment program and respond to the requirements of regulatory agencies with respect to the NPDES permit held by the Medford Regional Water Quality Control Plant.
- 13) "Pressure sewer" means a sewer receiving flow directly from a pump station and discharging under pressure into an interceptor, trunk, main, lateral, another pumping station, or treatment plant.
- 14) "Private sewer" means a sanitary sewer which is under the jurisdiction of the RVSS but is not maintained by the RVSS or a local government agency.
- 15) "Public sewer" means a sanitary sewer owned and/or maintained by the RVSS or a local government agency.
- 16) "RVSS" means the Rogue Valley Sewer Services, a local government agency in the state of Oregon, having jurisdiction within certain defined boundaries as now or hereafter constituted, acting through its Board of Directors or any Board, committee, body, official or person to whom the Board shall have lawfully delegated the power to act for or on behalf of the RVSS.
- 17) RVSS Sewerage System. The words "RVSS sewerage system" shall mean all or any part of the facilities for collection, pumping, treating, and disposing of sewage as acquired, constructed or used by the RVSS as a part of its master plan.
- 18) "Service charge" means the charges levied on all users of the public sewer system for operation, maintenance, and other purposes as established by the regional sewer rate committee and adopted by the participant.
- 19) "Service connection" means a private sewer which has been constructed to the approximate property line or right-of-way line from a public sewer for the sole purpose of providing a connection for the building sewer and is maintained by the user.
- 20) "SPCC" means the spill prevention, containment, and countermeasure plan as defined in 40 CFR Section 112.
- 21) "Trunk" means a major sanitary sewer into which more than two laterals or mains discharge and which transports the flow collected from the laterals and mains to an interceptor, pumping station or treatment plant.
- 22) "Unpolluted water or liquids" means any water or liquid containing none of the following: free or emulsified grease or oil; acids or alkalis; substances that may impart taste and odor or color characteristics; toxic or poisonous substances in suspension, colloidal state or solution; odorous or otherwise obnoxious gases. It shall meet the current state standards for water used for recreation. Analytical determinations shall be made in accordance with procedures set forth in Standard Methods and other approved EPA methods.
- 23) "U.S. EPA" or "EPA" means the U.S. Environmental Protection Agency which is the federal agency which prescribes federal standards and requirements relating to the treatment and disposal of wastewater and which administers the Clean Water Act.
- 24) "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 2-01, 1983.]

#### **8.10.020 Definition of additional terms.**



Words, terms or expressions peculiar to the art or science of sewerage not hereinabove defined shall have the respective meanings given in “Glossary, Water and Wastewater Control Engineering,” published in 1981, prepared by a joint committee representing the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and the Water Pollution Control Federation.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 2-02, 1983.]

## Chapter 8.20 Use of Public Sewers Required

### Sections:

8.20.010 Objectionable waste.

8.20.020 Discharge to natural outlet unlawful.

8.20.030 Disposal facility construction unlawful.

8.20.040 Toilet facilities.

8.20.050 Monthly sewer service charge.

8.20.060 Provisions in addition to law.

### **8.20.010 Objectionable waste.**

It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the RVSS or in any area under the jurisdiction of the RVSS any human excrement, garbage, or other objectionable waste.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 7-01, 1983.]

### **8.20.020 Discharge to natural outlet unlawful.**

It shall be unlawful to discharge to any natural outlet within the RVSS, or in any area under the jurisdiction of the RVSS, any sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with applicable provisions in this title.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 7-02, 1983.]

### **8.20.030 Disposal facility construction unlawful.**

Except as provided in subsection (1) of this section, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, holding tank, or other facility intended

or used for the disposal of sewage within the RVSS, or in any area under the jurisdiction of the RVSS.

1) Where a public sanitary sewer is not available under the provisions of this chapter, the building sewer shall be connected to a private sewage disposal system complying with the requirements of the DEQ, the Oregon State Board of Health, the Plumbing Specialty Code of the state of Oregon, and Jackson County.

2) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in subsection (1) of this section, a direct connection shall be made to the public sewer in compliance with this title, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned in accordance with DEQ regulations. Where existing buildings are too low to be served by gravity by an available sewer, the existing septic tank facilities shall be maintained in use and, when so ordered by the manager under RVSSC 8.20.040, approved pumping facilities shall be installed to pump the septic tank effluent into the available sanitary sewer system.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 §§ 7-03, 7-03.01, 7-03.02, 1983.]

### **8.20.040 Toilet facilities.**

The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the RVSS and abutting any street, alley or right-of-way in which there is a public sanitary sewer of the RVSS, are hereby required, at their expense, to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer, either by gravity or with approved pumping facilities in accordance with the provisions of this title, within six months after the date of official notice to do so; provided, that said public sewer is available to or on the property and/or at a property line of said property and the structures or buildings are within 200 feet of the public sewer. In the event that, during the said period of six months, the said owner shall file his written objections with the manager against being

so required to install said facilities, the RVSS shall not enforce the provisions of this section upon said owner so filing his objections, until the Board shall have, at a meeting thereof, heard the said objections of said owner, and rendered its decision thereon. The meeting of the Board shall be held not less than 10 days nor more than 30 days from and after the date of the filing of said objections with the manager. Not less than seven days prior to the date set by the Board of said meeting, the manager shall give due notice of the date set therefor to said owner. The decision of the Board shall be final and no recourse shall be available to said owner except as is provided by law.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 7-04, 1983.]

#### **8.20.050 Reserved**

#### **8.20.060 Provisions in addition to law.**

The provisions of this chapter shall be in addition to and not in derogation of the requirements of general law.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 7-06, 1983.]

### **Chapter 8.25 Construction Standards for Public Sewers and Service Connections**

Sections:

8.25.010 In general.

8.25.020 Safety.

#### **8.25.010 In general.**

Public sewer and service connection construction by any person, firm or corporation within the boundaries of the RVSS shall conform to this title, design criteria adopted by RVSS, which may be modified from time to time, and the requirements of the Oregon State Health Division and DEQ. In the event of conflict, the highest applicable standard, as determined by the manager, shall apply.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 8-01, 1983.]

#### **8.25.020 Safety.**

Any person or persons constructing sewers within the RVSS shall fully comply with the applicable

state laws and current safety regulations.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 802, 1983.]

### **Chapter 8.30 Building Sewers and Connections**

Sections:

8.30.005 Oregon Plumbing Specialty Code

8.30.010 Unauthorized connections.

8.30.020 Sewer connection permit.

8.30.030 Building sewer construction.

8.30.040 Use of existing sewers.

8.30.050 Separate building sewer.

8.30.060 Basement service.

8.30.070 Restricted connections.

#### **8.30.005 Oregon Plumbing Specialty Code**

In the event of a conflict between this Code and the Oregon Plumbing Specialty Code (OPSC), the most recent version of the OPSC shall prevail.

#### **8.30.010 Unauthorized connections.**

No person, firm or corporation shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenances thereto without first making an application to the RVSS and securing a permit therefor.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 9-01, 1983.]

#### **8.30.020 Sewer connection permit.**

There shall be two classes of building sewer permits for the RVSS: (A) for residential and commercial service, and (B) for service to establishments producing industrial wastes. In either case, the owner or his authorized agent shall make application on a special permit form furnished by the RVSS. The permit application under Class 1 shall be supplemented by any plans, specifications, or other information considered pertinent in the RVSS's judgment. A permit and inspection fee as established by the Board shall be paid to the RVSS at the time the permit is issued.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 9-02, 1983.]

#### **8.30.030 Building sewer construction.**

Building sewer line construction shall be in

accordance with this title and the Plumbing Specialty Code of the state of Oregon. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. It is the owner's responsibility to maintain the building sewer line and service connection from the house to the public sewer. Any loss or damage to any RVSS facility caused either by improper installation or maintenance procedures will also be the owner's responsibility.

[Ord. 1203, 2012; Ord. 98-9, 1998; Ord. 83-1 § 9-03, 1983.]

#### **8.30.040 Use of existing sewers.**

Existing building sewers may be used in connection with new buildings, or new building sewers, only when they are found, on examination and testing by the RVSS, to meet all requirements of this title.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 904, 1983.]

#### **8.30.050 Separate building sewer.**

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and whole considered as one building sewer; provided, however, that apartment courts, motels and similar structures held under a single ownership shall be permitted to use a single sanitary sewer connection while such single ownership shall continue, such single connection to be of a size and type approved by the RVSS as adequate for the purpose.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 9-05, 1983.]

#### **8.30.060 Basement service.**

Building sewers serving buildings with basements shall, whenever possible, be brought to the building at an elevation below the basement floor.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer,

sewage carried by such drain shall be lifted by approved means and discharged to the building sewer.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 9-06, 1983.]

#### **8.30.070 Restricted connections.**

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 9-07, 1983.]

### **Chapter 8.35**

#### **Construction Standards for Building Sewers**

Sections:

8.35.010 In general.

#### **8.35.010 In general.**

Building sewer construction by any person, firm or corporation within the boundaries of the RVSS shall conform to the requirements of the most recent revision of the Oregon State Plumbing Specialty Code.

[Ord. 13-01, 2013; Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 10-01, 1983.]

### **Chapter 8.40 Privately Engineered and Constructed Systems**

Sections:

8.40.010 Review and approval required.

8.40.020 Engineered plans.

8.40.030 Type of sewerage system.

8.40.040 Sewer design criteria.

8.40.050 Reserved.

8.40.060 Notification and review.

8.40.070 Inspection.

8.40.080 Plan review and inspection fees.

8.40.090 County road permit required.

#### **8.40.010 Review and approval required.**

Plans for all privately constructed sewer systems which will become public sewers within the jurisdiction of the RVSS and connected to its sewerage system shall be reviewed and approved by the RVSS. All such systems shall fully

conform to the provisions of this title, and the requirements of the Oregon State Health Division, Department of Commerce and DEQ. In the event of conflict, the highest applicable standard shall govern.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 11-01, 1983.]

#### **8.40.020 Engineered plans.**

All plans, notes, sketches and calculations from which the systems described in RVSS 8.40.010 are to be constructed shall be prepared by a professional engineer registered in the state of Oregon.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 11-02, 1983.]

#### **8.40.030 Type of sewerage system.**

All sewer systems shall be designed as separate sanitary sewers or storm sewers. Construction of combined sewers will not be permitted.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 11-03, 1983.]

#### **8.40.040 Sewer design criteria.**

The sewer design criteria are set forth in the RVSS construction design standards adopted by resolution of the Board..

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 11-04, 1983.]

#### **8.40.050 Reserved**

#### **8.40.060 Notification and review.**

Each person shall notify the RVSS of its intention to prepare construction plans and will forward to RVSS a map drawn in sufficient detail to identify the area being served. RVSS will respond with location information on adjacent portions of its system and any other information that may be pertinent to the proposed service area. Said person shall submit two sets of plans when completed, and shall obtain approval thereof to construct prior to advertising for bids. Within 21 calendar days following receipt of such plans, the RVSS shall review same and shall notify the person in writing of approval or required changes indicated. This letter of approval will contain all of the conditions to be met prior to acceptance of the constructed facilities for maintenance. If said plans are disapproved, the required changes shall

be made by the person, and all required revisions of plans resubmitted in the same manner as provided for in the initial submittal. Each person shall inform the RVSS a minimum of 10 days in advance of the start of any sewer construction.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 11-06, 1983.]

#### **8.40.070 Inspection.**

The RVSS will inspect all sewer system construction within the RVSS to ensure compliance with the provisions of this title. The inspector will make diligent efforts to protect against defects and deficiencies in the work of the contractor and to determine if the provisions of this title are being fulfilled. Periodic inspection will not relieve the contractor or engineer of those duties and responsibilities which belong to them. The construction contractor and engineer are fully responsible for the techniques and sequences of construction and the safety precautions incidental thereto, and for performing the construction work in accordance with the provisions of this title and with the construction plans as approved.

The RVSS will notify the person responsible for the construction when, in the opinion of the RVSS, the construction work does not comply with this title and with the construction plans as approved. Upon receipt of such notification, the person shall immediately take such action as may be necessary to ensure compliance.

The construction of the sewers shall be accomplished under the supervision of an engineer currently registered in the state of Oregon or his representative. At the completion of the construction, the engineer shall certify in writing to the RVSS that such construction complies with the provisions of this title and the previously approved plans. A copy of the as-built plans will be provided to the RVSS. Alternatively, the responsible party may engage RVSS to supervise and certify the construction of the sewers, in which case RVSS shall bill the property owner in accordance with a fee schedule adopted by the Board by resolution.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 11-07, 1983.]

#### **8.40.080 Plan review and inspection fees.**

RVSS shall be reimbursed for the cost of providing plan review and inspection services to the person installing new sewer systems. These fees are established by Board resolution and will be noted in the plan approval letter. All service fees shall be paid prior to starting construction. [Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 11-08, 1983.]

#### **8.40.090 County road permit required.**

Where privately engineered sewers are constructed along or across existing roads that are maintained by another jurisdiction, a permit for said construction shall be obtained from the applicable jurisdiction's department of public works by the person responsible for the construction. Permit or approval given by RVSS for sewer construction will in no way relieve the person from obtaining the necessary permit from said department and complying with all of the general and special county permit conditions. [Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 11-09, 1983.]

### **Chapter 8.45 Prohibited Practices**

Sections:

8.45.010 Reserved

8.45.020 Interference with operation of RVSS system.

#### **8.45.010 Reserved**

#### **8.45.020 Interference with operation of RVSS system.**

No unauthorized person shall enter any RVSS sewer, manhole, pumping station, sewage lagoon or appurtenant facility. No person shall maliciously, willfully, or negligently break, damage, destroy, deface, or tamper with any structure, appurtenance, or equipment which is part of the RVSS system.

No person, other than an authorized employee or agent of the RVSS, shall operate or change the operation of any RVSS sewer, pumping station, sewage lagoon, outfall structure, or appurtenant facility.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 12-02, 1983.]

## **Chapter 8.50 Penalties Other Than Industrial**

Sections:

8.50.005 Applicability to all service areas offered by RVSS.

8.50.010 Denial of connection.

8.50.020 Issuance of stop work order.

8.50.030 Delinquency.

8.50.040 Ownership and occupancy.

8.50.050 Monetary penalties.

#### **8.50.005 Applicability to all service areas offered by RVSS.**

This chapter applies to all services offered by RVSS including sanitary sewer and storm sewer. [Ord. 12-03, 2012; Ord. 07-03 § 3(A), 2007.]

#### **8.50.010 Denial of connection.**

No person, firm or corporation may connect a sewer to the RVSS system unless they comply with all provisions of this title.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 13-01, 1983.]

#### **8.50.020 Issuance of stop work order.**

If any person, firm or corporation shall construct a public sewer, service connection, building sewer, or private sewer in violation of this title or construct a storm drain, or Stormwater facility, in violation of RVSSC Title 5, or violate a storm drain capacity purchase agreement, RVSS may issue an order to such person, firm or corporation to stop work in progress which is not then in compliance with this title, or RVSS may issue an order to correct work which has been performed. Such person, firm or corporation shall forthwith take such action as may be necessary to comply with such order, with this title, or with RVSSC Title 5, all at their expense.

[Ord. 12-03, 2012; Ord. 07-03 § 3(B), 2007; Ord. 98-9, 1998; Ord. 83-1 § 13-02, 1983.]

#### **8.50.030 Delinquency.**

Monetary Penalties levied in accordance with the terms of Section 8.50.050 of this Code shall be a debt due to the RVSS. If this debt is not paid within 30 days after it shall be due and payable, it shall be deemed delinquent and may be recovered as provided in ORS 450.880.

[Ord. 12-03, 2012; Ord. 07-03 § 3(C), 2007; Ord. 98-9, 1998; Ord. 83-1 § 13-03, 1983.]

#### **8.50.040 Ownership and occupancy.**

Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 13-04, 1983.]

#### **8.50.050 Monetary penalties.**

- 1) Any person found to be violating any provision of this Code, shall be served by the RVSS with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- 2) Violation of any ordinance lawfully adopted by RVSS is punishable by a civil fine not to exceed \$2,000 for each violation. Each day that a violation continues shall be considered a separate violation. Industrial violations, as defined by Chapter 7.35 RVSSC, shall be assessed by that chapter.
  - a) The actual amount of the civil penalty will depend on all the facts and on any mitigating and aggravating circumstances. Repeated violations are considered to be of such magnitude and seriousness that no less than \$500.00 for each violation will be imposed when a civil penalty is determined.
  - b) A civil penalty imposed under this section shall become due and payable when the offender incurring the penalty receives a notice in writing from RVSS. The notice shall be sent by registered or certified mail and shall include:
    - i) A reference to the particular ordinance, rule, or order involved;
    - ii) A short and plain statement of the matter asserted or charged;
    - iii) A statement of the amount of the penalty or penalties imposed; and
    - iv) A statement of the right to request a hearing.
  - c) The offender shall have 10 days within

which to make application for a hearing. Such application shall be made in writing, shall attach a copy of the notice sent by RVSS, and shall include a payment of \$100.00.

- d) In determining the amount of violation, the following factors shall not be limited to but shall be considered:
  - i) The gravity and magnitude of the violation;
  - ii) The offender's previous record of complying or failing to comply with the Board's ordinances or orders;
  - iii) The offender's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation; and
  - iv) Such other considerations as the manager or the Board may consider appropriate.

In addition to any other penalty provided herein, the Board of RVSS reserves the right to pursue other remedies against alleged violators.

In the event a hearing is requested (see RVSSC 8.55.020), it shall be before a majority of the RVSS Board and in such event, if the Board determines that the civil penalty is appropriate, in addition to the penalty, the offending party shall be charged any reasonable attorney's fees incurred by RVSS at the hearing.

The amount of a penalty or attorney's fees can be enforced in the appropriate Jackson County court by obtaining a judgment in the amount thereof.

- 3) The RVSS reserves the right to injunctive relief against violation of any of the provisions of this title.

[Ord. 12-03, 2012; Ord. 07-03 § 3(C), 2007; Ord. 98-9, 1998; Ord. 83-1 § 13-05, 1983.]

## **Chapter 8.55 Appeals**

### Sections:

8.55.010 Regional sewer rate committee.

8.55.020 Notice of appeal.

#### **8.55.010 Regional sewer rate committee.**

Any user feeling himself aggrieved by any

decision or action of the plant Manager taken pursuant to the industrial discharge sections of this title may appeal to the regional sewer rate committee by filing written notice of appeal with the chairman of the regional sewer rate committee with copy to the manager/plant Manager within 45 days following such decision or action. Such notice of appeal shall set forth in reasonable detail the action or decision appealed from the appellant's grounds for reversal or modification thereof. Within 20 days following receipt of such notice, the regional sewer rate committee shall set a time for hearing upon such appeal which shall not be less than 10 nor more than 40 days following such receipt. The action of the regional sewer rate committee upon such appeal shall be conclusive, subject to appeal in the manner required by law.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 14-01, 1983.]

#### **8.55.020 Notice of appeal.**

Any person, firm or corporation feeling himself aggrieved by any decision or action of the RVSS, made or taken pursuant to this title, may appeal to the Board by filing written notice of appeal with the manager within 45 days following such decision or action. Such notice of appeal shall set forth in reasonable detail the action or decision appealed from and the appellant's ground for reversal or modification thereof. Within 20 days following receipt of such notice, the Board shall set a time for hearing upon such appeal which

shall not be less than 10 nor more than 40 days following such receipt. The action of the Board upon such appeal shall be conclusive, subject to appeal in the manner required by law.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 14-02, 1983.]

### **Chapter 8.60 Severability and Conflict**

#### Sections:

#### 8.60.010 Severability.

#### 8.60.020 Conflict.

#### **8.60.010 Severability.**

If any provision, paragraph, word, section or article of this title is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 15-01, 1983.]

#### **8.60.020 Conflict.**

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this title are hereby repealed to the extent of such inconsistency or conflict.

[Ord. 12-03, 2012; Ord. 98-9, 1998; Ord. 83-1 § 15-02, 1983.]

# **TITLE 9-RATES AND FEE SCHEDULES**

Chapters:

9.05 Service Classification Schedules

9.10 Permits and Service Fees



## Chapter 9.05 Service Classification Schedules

### Sections:

9.05.010 Sewer service charges.

9.05.020 Stormwater charges.

9.05.025 Storm drain charges.

9.05.030 Service classifications.

9.05.040 Rate schedules for sanitary sewer and  
Stormwater charges.

9.05.050 Minimum charges.

9.05.060 Determination of quantities for  
establishing gallonage rates.

9.05.070 Temporary service.

9.05.080 Uncollectible and delinquent  
accounts.

9.05.090 Annual review of rates.

Code reviser's note: Ord. 94-3 has been revised by Ords. 96-4, 96-10, 98-7, 99-3, 99-5, 01-02, 02-01, 04-04, 0405, 04-06 and 04-09.

### **9.05.010 Sewer service charges.**

All sewer users within Rogue Valley Sewer Services (RVSS) shall pay an incurred sewer service charge to RVSS in accordance with the service classifications and rate schedules determined by the regional rate committee and Board of Directors of Rogue Valley Sewer Services as in this chapter established.

The term sewer user includes the owner of the property when the property is occupied by another party. Upon request by the owner, the bill may be sent to the occupant; but the owner and occupant are jointly and severally liable for all charges.

[Ord. 94-3 § 1, 1994.]

### **9.05.020 Stormwater charges.**

- 1) All properties in jurisdictions that contract with RVSS to manage Stormwater quality under the DEQ National Pollution Discharge Elimination Permit (NPDES) for Municipal Separate Storm Sewers (MS4) are subject to stormwater charges as provided by resolution of the Board.
- 2) Unless an owner installs onsite mitigation (see Chapter 4.05 RVSSC), the owner shall be responsible for service charges. The term

“sewer user” includes the owner of the property. Upon request, the bill may be sent to the occupant, but the occupant and owner are jointly and severally liable for all charges.

[Ord. 94-3 § 2, 1994.]

### **9.05.025 Storm drain charges.**

- 1) All properties within a storm drain area defined in Chapter 5 of this code are subject to stormwater charges as provided by resolution of the Board.
- 2) Storm drain charges will be based on the area of the property measured to the nearest 1/10 acre. The charges shall be established by resolution of the Board.
  - a) Primary charge will be assessed based on the total area of developed impervious surface area of the property.
  - b) Secondary charge will be assessed based on the total area of the property.
  - c) Minimum charge – all properties, regardless of size, shall be charged a minimum charge equivalent to a secondary charge of one acre.

### **9.05.030 Service classifications.**

- 1) Residential. Rate Schedule A, codified in RVSSC 9.05.040, shall apply to each dwelling with one ownership on one building site, and all dwelling units regardless of their grouping or number which receive separate billing for sewer service charges. (Excluding special areas covered under Rate Schedule F and Surcharge Schedule G, codified in RVSSC 9.05.040).
- 2) Mobile Home Parks. Rate Schedule B, codified in RVSSC 9.05.040, shall apply to dwelling units situated within any area or tract of land having a sewer connection and where sewerage collection pipes are extended to two or more spaces occupied or designated, offered, or made available for occupancy by mobile homes, travel trailers, or motor homes. “Mobile homes,” “travel trailers,” and “motor homes” are defined as vehicles with or without motive power which are designated, used, or intended for use as a place of human habitation, or as eating, sleeping, or living quarters or any

combination thereof, which is at least one-half assembled off-site and is within an area of other similar structures. A “space” is defined as the individual location having a sewer hookup for each such structure. Sewer service charges for the development will be incorporated in one billing and directed to the manager or other person, partnership, or corporation responsible for the management and operation of the entire development.

- 3) Multiple Dwellings. Rate Schedule C, codified in RVSSC 9.05.040, shall apply to apartment houses, multiple-family dwellings, motels providing permanent and semi-permanent housing, and all other multiple dwellings not included under other residential classifications.
- 4) Nonresidential. Rate Schedule D, codified in RVSSC 9.05.040, shall apply to all establishments not otherwise defined in this title and includes hospitals, churches, schools, assisted living centers, and commercial operations.
- 5) “Extra strength service” shall be defined as service to a user discharging wastes into the sewer facilities containing a total of more than 60 pounds of biochemical oxygen demand (BOD) or total suspended solids (TSS) in any one day and discharged wastes having an average strength in excess of 300 ppm of BOD or TSS. “Biochemical oxygen demand” shall mean the quantity of oxygen, expressed in parts per million by weight, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of 20 degrees centigrade. “Total suspended solids” shall mean solids that either float on the surface or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering in accordance with procedures set forth in Standard Methods. The laboratory determinations shall be made in accordance with the procedures set forth in “Standard Methods for the Examination of Water, Sewage, and Industrial Wastes,” published jointly by the American Public Health

Association, the American Water Works Association, and the Federation of Sewage and Industrial Wastes Associations

- 6) Recreational Vehicle Waste-Dumping Station. Rate Schedule E, codified in RVSSC 9.05.040, shall apply to all non-single-family residential establishments that are connected with the sewage collection system and accept liquid waste dumped from holding tanks of recreational vehicles such as travel trailers, motor homes, and campers, where such wastes pass into the RVSS collection system, regardless of whether the wastes are accepted by the operator of the waste-dumping station with or without charge.
- 7) Community Sewage Disposal System. Rate Schedule F, codified in RVSSC 9.05.040, shall apply to each user connected to any self-contained community sewage disposal system or pump system for which a homeowners’ association is responsible that is operated and maintained by Rogue Valley Sewer Services. Charges are to be determined for each service area based on the operation, maintenance, and repair requirements of the sewage disposal system operated for the benefit of each service area.
- 8) Metered Customers.
  - a) All users of RVSS sanitary sewer services have the right to have a flow-measuring device installed on their effluent line. This allows the user to have direct control over the amount of any incurred charges. Such devices must be acceptable to RVSS in terms including but not limited to methodology, mechanics, and maintenance; and these devices, their installation, and periodic re-calibration costs shall be paid for entirely by such owners.
  - b) These devices will be read and calibrated by RVSS on a regular schedule with the user paying for the costs of meter reading and calibration established by this title. Such charge shall be as specified in RVSSC 9.05.040(G).
  - c) Once installed, the customer will be billed based strictly on flow; Rate

Schedule G, codified in RVSSC 9.05.040, shall apply.

- 9) Hardship Connections. Rate Schedule “H” shall only apply to temporary dwellings approved by virtue of a temporary medical hardship permit. The rate schedule shall apply only while the permit is valid..  
[Ord. 94-3 § 3, 1994.]

#### **9.05.040 Rate schedules for sanitary sewer and Stormwater charges.**

Rates for the sanitary sewer and stormwater charges shall be set by resolution of the Board, and reviewed annually.

#### **9.05.050 Minimum charges.**

The minimum charge for each user, regardless of classification, shall be not less than the rate for a single family residence. Any account under any schedule which causes sizable additional expense to RVSS shall be increased by that amount.  
[Ord. 94-3 § 5, 1994.]

#### **9.05.060 Determination of quantities for establishing gallonage rates.**

- 1) Nonresidential Accounts. The quantity of water delivered to the premises is defined as the actual water consumption as metered monthly or metered sewage discharged to main line or estimated discharge to main line as determined by manager or designee. In the event water consumption metering is not feasible, the quantity of water delivered shall be estimated by the manager of Rogue Valley Sewer Services. In the case of churches and hospitals, water delivered is defined as the water consumption averaged for the months of December, January and February immediately preceding the 12-month period being billed. In the case of schools, only January and February will be used. B. Effluent Meters: The quantity of effluent water is defined as the average monthly effluent water as metered during a reasonable time period as established by the manager. Such rate remains in effect until revised by a subsequent meter reading.  
[Ord. 94-3 § 6, 1994.]

#### **9.05.070 Temporary service.**

- 1) If application for service is made with an expected duration of said service of less than 90 days, standard connection permit procedures and fees will apply together with the rate schedules provided in this chapter. In addition, a temporary service fee in the amount listed in Schedule A, codified in RVSSC 9.05.040, shall be charged for each 30-day period or part thereof of such temporary service.
- 2) Temporary Suspension. Owners of residential property may request a temporary suspension of service billings if the property is vacant for more than two months, provided that they:
  - a) Request such suspension at least 14 days prior to the property becoming vacant;
  - b) Provide the exact date of when the property will be reoccupied;
  - c) Are current with all fees due to RVSS; and
  - d) Pay a fee to cover administrative expenses equal to one month’s service charge. [Ord. 94-3 § 7, 1994.]
  - e) Provide proof that water service is temporarily discontinued for the same duration.

#### **9.05.080 Uncollectible and delinquent accounts.**

The owner of property served by the public sewer of Rogue Valley Sewer Services shall be responsible for all sewer service charges incurred therefor. Sewer service charges together with unpaid fees and charges levied in accordance with this chapter and RVSSC Title 8, as amended, of Rogue Valley Sewer Services may be collected in accordance with RVSSC 8.50.030. In addition, the manager of Rogue Valley Sewer Services is authorized to make such collections in accordance with ORS 450.880 and 454.225.

Accounts are due and payable 15 days after being billed by Rogue Valley Sewer Services.

The manager is authorized to:

- 1) Allow individual accounts to be paid on a monthly basis and receive a monthly bill if it is determined that it is in the best interest of RVSS to do so.

- 2) Send a notice(s) of delinquency to sewer service users with accounts that are past due.
- 3) Charge a late fee on all accounts that are 10 or more days past due. The fee shall be three percent of the amount past due but not less than \$3.00. The late fee shall be calculated at the end of each billing cycle, and the total amount past due, regardless of the number of billings past due, shall be multiplied by three percent and shall not be less than \$3.00. The account balance used to calculate the late charge shall not include previous late charges added to the account balance.
- 4) Have sewer service discontinued, in whatever manner is deemed appropriate, to any user who has a sewer service account that is 60 or more days past due. The manager shall notify the county health department before having sewer service discontinued to any place(s) of residence. Sewer service may be discontinued for nonpayment of storm drainage charges in accordance with RVSSC 5.15.060, as amended.
- 5) To contract with public water purveyors to have water service discontinued to any sewer service user, who is also served by the public water purveyor, having an account that is 60 or more days past due.
- 6) To charge a reconnection fee of up to \$640.00 before allowing sewer service to be recommenced to any property disconnected from sewer service as a result of nonpayment of past due sewer service charges. The amount of the reconnection charge shall be equal to the actual cost of disconnecting and reconnecting the sewer service. Sewer service will not be recommenced to any property until the reconnection fee is paid along with the delinquent sewer service fees and any late charges owing.
- 7) To have legal action commenced to recover unpaid sewer service amounts and all costs incurred to disconnect sewer service on any account that is 60 or more days past due.
- 8) To certify all unpaid amounts including fees to the Jackson County assessor for collection on the tax rolls pursuant to ORS 450.880 and 454.225.
- 9) Property Owner Responsible. Every owner of property within RVSS is responsible for payment of charges under this chapter. RVSS will not recognize any attempt to transfer such responsibility although RVSS will, upon written request, bill occupants other than the property owner as a courtesy. If the property owner does not provide RVSS with an address for mailing of bills, RVSS may use the mailing address for tax statements shown on the records of the county assessor and/or county tax collector.
- 10) Set up a system to automatically receive sewer service charges through the banking system's automatic clearing house (ACH) collection system, with customer's written permission, following all state and federal rules and regulations.
- 11) Work with individual property owners to classify service and bill in a different manner if such change is in the best interest of RVSS. [Ord. 94-3 § 8, 1994.]

#### **9.05.090 Annual review of rates.**

Unless otherwise decided by the Rogue Valley Sewer Services Board of Directors, sewer service rates shall be reviewed annually and revisions made thereto to ensure continued equitability and generation of sufficient revenue. Rates may be adjusted by resolution. RVSS Code reviser's note: Ord. 91-12 has been revised by Ords. 92-9, 96-5, 96-9, 98-3, 99-04 and 99-05.

### **Chapter 9.10 Permits and Service Fees**

#### Sections:

#### 9.10.010 Definitions.

#### 9.10.020 Permit.

#### 9.10.030 Inspection.

#### 9.10.040 Permit and inspection fees.

#### 9.10.050 Service connection and tap construction fees.

9.10.060 Fees for maps and other services.9.10.070 Fees for plans and specifications.9.10.080 Fees for excessive maintenance**9.10.010 Definitions.**

As used in this chapter, unless the context requires otherwise:

- 1) "Facsimile signature" may be allowed for permits, agreements or other documents. When practical the original signature or a statement by the individual allowing the use of his or her facsimile signature should be obtained. Permits may be signed by one owner of the property or a licensed contractor.
  - 2) "Person" shall mean any individual, partnership, joint venture, corporation or unit of local, state, or federal government or any agency thereof.
  - 3) "Pressure systems" shall mean a method of providing sanitary sewer service which is not a fully gravity system requiring the use of mechanical pumps, and which is not a STEP or STEG system.
  - 4) "Service connection" shall mean a public sewer which has been constructed to the approximate property line or right-of-way line from a public sewer for the sole purpose of providing a connection from a building to the sanitary sewer
  - 5) "STEP and STEG systems" shall have the meanings as defined by Chapter 6.25 RVSSC.
  - 6) "Stormwater permits" shall mean the RVSS construction permit or NPDES 1200-C permit which are issued on behalf of the Oregon Department of Environmental Quality, DEQ.
  - 7) "Tap" shall mean the preparation and installation of a service connection to the public sewer pipe.
- [Ord. 10-03, 2010; Ord. 08-03 § 1, 2008; Ord. 91-12 § 1, 1991.]

**9.10.020 Permit.**

No person shall connect a structure requiring sewer service to a public sewer of the Rogue Valley Sewer Services without obtaining a permit from RVSS, unless:

- 1) The property is within the City of Medford and there is a sewer lateral extended to the property. In this case the permit to connect will be issued by the City of Medford.
- 2) The new structure is a manufactured home and there is a sewer lateral extended to the property. In this case the connection will be covered by the Manufactured Home Setup Permit.
- 3) The new structure is connected by extending the building drain from an existing building.
- 4) The new structure is connected to an internal private sewer system, i.e. within a mobile home park.

Connections that do not require a permit from RVSS are still required to pay appropriate connection fees.

**9.10.030 Inspection.**

All building sewers that require a permit from RVSS shall pay to an inspection fee.

**9.10.040 Permit and inspection fees.**

It is the policy of RVSS to charge the actual cost of providing service to its customers. The amounts established by resolution are minimum charges and shall be collected whenever possible prior to performing the service. As needed, additional fees shall be collected in order to cover the actual cost plus 10 percent if these established fees do not adequately cover all costs.

[Ord. 91-12 § 3, 1991.]

The permit and inspection fees shall be adopted by resolution of the Board and reviewed annually.

**9.10.045 Connection without a permit prohibited, penalty**

Unless acceptable arrangements are made in advance with RVSS, if installation of a service lateral is commenced prior to the issuance of such permit, the owner will be required to pay all fees and charges together with any penalties or

additional charges as set forth herein below.

- 1) First offense: Service line permit fee is doubled;
- 2) Second offense: \$1,000 or 20 percent of all fees and assessments, whichever is greater.
- 3) Third offense: \$3,000 or 50 percent of all fees and assessments, whichever is greater.
- 4) Fourth and future offenses: \$5,000 or double the total amount of all fees and assessments, whichever is greater.

Notwithstanding an applicant's history of unpermitted installations, an unpermitted installation greater than two years since the last unpermitted installation shall be treated as a first offense.

**9.10.050 Service connection and tap construction fees.**

If the service connection requires a new tap into a sewer mainline, an additional tap fee will be charged.

**9.10.060 Fees for maps and other services.**

Fees for maps and other services shall be established by a resolution of the Board.

**9.10.070 Fees plans and specifications**

The fee to obtain RVSS's model engineering plans and specifications and construction contract plans and specifications shall be established by resolution of the Board.

**9.10.080 Fees for Excessive Maintenance**

Project developers who construct high maintenance public facilities when no maintenance options are available shall pay a maintenance fee equivalent to the projected operation and maintenance costs over 20 years. This applies to developers who choose to construct sewer pump stations when gravity options are available; or stormwater quality structures when non-structural options are available; or similar types of development. the amount of the fee shall be established by resolution.