

**BUTTERMILK METROPOLITAN DISTRICT**  
**RULES, REGULATIONS AND BYLAWS**  
**Amended 5-27-2010**

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## SECTION I - GENERAL REGULATIONS

- 1.1 Purpose. These Rules and Regulations together with the District's Standards and Specifications, which are incorporated herein, provide for the management, maintenance and operation of all District facilities and infrastructure including additions thereto and will serve a public use and promote the health, safety and general welfare of the inhabitants of the District and are enacted pursuant to Colo. Rev. Stat. §32-1-101 et seq. (1973) as amended.

The Buttermilk Metropolitan District is a quasi municipal corporation (local government) which owns the roadways, common landscape areas, drainage and storm detention systems, traffic systems, and a potable community water system within the boundaries of the District. The Buttermilk Metropolitan District manages, administers, operates and maintains all facilities and services provided to constituents of the District and to extra-territorial users of District services.

- 1.2 Water System. The District water system provides potable water for all domestic purposes including fire protection, open space irrigation, and lawn and garden irrigation and the water delivered is to be conserved from waste. The water supply for the District comes from a well field located on Pitkin County lands within the District's approved service area. Water from the District system is only available to constituents of the District, limited portions of **the Aspen/Pitkin County Airport**, and by contract with extra-territorial users within the District's service area.
- 1.3 Drainage & Storm Water System. The District drainage and storm water system carries storm waters, surface drainage, or discharge of water from above ground or underground sources. The drain and storm water system is owned and maintained by the District.
- 1.4 Roads, Streets and Safety Improvements. The District road and street system, together with all safety improvements is owned, operated and maintained by the District and includes both primary and secondary access to residences within the District. All roads within the District are subject to existing easements and right-of-ways and public use of West Buttermilk Road is permitted only under specific access easements granted to Aspen Skiing Company.
- 1.5 Definitions As used herein.

Board shall mean the Board of Directors of the Buttermilk Metropolitan District.

Booster Station - see pump station.

Connection Charge (tapping fee) shall mean a fee for tapping into and connecting a private water line, drainage or storm sewer service line to the District's facilities.

Constituent, Property Owner, Individual, Customer shall mean a person who pays taxes to

the District, owns property within the District, or receives service from the District.

Cost means all direct and indirect costs attributable to any project or the construction of any new facility, including without limitation the costs of inspections, reviews, surveys, actual construction, preliminary and design engineering, inspection, construction observation, administration and legal service, “as built” drawing, easements and acquisition and all other costs necessary for review, evaluation or completion of such new project or facility.

County shall mean Pitkin County, including the Aspen/Pitkin Airport and the Airport Ranch Property.

Cross Connection Control Device or back-flow prevention device, shall be installed on all private water service lines between the primary source of supply and any other supply or use that may lead to cross-contamination. This includes but is not limited to private wells, swimming pools, spas, irrigation systems, hot tubs, et cetera.

Customer shall mean any person, partnership, corporation, governmental authority or their lessees and tenants authorized to use District facilities under a license or permit and who is supplied with water, drainage or storm sewer service by the District.

Developer shall mean the persons, firm, joint venture, partnership or corporation which is the owner or agent of the owner, of land which is being developed or subdivided and which seeks to have the development or subdivided land served by the District.

District shall mean the Buttermilk Metropolitan District.

District Administrator shall be the person appointed by the Manager to oversee administrative functions of the District. The District Administrator shall report directly to the Manager.

District Engineer shall be the person or consultant appointed by the Board or manager to provide professional engineering services to or on behalf of the District. See also District Manager.

District Facilities or Infrastructure means all facilities of any kind owned, operated or otherwise managed by the District. This includes but is not limited to wells, pipelines, pumps, pump station, storage tanks and vessels, irrigation systems, irrigation heads, lines and controls, water system controls, manholes, valves, blow-offs, hydrants, electrical systems, computer and telemetry systems, roads, streets, access ways, drainage ways, storm sewers, signs, signals, warning devices, traffic devices, treatment systems, offices, vehicles, and equipment.

District Manager or Manager shall be the person or management entity appointed by the

Board to manage the District and all of its business affairs. The manager or his staff shall inspect all water, roads, drainage and storm sewer installations, repair, excavations, and connections, shall cause the setting of fees, rates and charges, the management of fiscal operations, oversight of maintenance, repair and rehabilitation of District facilities and infrastructure and shall be charged with enforcement of these regulations and the District's standards and specifications.

Extra-territorial Service shall mean the provision of service to any property not within the approved District's boundary but which lies within the District's approved Service Area. Extra-territorial water service is only available on a contractual basis and is subject to reduction or termination in times of water shortage by the District.

Fire Pump shall mean a pump or pump station used exclusively for providing fire flow.

Heavy Vehicle Use Fee - See Section 6.9 herein.

Inclusion shall mean the expansion of District boundaries of the Buttermilk Metropolitan District for inclusion of property into the District shall be granted only in accordance with these Rules and Regulations.

Inspector shall mean District Manager or his authorized agent, employee or contractor.

Inspection fee shall mean a fee assessed the owner for the inspection of any service line or main to be connected to District facilities and is to ensure that all lines, mains, appurtenances or structures constructed comply fully with these rules and regulations and with the By-laws, Standards and Specifications of the District.

Irrigation Distribution Lines shall be a water main which distributes water to the various service addresses therein for the specific purpose of irrigating lands within the District.

Landscaping shall mean any area planted with grass, trees, bushes, shrubs, flowers or other similar materials including naturally occurring vegetation.

License/Tap Permit shall mean written permission of the Board of Directors to connect to any water or storm sewer main of the District pursuant to the Rules and Regulations and standards and specification of the District.

Operator shall mean the District's water system Operator in Responsible Charge, or its designee.

Person shall mean any individual, firm, company, association, society, corporation or group.

Potable Water shall mean water which meets community water standards for drinking water

quality.

Premises shall mean a single dwelling unit or structure, including detached structures with a common foundation, such as a garage, caretaker unit, or similar that has common ownership.

Private Water Service Line shall mean the water line from the curb valve, or tee, or corporation stop at the water main to the individual building being served. Multiple service lines to an individual building are prohibited without prior express written approval of the District.

Private Well shall mean a well not owned by the District. The District does not require the discontinuance of use of private wells in place and use as of December 1, 2000. Such private wells may continue to be used for irrigation but may not be cross-connected to the District's potable water system.

Public Storm Water System shall mean the District's stormwater drainage system which collects and carries storm and/or drainage water and to which contaminated water or any hazardous liquid or materials are not admitted.

Pump Station shall include any facilities owned by the District which may be used for the pumping of water.

Road Cut Permit shall mean any permit issued by the District for the purpose of cutting any District road, street, trail or other means of access.

Road (Construction) Heavy Vehicle Fee shall mean any fee assessed by the District to cover unusual wear and tear on District roads caused by construction or heavy traffic. Road Vehicle Heavy Use Fees will be assessed to all properties in conjunction with the issuance of building permits by Pitkin County.

Rules and Regulations shall include all rules, regulations, standards and specifications of adopted by the District's Board of Directors. These rules and regulations may be amended from time to time at the sole discretion of the Board. All residents and property owners shall comply with all rules, regulations, standards and specifications of the District as adopted and amended.

Service Area shall mean that area approved by Pitkin County for provision of service outside of the District's taxing boundaries. This includes several small in-fill areas surrounded by or immediately adjacent to the District as well as the Aspen-Pitkin Airport and the Airport Ranch property.

Storm Water Collection Line shall be a storm sewer main, culvert or ditch which collects

storm or drainage water from the roads and various service addresses within the District.

Shall is to be construed as mandatory, may is discretionary.

Street Light shall mean any public safety or transportation lighting fixture owned, operated or maintained by the District.

Street Sign shall mean any public safety or transportation street sign or signal owned, operated or maintained by the District.

System Development Charge (Tap Fee) shall mean a fee assessed the owner for the right to access the District roads, water and storm sewer facilities. Tap fees are collected to repay the costs of previously constructed facilities and/or the future rehabilitation or replacement of existing facilities and/or to pay for increased demand on system capacity.

Tap Fee - See System Development Charge.

Tapping Fee - See Connection Charge.

Traffic Signal/Control Device shall mean any traffic signal/control device owned, operated or maintained by the District.

Water Main shall mean any water line 4 inches in diameter or greater which is owned by the District.

Water Main Extension shall be any water main, pipeline or other facility required to connect a developer's irrigation water distribution system to District service facilities.

Water Meter shall mean the mechanical or electronic device used to measure the quantity of water delivered to a District customer.

Water Rates shall mean those rates and fees for which water shall be furnished within the District and/or its Service Area.

Water Rights Dedication Fee shall mean that fee assessed by the District for increasing its ownership in water rights to meet increasing demand. The District may also elect to accept conveyance of water rights in lieu of this fee.

Water Service shall mean the provision of water to District Constituents or contract holders for a fee or rate established by the Board.

Water Service Line shall mean that portion of the water system that delivers water from the District's water main to the point of use. The water service line shall be owned by District

from the water main to the private side of the water curb stop. The water service line shall be owned by the property owner from the private side of the curb stop to the point of use (i.e. the residence).

Water System shall mean the entire system complete with all facilities, infrastructure and appurtenances, rules and regulations, standards and specifications.

- 1.6 Authority of Agents and Inspectors. Inspectors and other duly authorized employees or agents of the District with proper credentials shall be permitted to enter upon all properties within the District at reasonable times as necessary for the purpose of inspection, observation, measurement, sampling, testing, maintenance, repairing, and replacing any culverts, water mains, service lines, water meters, valves, pumps, storage vessels, roads, streets, signs, ditches, or other district facilities.

NOTE: Pursuant to Colo. Rev. Stat. §18-8-106, a person commits a Class 1 petty offense if, knowing that a public servant is legally authorized to inspect property (a) he refuses to produce or make available the property for inspection at a reasonable hour or, (b) if the property is available for inspection, he refuses to permit the inspection at a reasonable hour. Pursuant to C.R.S. §18-8-102 (1973), a person commits obstructing government operations (A class 3 misdemeanor) when he intentionally obstructs, impairs or hinders the performance of a governmental function by a public servant by using or threatening to use violence, force or physical interference or obstruction.

- 1.7 Tampering, By-Passing or Unauthorized Use of District Facilities. No person shall by-pass any meter or in any way tamper with or make any use of any of the facilities of the District or the water supplied by or other services provided by the District or make any connection to its drainage, roads or storm water systems or any other facility (except authorized fire fighting personnel) without advance written permission from the Board. Any tampering with or connection to any District facilities without written permission of the Board shall subject the violator of this section to a minimum penalty of \$500.00 plus a supplemental fee or charge set by the Board, such supplemental fee or charge to be at least as great as the total costs of all water or other products or services taken and all damage or costs caused to the District or its customers by the unauthorized tampering or connection together with all costs and attorneys' fees reasonably incurred in collecting such penalty.

NOTE: Pursuant to C.R.S. §18-4-505, a person commits a Class 1 misdemeanor if he tampers with the property of a utility or institution with intent to cause interruption or impairment of a service rendered to the public by a utility or by an institution with intent to cause interruption or impairment of a service rendered to the public by a utility or by an institution providing health or safety protection.

Pursuant to C.R.S. §18-4-506, a person commits a Class 2 misdemeanor if he tampers with property of another with intent to cause injury, inconvenience or annoyance to that person

or to another or if he knowingly makes an unauthorized connection with property of a utility.

Pursuant to C.R.S. 18-4-506.5, a person commits a class 2 misdemeanor if he connects any contrivance with any main supplying water without the District's permission or if he alters or obstructs or interferes with the operation of the water meter without the District's permission. The District considers it a "theft of services" when water is taken from the District's system without metering or license.

Pursuant to Colo. Rev. Stat. §40-7.5-102, 103, and 104, the District shall be entitled to recover as damages, three times the amount of the actual damages, plus all reasonable expenses and costs incurred on account of the by-passing, tampering, or unauthorized use of any District facility.

- 1.8 Theft of Service. No person or entity shall take or cause the removal of water from the District's water system without first having received a license or permit to do so. Prior to issuance of any water service license, the District shall require the completion of a water service application which shall specify the level of water service requested.
- 1.9 Damage. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, open or close any lines, valves, tanks, mains, pumps, structures, appurtenances or equipment of the District's water supply, drainage storm sewer collection system, traffic, or transportation system.
- 1.10 Compliance. If any customer violates any of these rules and regulations or fails to pay when due any of the rates, fees, tolls or charges and interest thereon at 1% per month, the District may terminate and/or sever such customer's storm sewer or storm water service lines from the District facilities upon 3 days notice and assess a disconnection charge to be at least as great as the costs and damages to the District or its customers associated with any violations and subsequent disconnection. A disconnection notice may be served upon the occupant or attached to the front door of the premises or mailed by certified mail return receipt requested. Such disconnection charge shall be assessed as an additional charge to the violating customer and, until paid, shall constitute a perpetual lien against the property formerly served to be foreclosed in the same manner as a mechanic's lien.
- 1.11 Regulation Changes. These rules and regulations may be altered, amended, repealed or reenacted at any regular meeting of the Board of Directors of said District or at any special meeting of the Board called for that purpose.
- 1.12 Invalidity of Rules and Regulations. If any section, subsection, paragraph, clause, or other provision of these rules and regulations shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions.

- 1.13 Liability. Any person violating any of the provisions of these rules and regulations shall be liable to the board for any expense, loss or damage to the District occasioned by such violation, including the District's reasonable costs and attorney's fees to require adherence to these rules and regulations or to collect the penalties, fees, tolls and charges due hereunder.
- 1.14 District Standards and Specifications. The Standards and Specifications of the Buttermilk Metropolitan District are incorporated herein as an integral part of these Rules and Regulations. In the event any rule, regulation, or standard, adopted by the District conflicts with another rule, regulation, or standard, the District in its sole discretion shall determine which rule, regulation, or standard shall control.

The Standards and Specifications of the District shall be equal to the standards and specifications of the American Water Works Association, Version 2005 or the most current standard adopted by the District.

## SECTION II. SERVICE POLICY

- 2.1 Eligibility of Service. All properties situated inside the corporate boundaries of the District as of its date of incorporation shall be eligible to receive water service from the District upon compliance with these rules and the payment of all required fees. Water service shall be provided only upon completion of a District water service application and issuance of a water service license from the District. The District shall have sole and exclusive discretion in determining the level of service to be provided by the District and may restrict water use levels throughout the District at any time and for any reason. All water taken from the District's system must be metered and the District shall provide a 1" meter for all service addresses at no cost to the owner. Meters larger than 1" must be purchased by the owner.
- 2.2 Inclusion of Property into the District. Property not eligible for service by the District may petition the District Board for inclusion into the District, however, the decision on whether to include any property lies solely within the discretion of the District's Elected Board of Directors. Landowners wishing to include property into the District must petition the District for inclusion of such property in strict compliance with Colorado Revised Statutes, Sections 32-1-401 and 32-1-402 complete, and all administrative rules of the District as of the date of petition for inclusion. The Petitioner must pay all fees and costs associated with the inclusion and agree to be bound by all District Rules, Regulations, Standards and Specifications.
- 2.3 Exclusion of Property from the District. Fee owners of property within the District may petition the Board for exclusion of such property in accordance with Colorado Revised Statutes, Section 32-1-501.
- 2.4 License/Tap Permit. The right to take and use water distributed through or have collected by District facilities shall exist only under license and before any tap, connection, or use is made to the District's water or sewer mains or roads, separate written permits therefore shall be obtained from the District and all required fees shall be paid.

Application for water tap permits, storm sewer permits or road access shall be made to the District on forms furnished by the District which shall give a full description of the work to be done, the address of the property or unit seeking to connect, the name of the licensed & approved contractor to perform the work under the permit, and such other information as may be required by the individual permit. Any permit may be revoked if the installation or use covered by the permit is not in accordance with requirements of these regulations or any prescribed standard and specification of the District or any governing rule of the Board.

The Licensee shall have the right to use water only on the licensed premises and for the purposes and amounts specified in the license, subject to the modification, suspension or revocation of such license as provided herein. The Licensee shall not deliver any wastewater to the storm water system from any premises or use including swimming pools, spas,

Jacuzzi, et cetera, without the prior written consent of the District, which the District shall have sole discretion to grant or deny.

Licenses attach to the licensed premises only. Licenses are not affected by changes in ownership of the licensed premises. Licenses can not be transferred from one premises to another without the prior written consent of the District.

- 2.4.1 Accessing District Facilities. No District water, irrigation or storm sewer main shall be tapped into or placed into service or use without first having received a tap permit as described in Section II, paragraph 2.4, above, and second, having scheduled a tapping date and time with the District's manager. All taps to District mains shall be made in accordance with the District's Standards & Specifications, particularly section 4.13. No tap made to any District main shall be buried prior to inspection by a District Representative. Taps to District mains shall only be made by District approved contractors or District Staff.
- 2.4.2 Application for Water Service or Enlargement of Water Service. Prior to the issuance of a water service license, the District shall require the completion of a Water Service Application on forms provided by the District. The application must be completed by the owner or the owner's representative and must accurately list the type and number of water using fixtures proposed to be placed into use upon the District's water system.
- 2.5 Separate License/Tap Permit. Not more than one connection to the irrigation water or storm sewer main shall be allowed under each permit. A permit shall be limited to one independent structure and licenses attach to the licensed premises only. No combination of permits shall be allowed and each permit is separate from any other permit.
- 2.6 Other Permits. No permit issued by the District shall be taken as authority for the making of any cut in a District road or street, nor in lieu of any permit required by any other regulatory body. Permits required by other agencies are the responsibility of the Contractor. A District Road Cut Permit must be issued by the District and all appropriate fees paid prior to any cutting of any District road.

Hydrant Permit: No fire hydrant shall be used for any purpose without a valid hydrant permit, issued by the District. All fees and deposits associated with hydrant permits shall be due in advance. Charges for water used under such permit shall be calculated on actual gallons delivered and shall include special administrative costs as may be deemed necessary and appropriate.

Road Cut Permit. No cut to any road, street, trail or access way within the District shall be undertaken without first having received a permit from the District.

Special Water Use Permit. The District may allow special use of water during periods of restriction for construction, irrigation of newly installed landscaping, filling of swimming pools, and other purposes. The issuance of any Special Water Use Permit shall be at the sole discretion of the District and shall not be subject to the appeal.

Stub-Out Permit: No stub-out taps and service line shall be permitted to be attached to any District main without prior approval of construction plans and the issuance of one stub-out permit for each proposed stub-out. Stub-out permits shall be valid for one year from date of issue and renewable for one year by application to the District and payment of appropriate fees.

- 2.7 Service Line. Private water and storm sewer service lines shall be installed by a licensed contractor (pre-approved by the District) in accordance with these regulations and the standards and specifications of the District. No new buildings with water requirements shall be constructed within the District unless connected to the District's water system.

Location, excavation, trench shaping, pipe bedding and backfilling for installation or any repairs shall be constructed in accordance with the District's Standards and Specifications and are subject to approval by the District, who shall inspect all mains, service lines and connections before they may be covered. All water service lines shall be installed with a minimum of **seven feet** ~~72 inches~~ of cover and all storm sewer service lines shall be installed with a minimum of three feet of cover except where exiting to a District above ground structure.

1. Private Water Service Lines. These lines shall be constructed of the Type K soft copper tubing with flared joints, or Pure Core high density polyethylene with brass fittings. **All fitting must be rated for no less than 250 p.s.i. of pressure.**
2. The size and slope of the storm sewer service line shall be subject to the approval of the District's inspector, but in no event shall the diameter be less than 4 inches. Minimum sizes and grades shall be as follows:

4 inches - 1%; 6 inches - 0.8%; 8 inches - 0.5%

- 2.8 Maintenance. Each customer shall be responsible for maintaining the entire length of his private water service line. Leaks in the water service line, or any portion of the owner's private water system, shall be repaired by the owner within 72 hours of notification of such condition or the District shall have the authority to repair the leak and bill the owner for ~~the~~ **all** resulting costs. The District shall be responsible for maintaining all public water & stormwater facilities within the boundaries of the District.

- 2.9 Pressure Reducing Valves. When individual water service connections require a pressure reducing valve (see Section 2.12 of District Standards), the valve shall be furnished and installed by the developer or the owner/customer and shall become the property of and shall be maintained by the customer. Due to elevation changes within the District, water pressure within the District may exceed 300 psi due to circumstances beyond the control of the District and individual PRVs should be installed on private service lines to reduce pressures greater than 110 psi.

- 2.10 Water System Connecting Loops. Connecting loops and cross ties specified by the District for water distribution or storm water service to a development, shall be installed by the developer.
- 2.11 Disconnections. No service line connected to a District mains shall be disconnected therefrom without the prior authorization of the District. Upon receipt of approval for disconnection, service lines or mains shall be disconnected and abandoned in accordance with the District's Standards and Specifications.
- 2.12 Special Equipment/Participation Charges. Developers/owners shall be required to contribute additional capital and fees for the cost and associated costs and maintenance of all facilities or infrastructure which may be required to service areas not initially served within the District's taxing boundary, or which require additional or special equipment or facilities to serve the proposed development, or which require additional capacity in the system. Such charges may also include participation in the costs of any water rights, existing facility or capacity upgrades, facility expansions, enlargements or improvements determined necessary to maintain or improve the quality of the District's overall facilities and infrastructure, or capacity to serve, and may include facility improvements outside District Boundaries.
- 2.13 Hearing and Appeal Procedures. The hearing and appeal procedures adopted by the District shall apply to all complaints concerning the interpretation, application or enforcement of the District's Rules and Regulations, and Standards and Specifications. It shall not apply to any rule, regulation, standard or specification which is specifically exempted from the hearing or appeal process.
- 2.13.1 Initial Complaint - Informal Resolution. Complaints concerning the interpretation, application, or enforcement of any District Rule, Regulation, Standard or Specification must be in writing and presented to the Manager. Upon receipt of the complaint the manager, after full and complete review of the allegations contained in the complaint, shall take such action as may be warranted and shall notify the complainant of the action taken with fifteen (15) days after receipt of the complaint.
- 2.13.2 Appeal. In the event the complainant is not satisfied with the decision or action taken by the manager, the complainant shall advise the manager in writing of the reasons for continued dissatisfaction and shall request a formal hearing of the complaint. The manager shall then designate a hearing officer who may be an officer, agent, or employee of the Board, provided that said hearing officer shall not have participated in any manner in the decision or action, which is the subject of the complaint. The hearing officer shall then schedule a hearing within 30 days of the receipt of the request for a formal hearing and shall notify the complainant by certified mail of the hearing date and time.
- 2.13.3 Formal Hearing. The complainant and representatives of the District shall be permitted to appear in person and complainant may be represented by any person of his/her

choosing. The District and complainant shall be entitled to present evidence and argument, together with the right to confront and cross-examine any person, and the right to oppose any testimony or statement made which may be relied upon by the hearing officer to reach a decision on the complaint. The hearing officer may receive and consider any evidence which has value to the hearing and which is commonly accepted by reasonable and prudent persons in the conduct of such a hearing.

The hearing officer shall determine whether reasonable grounds exist to support the interpretation, application or enforcement of any rule, regulation, standard or specification upon which the complaint is based. If such grounds exist, the hearing officer shall then determine whether extenuating circumstances also exist with regard to the specific complaint. The hearing officer's decision shall be based on evidence provided at the hearing and the burden of proof shall be on the District as to reasonable interpretation, application or enforcement. The burden of showing sufficient extenuating circumstances shall be on the complainant.

2.13.4 Limits of Hearing Officer's Authority. The hearing officer, while having the right to correct errors, interpret rules and regulations, and standards and specifications, make adjustments and otherwise do equity, shall not have the authority to alter or make any finding contrary to the Board's rules and regulations or standards and specifications, as may be changed from time to time.

2.13.5 Appeals to Board. An appeal of the hearing officer's decision may be taken to the District's Board of Directors who shall be the sole and final determiner of any complaint relating to an interpretation, application or enforcement of any rule, regulation, standard or specification of the District. The Board shall consider such appeal at any regularly scheduled or special Board meeting held within a reasonable time after filing of the appeal. The Board's consideration of the appeal shall be limited exclusively to a review of the record, supplemented by any additional statements by either the District or the complainant which support their respective positions, provided however, that no further evidence, unless discovered subsequent to the date of the hearing before the hearing officer, shall be presented by any party to the appeal and there shall be no right to a new hearing before the Board.

## SECTION III. DRAINAGE & STORM WATER SYSTEM

### 3.1 General Provisions and Use.

3.1.1 Operation. The drainage and stormwater system shall be operated by the District in accordance with the District's Standards and Specifications, any operation and maintenance plan then in place, and according to the District's Rules and Regulations.

3.1.2 Detrimental Effluents Prohibited. Toxic or non-toxic biodegradable waste or any waste which State storm water standards shall not be discharged into the District's storm drain system. Oils and greases for mechanical uses, gasoline and shall not be discharged into the storm drain system. No foreign matter which could cause stoppage may be discharged into the storm drain system. No drain by discharge from vehicle wash racks, filling stations, restaurants or other building sewers as specified by the District shall be connected to any storm drain unless the discharge first passes through an acceptable grease, sand and oil interceptor, approved in writing by the District.

3.1.3 Manufacturing, Commercial and Industrial Uses.

Manufacturers and industries are prohibited from using the District storm sewer system unless they obtain from the Board a special permit defining the conditions, limitations and restrictions and the fees and charges determined by the Board to be for the best interest of the District and its inhabitants.

Except as provided herein, no person shall discharge or cause to be discharged any of the following described waters or wastes into any District drainage or storm drain system.

- a. Any liquid or vapor having temperatures higher than 150 degrees Fahrenheit.
- b. Any water or waste which may contain more than 100 ppm by weight of animal or vegetable fat, oil or grease.
- c. Any gasoline, benzene, fuel oil or other flammable or explosive liquid, solid, or gas, oil or grease.
- d. Any garbage, waste water, grey water or sewage effluent.
- e. Any vegetation ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper and normal operation of the storm or drainage works.
- f. Any waters or wastes having ph lower than 5.5 or higher than 9.0 or having any other corrosive or toxic property capable of causing damage or hazard to structures, equipment and personnel.

- g. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or constitute a hazard to humans, animals or fish or create any hazard in the receiving waters.
- h. Any waters or wastes containing suspended solids of such character and quantity that unusual attention and expense is required to handle such materials.
- i. Any noxious substance or malodorous waste, waters, gases or substance capable of creating a public nuisance, either in the public sewer, or at the discharge point of the storm drainage system.
- j. Grease, oil and sand interceptors shall be provided when, in the opinion of the District they are necessary for the proper handling of liquid wastes containing greases, oils, et cetera, in the excessive amounts or any flammable wastes, sand and other harmful ingredients. All interceptors shall be located as to be readily available and accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes of temperature. They shall be water tight and, if necessary, gas tight. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continually efficient operation at all times.
- k. Where necessary, the owner shall provide at his expense such preliminary treatment as may be necessary. Where preliminary treatment facilities are provided for any storm or drainage water they shall meet with the approval of the District for adequacy of design and, once built, shall be maintained continuously in satisfactory and effective operation by the owner. When required by the District the owner of any property served by a storm drain carrying pre-treated water shall install a suitable control manhole in the sewer to facilitate observation, sampling and measurement of the discharge. Such manhole shall be accessible and safety located and constructed in accordance with plans and specifications approved by the District. The manhole shall be installed and maintained by the owner at his own expense.

3.1.4 Swimming Pools. No public or private swimming pool shall be connected to the District's storm drain system without prior written consent of the District.

3.1.5 Natural Outlets. It shall be unlawful to discharge any sanitary sewage, industrial wastes or other polluted waters into any natural outlet or drainage within the service area of the District.

### 3.2 Charges, Fees and Billing.

3.2.1 Inspections Fee. A fee shall be charged by the District for inspection of any private or public facility connected to a District main, infrastructure or facility.

## SECTION IV. - WATER SUPPLY SYSTEM

### 4.1 General Provisions and Use.

This section specifically addresses the public water facilities owned and operated by the Buttermilk Metropolitan District.

4.1.1 Ownership and Operation of the Water System. The community water supply system shall be owned by the District and operated consistent with these Rules and Regulations and the Standards and Specifications of the District and no private potable water systems shall be built, operated or maintained within the District without the prior express written permission of the District's Board of Directors. Such private systems shall only be permitted when the District has determined that no public water supply is or can be made available by the District. Private irrigation systems are exempt from District approval except they may not be cross-connected to any District facility or line. Private wells permitted prior to the establishment of the District may continue to be used for permitted purposes such as irrigation but may not be connected to any residential potable water system that receives water from the District.

(a) Extra-territorial Service Area. The District has established a service area beyond the corporate boundaries of the District, which service area was approved by the Board of County Commissioners during the organization of the District. Properties lying within this service area may apply for water service from the District. Such Extra-territorial use shall be granted only by, and at the discretion of, the District's Board of Directors and shall require the applicant to enter into an Extra-territorial Service Agreement. This Agreement shall specify the terms and conditions under which the District agrees to provide water service; and if no such Agreement is entered into, the District's Rules, Regulations and Ordinances, as amended, shall govern the terms and conditions by which any water service is provided.

(b) The District shall own all water facilities between the source and the point of delivery which is the property line curb stop, which shall be owned by the District. The individual shall own from the private side of the curb stop to the point of use including the service line, any private pressure reducing valves, back-flow prevention devices and service line appurtenances. The District shall have the right to inspect, repair, and replace any meter deemed to be faulty or inaccurate in its measurement of water delivered and such costs of repair or replacement shall be the responsibility of the District.

4.1.2 Water Use and Restriction. The District shall have the authority to institute regulations and restrictions on irrigation water use during such times as water

supplies are inadequate to meet normal demands for water. Such regulations and restrictions may include limitations on types of use and hours or days of use.

The watering of lawns is prohibited when notification of such prohibition has been issued by the District. When irrigation restrictions are in effect, a warning for the first offense shall be provided by the District and subsequent violations of the watering restrictions shall result in a fine being levied. See Appendix II for a schedule of fines.

- 4.1.3 Metered Service. All residential, and commercial users, including temporary users, served by the District water system shall operate on a metered service basis. Meters meeting District specifications must be installed at property owner's expense prior to connection with the water system. Upon connection, ownership of the meter shall pass to the District. Owners who are already connected to the District's water system and are not operating on a metered basis shall convert to a metered basis within 60 days of the adoption of these rules, regulations and bylaws. Meters shall be in a meter pit or other installation point specified by the District. The design of the meter installation, remote reading ERT, shut-off valves, PRVs and back-flow prevention device must be approved by the District prior to installation and must be available to District representatives at all times.
- 4.1.4 Liability. No claim for damages shall be made against the District by reason of the following: Damage to any part of the private water system or other personal property resulting from shutting water off or turning it on or inadequate or sporadic pressures or damage caused by any spike in pressure, any blockage or water escaping from broken or damaged mains or hydrants, or damage caused by leaking or burst service lines or other facilities not owned by the District.
- 4.1.5 Tampering with Meter Prohibited. It shall be unlawful for any person to tamper with any water meter installed on any service connection on the water mains of the District or to place, install or put on or near any such meter any instrument or device which will affect the operation or the accurate reading thereof.
- 4.1.6 Wasting of Water Prohibited. It shall be unlawful for any person having a permit to use water from the District to permit, suffer or allow water to run to waste upon his premises, buildings, houses or lots, or in any manner through neglect or by reason of faulty or imperfect plumbing or fixtures. The District requires water saving fixtures and appliances to be used within all District residences and facilities.
- 4.1.7 Access to Water Hydrants; Unauthorized Obstruction or Operation; Penalties. Any damage caused to a District hydrant or other facility while being operated under a valid Hydrant Permit shall be the sole responsibility of the Permittee. All costs of repair or replacement shall be borne by the Permittee.

It shall be a violation for any unauthorized person to open or operate any water hydrant, draw water therefrom or obstruct the approach thereto. (See § 1.7.) Violators shall be subject to fines and all damages associated with such unauthorized use including the cost of any repairs needed to return the hydrant to a condition acceptable to the District.

#### 4.1.8 Construction Water/Temporary Water Use

Temporary licenses for special uses are issued by the District for limited periods of time. Special purposes for which temporary licenses are issued include:

1. Construction
2. Temporary Irrigation
3. Special situations which may require the use of water for a limited period of time.

Unless renewed, temporary licenses expire on the termination date specified in the license and no continuation of water service is permitted beyond that date.

4.1.9 Damage to District Facilities. Any damage caused to any District facility by any person shall be the sole responsibility of the person, company, or entity causing such damage. The cost of repair or replacement shall be borne solely by the responsible party and such costs shall include, but may not be limited to, any costs associated with the repair or replacement of the damaged facilities, including all costs incurred by the District or its agents, and all repair or replacement costs associated with any damage caused by fugitive water.

4.1.10 Connection Required. Unless a written exemption is obtained from the District, all residences, and other buildings constructed in the future or presently existing, shall be required to connect to the District's water system as soon as feasible but not in excess of 24 months from the time that any District water main is within 200 feet of a lot line of the premises upon which such residence, building or other use is located.

#### 4.2 Charges, Fees and Billing.

4.2.1 Base Rate and Meter Rate Charge. The monthly service charge shall be composed of two parts: a base rate of \$45.00 per month per meter being served and a minimum meter rate of \$4.50 per 1000 gallons used as metered at the point of delivery. This rate shall apply to all water used up to 10,000 gallons per month. In order to encourage conservation and the wise use of this resource, a step rate system shall be employed for water used in excess of 10,000 gallons per month. The step rate system shall increase the cost of water per 1,000 gallons delivered by the formula

contained below. The total monthly charge per meter shall be computed by the following formula:

\$45.00 plus the number of gallons of water used as metered at the point of delivery multiplied by the rate per 1000 gallons shall equal the monthly water service charge.

For water used in excess of 10,000 gallons per month, the formula for calculating the metered rate shall be \$4.70/1000 gallons for deliveries between 10,001 and 60,000 gallons per month; \$5.70/1000 gallons for deliveries between 60,001 and 80,000 gallons per month; \$6.70/1000 gallons for deliveries between 80,001 and 100,000 gallons per month; \$10.00/1000 gallons for deliveries between 100,001 and 120,000 gallons per month; and \$15.00/1000 gallons for deliveries over 120,001 gallons per month.

These service charges may be changed at any time by the Board of the District.

(a) Temporary Use Rates. The service charge for temporary use water shall consist of the same two parts, a base rate of \$65.00 per month and \$7.70 per 1000 gallons delivered for all water used up to 100,000 gallons per month. Water use above 100,000 gallons per month must be pre-approved by the District and a rate for such additional use shall be determined by the District

(b) Extra-territorial Use Rates. The service charge for water delivered through an extra-territorial use contract shall be 1.4 times the fee charged for water delivered within the District or such other fee as is approved by the Board.

4.2.2 Cash Deposit. The District may require at any time from any customer or potential customer a cash deposit intended to insure payment of current bills, such deposit not to exceed an estimated 90 day's bill of each customer.

a. The District may require a cash deposit in advance from any contractor, developer, or owner to be applied to any fees which might be due or owing under Sections 4.2.1 (a), 4.2.5 and 4.2.6 herein.

4.2.3 Shut-off and Turn-on Service Charge. A service charge of at least \$200.00 shall be assessed a customer for each shut off and/or turn-on of water service, howsoever occurring. If the cost of such a shut-off or turn-on exceeds \$200.00, the customer shall be assessed all costs related thereto.

4.2.4 System Development Charge (SDC) - Water. No water service shall be provided to any new connection or to any addition to any existing service until a request for water service has been submitted to the District, a fixture Unit Count Worksheet has been submitted and approved by the District, and all appropriate System

Development charges and Water Rights Dedication Fees have been paid to the District. The District shall calculate the new demands on the system and shall not permit any new demands that shall compromise these rules or the general welfare of the District's water users.

a. Transferability of SDC's- SDC's are not transferable from one property to another without consent of the District.

b. Refund of SDC's - SDC's may only be refunded by written authorization of the District's Board of Directors. No SDC refund shall be granted for any tap placed into use.

4.2.5 Water Rights Dedication or In-lieu of Fee. The District presently has a finite capacity to deliver water through its production wells, this limitation is fixed by its water rights and plan for augmentation and constitutes a legal limitation on the amount of water the District may deliver from its groundwater wells. It is now anticipated that demands for water service will exceed those originally contemplated and decreed to the District through its original water rights application. In order to accommodate the need for acquiring additional supplies, the District shall require the dedication of additional water rights in order to offset increasing water demands by District water users. The water rights dedication shall be not less than 1.0 acre foot of historic consumptive use per single family equivalent or 1.4 acre feet for all extra-territorial water users. A water rights dedication in-lieu of fee may be accepted by the District at the District's sole discretion and in accordance with Exhibit I attached.

#### 4.2.6 Connection/Tapping Fee

In addition to the system development charge, there is a fee assessed by the District for the labor and materials involved in the installation of a service tap. The District tapping fee is on a direct cost reimbursement basis and includes the total costs involved with tapping the line, installing the corporation stop and service line to the curb stop box.

#### 4.2.7 Review, Inspection, Testing & Other Fees

The District shall require payment of appropriate fees for the provision of services or costs not directly related to the sale of water. These include water system plan review fees, construction inspection or observation fees, testing & materials fees, engineering, legal and professional fees, and others. All fees shall be reimbursed at actual District cost and billed in accordance with Section 4.2.7 below. All outstanding fees must be paid prior to the delivery of water to any service line.

In addition, any costs required to be paid by the contractor, developer or owner, such as insurance costs, costs to repair or replace damage facilities, et cetera, that are not paid by the developer in a timely manner may be paid by the District at the District's sole discretion, and all monies so paid by the District shall be subsequently charged to and paid by the contractor, developer, or owner.

- 4.2.8 Billing and Payment. Statements for all fees, charges, assessments, and penalties shall be rendered monthly or quarterly at the discretion of the Board. Charges for late payments shall be added to the statements.

Bills will be mailed the same week of each month or quarter and shall be payable within 15 days from the postmark on the statement. Payments received after the fifteenth day after the invoice date will be charged a late fee of \$15 plus 1% per month (12% per annum) late payment charge with no exceptions (see C.R.S. §29-1-1102). Bills not paid shall be declared "overdue" and the manager of the District may elect to disconnect the service until full payment is received. In addition to all other fees described in this section, the District shall levy a fee of \$200 or the actual cost of collection, including but not limited to, all time, expenses, attorney fees, lien costs, et cetera, in order to facilitate the prompt payment of all overdue amounts and no water service will be re-connected or re-established until all payments have been received by the District. The manager may also be instructed to place a lien upon the property and to pursue all legal remedies available to the District in order to effect full payment of all District costs including all costs of collection.

In the event the District is required to disconnect service, a notice of disconnection shall be affixed to the front door of the residence and disconnection shall occur in not less than three days following the disconnection notice. Re-connection of the water service shall require payment of all late fees plus the service charge contained in Section 4.2.3 herein.

- 4.3 Compliance with Plan for Augmentation and Water Rights. The legal ability of the District to deliver water to its constituents is detailed in the Plan for Augmentation and Water Rights applications adjudicated by the Division 5 Water Court in Cases 00CW305 and 01CW28. The District may be limited to diversion amounts contained in these cases during times of administrative curtailment. During such periods of time, or during periods of drought when water supplies may be limited, the District shall: a) not violate the terms and conditions of the Plan for Augmentation and its water rights; and b) reserve the right to reduce or curtail deliveries to its constituents. Any new service request to the District will require the dedication of water rights or consumptive use credits equal to 1.5 times the average demand placed upon the system. For example, a 1.0 acre foot delivery requirement will require dedication of not less than 1.5 acre feet of consumptive use credits or direct flow water rights capable of serving the new service requirement.

- 4.4 Water Use Restrictions. If conditions exist where the District in its sole discretion determines that water supplies should be restricted in order to supply basic household uses, then notice of such action shall be published in a local newspaper of general distribution giving the reasons for such water restrictions and detailing the limited conditions of continued use. Once the notice has been published for a period of one week, the water restrictions shall be in full effect until terminated by the District. Such restrictions may include an immediate cessation of irrigation or other outside uses and/or a reduction in water usage permitted for domestic purposes. Where a legitimate emergency or threat to the District's water supply exists, the District shall have the right to immediately restrict the use of water from its system by posting a notice at the official notice locations within the District. Such notice shall list the reasons therefore, and the expected duration of the water use restriction.

The District's Plan for Augmentation limits the irrigation of lawns and gardens in West Buttermilk, East Owl Creek Ranch and Owl Creek Ranch to 10,000 square feet from the District's potable water system. Irrigation from the potable system for the Pfister Tracts is limited to 20,000 square feet. Lawn and garden areas exceeding these square footage limitations must have an alternative water supply source. Water available for irrigation use from the District's potable system is further limited to not more than 2.25 acre feet of water per acre of irrigation. For 10,000 square feet this equates to 0.52 acre feet per year, and for 20,000 square feet, 1.0 af/yr can be used from the District's system.

- 4.5 Enforcement. The violation of any water use restriction or waste of water shall be grounds for the suspension or revocation of water service to any user served by the District. The owner or occupant of any resident within the District shall be responsible for complying with these rules and regulations and any water use restrictions placed by the District and shall be subject to any actions, fines or penalties adopted Board, and which may be modified from time to time.

## SECTION V. LINE EXTENSION POLICY

### 5.1 General.

It shall be unlawful for any person to construct a water or storm drain or service line within the jurisdiction of the Board without first having made formal application to the Board for approval and having complied with all the regulations and rulings of the Board.

The applicant shall provide the District with definitive preliminary engineering plans and plats including topography of all proposed development projects which require installation of all proposed water mains, water service lines, and storm drains. The District shall review such plans, plats, and other submissions and District approval must be obtained prior to preparation of the final plans. Applicant must obtain and dedicate to the District all necessary easements without charge for all water lines and storm drains and related facilities. The applicant shall further obtain and grant to the District any additional easements necessary for installation of the water mains and storm drains and related facilities prior to the signing of a contract for the actual construction thereof. Any costs for acquisition of land or easements necessary for the District to serve the proposed project shall be paid by the applicant.

No water or storm drain lines shall be constructed within the Board's jurisdiction until final plans and specifications have been approved by the District and written authorization to proceed has been obtained from the Board. No excavation shall be started until required by the District, County or State Highway road cut permits have been obtained. No mains or service lines shall be back filled prior to being inspected by the District or placed into operation unless they have been accepted and approved in writing by the District's authorized representative.

No private mains shall be approved for installation within the District without the prior written approval of the District Board, which approval shall not be granted unless the Board shall determine that the private main can be constructed and maintained throughout its economic life to the same standards required for a District Main.

### 5.2 Procedure for Main Line Extension Construction. Upon approval of preliminary planning for a proposed project, the landowner or developer will then prepare detailed plans and contract documents for final review by the District.

To the extent of the proposed development requires changes or increases in line size, storage, valves or other existing District facilities in order to serve or provide fire flows for the development then developer/owner shall be required to design and construct all such improvements at his own expense. Dedication to the District of facilities and improvements constructed shall be in accordance with paragraph 5.4 herein and with the Standards and Specifications of the District.

To the extent any new construction of water facilities is required to serve the proposed development, in the sole discretion and opinion of the District, all costs associated therewith shall be borne by the developer. When required by the District, improvements which benefit a substantial portion of the District beyond the proposed development may be accepted by the District as a partial credit toward required water tap fees, or may be approved for reimbursement of a portion of the costs by the District, or may be approved for reimbursement of a portion of the costs by future users of such improvements.

- 5.3 Inspection Fees. All inspection fees required by the District shall be paid by the owner or the Developer. All fees must be paid prior to the delivery of water to any user.
- 5.4 District Ownership. Landowners or developers who have completed main line construction shall, before these lines are accepted by the District for taps, deed these lines and appurtenance to the District free and clear of all liens and encumbrances and furnish a bond to cover all maintenance for encumbrances and furnish a bond to cover all maintenance for one year from the date of acceptance of the lines by the District. Normally, this will be a contractor bond incorporated in the construction contract documents.
- 5.5 Lines Sizes. If the District Board requires lines to be oversized so as to have flow capacities exceeding the needs of the particular area under construction, the Board will participate in the project amount to the extent of the incremental cost required by line oversize.
- 5.6 Rights-of Way. No irrigation and storm drain facilities shall be constructed within the District which do not fall within a District right-of-way or within a District approved and accepted utility easement.
- 5.7 Utility Easements. Easements are required wherever a water or sewer main is not planned for installation in a public right-of-way. All easements shall be prepared in accordance with the District's Standards and Specifications and must specifically provide not less than a 30 foot wide easement.
- 5.8 Conveyance of Facilities. Prior to acceptance of any facility by the District, the Developer or owner of the facility shall provide the District with: 1) a complete copy of the as-built drawings (record drawings) of the facility to be conveyed, along with all easements and right-of-ways necessary to operate, maintain, repair, improve, rehabilitate or replace the facility; 2) a copy of all manuals required for the operation of the facility; 3) training or instruction on the proper maintenance and operation of the facility; 4) a deed or bill of sale (whichever is more appropriate) for the facility, including the cost of the facility and all appurtenances; 5) a copy of all testing required by District standards for this facility, which shows the facility passed all testing requirements; 6) any bonds, warranties or other guarantees for the facility; and 7) a completed written request to the District's Board of Directors describing the purpose and use of the facility and the reasons for requesting conveyance to the District.



## SECTION VI. - ROADS, STREETS AND SAFETY PROTECTION

### 6.1 General.

It shall be unlawful for any person to construct, excavate, repair, rehabilitate or replace any road within the jurisdiction of the District without first having made formal application to the District for approval and having complied with all the regulations, rules and policies of the District.

The applicant shall provide the District with definitive preliminary engineering plans and plats including topography of all proposed development projects which require installation of roads, streets or traffic signage and signals. The District shall review such plans, plats, and other submissions and District approval must be obtained prior to preparation of the final plans. Applicant must obtain and dedicate to the District all necessary easements without charge for all roadways and related facilities. The applicant shall further obtain and grant to the District any additional easements necessary for installation of any utilities and related facilities prior to the signing of a contract for the actual construction thereof. Any costs for acquisition of land or easements necessary for the District to serve the proposed project shall be paid by the applicant.

No roads, streets or safety improvements shall be constructed within the Board's jurisdiction until final plans and specifications have been approved by the District and written authorization to proceed has been obtained from the District. No excavation shall be started until all permits of the District or County have been obtained. No roads or streets shall be paved prior to being inspected by the District nor placed into operation unless they have been accepted and approved in writing by the District's authorized representative.

No private roads shall be approved for installation within the District without the prior written approval of the District Board, which approval shall not be granted unless the Board shall determine that the private road can be constructed and maintained throughout its economic life to the same standards required for a District road.

### 6.2 Procedure for Road Extension Construction. Upon approval of preliminary planning for a proposed project, the landowner or developer will then prepare detailed plans and contract documents for final review by the District.

To the extent of the proposed development requires changes in existing roadways or other existing District facilities in order to provide access or adequate fire protection for the development then developer shall be required to design and construct all such improvements at his own expense. Dedication to the District of facilities and improvements constructed shall be in accordance with paragraph 5.4 herein and with the Standards and Specifications of the District.

To the extent any new construction of road ways, streets or safety improvements are required to serve the proposed development, in the sole discretion and opinion of the District, all costs associated therewith shall be borne by the developer. When required by the District, improvements which benefit a substantial portion of the District beyond the proposed development may be accepted by the District as a partial credit toward required road impact fees, or may be approved for reimbursement of a portion of the costs by the District, or may be approved for reimbursement of a portion of the costs by future users of such improvements.

- 6.3 Inspection Fees. All inspection fees required by the District, County or other involved entity shall be paid by the owner of the Developer. All inspection fees must be paid in full prior to final approval of any new road for use within the District.
- 6.4 District Ownership. Landowners or developers who have completed road way construction shall, before these roads are accepted by the District for use, deed the roads and appurtenance to the District free and clear of all liens and encumbrances and furnish a bond to cover all maintenance for encumbrances and furnish a bond to cover all warranty maintenance for one year from the date of acceptance of the roads by the District, or provide an easement or right-of-way acceptable to the District for the entire width of the road, including ditches, and set-backs for signage, hydrants or other District facilities. Easement requirements are contained within the District's Standards and Specifications, all of which are incorporated herein.
- 6.5 Rights-of Way. No roads, streets or safety improvements shall be constructed within the District which do not fall within a District right-of-way or within a District approved and accepted road easement or an alignment owned by the District.

No facility, structure or obstruction shall be placed, installed or constructed within any road way, road easement, or right-of-way of the District. This includes the locating of any trash or garbage dumpster within any road way, easement or right-of-way of the district.

Any violation of this rule shall subject the violator to a daily fine set by the Board of Directors and included in the District's fine schedule. The daily fine shall be cumulative until adequate evidence that the violation has been corrected has been received by the District.

- 6.6 Utility Easements. Easements are required wherever utilities are proposed for installation in a District right-of-way. All easements shall be prepared in accordance with the District's Standards and Specifications, and must specifically adhere to Section 3 "Road Design."
- 6.7 Damage to District Roads or Signs. Any damage caused to any District road by any person shall be the sole responsibility of the person, company, or entity causing such damage. The cost of repair or replacement shall be borne solely by the responsible party and such costs

shall include, but may not be limited to, any costs associated with the repair or replacement of the damaged roadway, shoulder, sub-grade, drainage, and/or traffic systems, including all costs incurred by the District or its agents, and all repair or replacement costs associated with any damage caused by fugitive water.

- 6.8 Review, Inspection and Testing. The District shall review all plans, designs and specifications required to make any changes to any District road. Fees for this review shall be in accordance with section 6.3. Upon approval of the designs, roadway changes can commence and the District shall have the right to inspect all construction and to seek reimbursement from the developer for any costs associated with this inspection. Inspection of construction by the District and payment of fees for the inspection does not relieve the developer of any violation of any rule or regulation, standard or specification. Any testing required to ensure compliance with compaction standards or any other standard shall be the sole responsibility of the developer.
- 6.9 Construction Heavy Vehicle Fee and Construction Deposit. In addition to all other fees and permits, the District shall have and exercise the right to assess a Construction Heavy Vehicle Fee and to collect a construction deposit to offset damage created to District roads by individual users, contractors, vendors, suppliers, et cetera. These fees and deposits shall be due and payable to the District at the time of issuance of any building permit. The District Board reserves the right to refuse to allow certain vehicles to use the roads or streets of the District unless and until such fees or deposits have been paid to the District and unless and until the proposed vehicle(s) use can be shown to cause no damage to District roads or streets.

The Construction Heavy Vehicle Fee shall be calculated by dividing the total projected cost of construction for the new roads by the current actual value of all properties in the Road Tax Area, as determined by the Pitkin County Assessor's Office. The product of this calculation shall be known as the Construction Heavy Vehicle Fee Factor, which shall then be multiplied by the estimated total value of the construction improvements. The improvement value shall be the value contained within the Building Permit Application to Pitkin County. The resulting product of the calculation is the fee to be assessed by the District. All fees collected shall be used for maintenance, repair and/or replacement of the roads included within the Road Tax Area.

- 6.10 Parking and Traffic Control. District roads are available for public use by easement, agreement or invitation only. Parking is not permitted on any road within the District without the prior express written permission of the District. Violation of the District's parking rules may result in a vehicle being ticketed, booted, fined and or towed from District roads or rights-of-way at the vehicle owner's expense.
- 6.11 Snow Removal and Snow Plowing. No snow, ice or debris removed from private property may be placed in any District road way or on any District easement or right-of-way without

the prior written permission of the District. Violation of this rule may result in a fine being levied against the property from which the snow, ice or debris was removed.

Vehicles performing road maintenance, snow plowing, snow or ice removal shall have the right to work against traffic. All vehicles shall yield to District snow plows and snow removal equipment within the District.

The District shall plow all District roads to remove snow and ice accumulations. It is recognized however, that District roads are often steep, and many sections of the road ways may be in shadows during most winter months and the District shall not be required to provide ice-free driving conditions. The District shall maintain roads in a manner similar to other small governments in the Aspen Area.

District residents shall be responsible for marking or otherwise delineating objects that might be damaged by District snow plowing or snow removal operations. The District shall not be responsible for damage to objects, structures or facilities buried by snow and which are unmarked.

- 6.12 Trash Receptacles and Road Side Litter. Trash cans or carts, and recycling containers may be placed at the road side for pick up but may not remain at the road side for more than 24 hours. Trash containers left out overnight for next day pick up must be bear-proof. In the event trash from a personal container is spread by any means, it shall be the responsibility of the owner to retrieve and properly contain the fugitive trash.

## SECTION VII. BYLAWS

### 7.1 Directors and Meetings.

- 7.1.1 Board of Directors. The property and business of the District shall be managed by a five-member Board of Directors who shall be elected and otherwise chosen pursuant to and shall exercise the powers granted by law, particularly Title 32, Article 1, Colo. Rev. Stat. §§801-835 (1973), as amended.
- 7.1.2 Recall. Any director who has been a board member for six months is subject to recall pursuant to the procedures enumerated in Colo. Rev. Stat. §32-1-096 (1973), as amended.
- 7.1.3 Meetings and Minutes. The board shall meet as required at the offices of Beach Resource Management, Aspen, Colorado, which is the registered office of the District in Pitkin County, Colorado. Public notice of the time and place designated for regular meetings shall be posted by the secretary or manager of the District in at least three public places within the District and at the Pitkin County Court House in Aspen, Colorado, such notices to remain posted and to be changed in the event that the time and place of such regular meeting is changed. Meetings may be held at other locations within the District or without, so long as the meeting location is properly noticed and business of the District is duly conducted. An accurate accounting of the proceedings and contents of each meeting shall be recorded in written form and shall constitute official minutes of the meeting. These minutes shall be signed by the District Manager and the Secretary of the Board.
- 7.1.4 Quorum. Three members of the Board shall constitute a quorum at any meeting. A quorum shall exist whenever at least one Board member is present at the posted location and at least two additional board members are present by telephone speaker.
- 7.1.5 Rules of Order. So far as practical, Roberts' Rules of Order shall be followed at meetings of the Board.
- 7.1.6 Compensation. Each member of the Board may receive as compensation for services a sum to be determined in advance by resolution of the Board not in excess of \$1,200.00 per annum, payable at the rate of \$75.00 per meeting attended. No member of the Board shall be interested in any contract or transaction with the District except in his official representative capacity and no member of the Board shall receive any compensation as an employee of the District or otherwise other than as provided in this section.

7.1.7 Vacancy. Any vacancy on the Board shall be filled within 60 days by appointment of the remaining members or member of the Board, the appointee to act until the next biennial election when the vacancy shall be filled by election.

7.1.8 Election Day. The biennial election of the directors shall be held on the Tuesday succeeding the first Monday in May of every even-numbered year with the first such election to be held in the first even-numbered year after the organization of the District and successive elections to be in every second calendar year thereafter.

## 7.2 Officers.

7.2.1 Elective Officers. The elective officers of the District shall include a president, vice president, secretary and treasurer. The Board shall elect one of its members as Chairman of the Board of Directors and President of the District and another of its members as Vice Chairman of the Board of Directors and Vice President of the District. The Secretary and Treasurer, who may or may not be members of the Board, shall also be elected by the Board. The Secretary and Treasurer may be one person.

7.2.2 Election. The regular election of such officers shall be held biennially at the first regular meeting of the Board following the biennial election of the Directors in each such year. A special election to fill any vacancies in such offices may be held by the Directors at any regular or special meeting. Any officer elected to fill a vacancy shall serve until the next regular election of officers.

7.2.3 Officer Absence. In the event of absence or inability of any officer to act, the Board may delegate the powers or duties of such officer to any other officer, director or person whom it may select.

## 7.3 Seal, Clerical, Finance, and Powers.

7.3.1 Seal. The Board shall adopt a seal of the District to be used in all places and in such manner as seals generally used by public and private corporations. The Secretary shall have custody of the seal and shall be responsible for its safekeeping and use.

7.3.2 District Records. The Secretary shall cause a record of all the proceedings of the Board, minutes of all meetings, certificates, contracts, bonds given by employees and all corporate acts to be kept and maintained by the District Manager, and all such records shall be open to inspection during business hours by all residence or property owners in the District as well as to all other interested parties.

- 7.3.3 Banks. The monies of the District shall be deposited in the name of the District in such bank or banks or trust company or trust companies as the Board of Directors shall designate and as shall be authorized by law and may be drawn out only on checks signed in the name of the District by such person or persons as the Board by appropriate resolution shall direct.
- 7.3.4 Accounting. The Treasurer shall cause strict and accurate accounts of all money received by and disbursed for and on behalf of the District to be kept in permanent records. Capital accounts and operating and maintenance accounts shall be segregated according to the methods specified and defined by the Board or as otherwise specified by applicable laws of the State of Colorado, and budget and audit reports shall have separate schedules for the two types of accounts. Capital income shall include system development charges and fees, bond sale proceeds, debt service mill levies, other ad valorem taxes and government grants. Operations income shall include all other rates, fees and charges, operations mill levies, specific ownership taxes, interest and other ad valorem taxes and government grants. The Board shall apply for an exemption for audit or cause an audit or audits to be made of all financial affairs of the District at the end of each fiscal year in accordance with the “Colorado Local Government Audit Law” and shall make the required publication thereof.
- 7.3.5 Budget. The Board of Directors shall adopt an annual budget for the ensuing fiscal year before the first day of each fiscal year and shall cause a certified copy of such budget and adopted mill levies to be filed with the appropriate State and County officials as provided by law, as provided by Part 1 of Title 29, Colorado Rev. Stat. (1973).
- 7.3.6 Powers. The Board shall have the following powers.
- I. To sue and be sued:
- a. To enter into contracts and agreements;
  - b. To borrow money and incur indebtedness;
  - c. To acquire, dispose of and encumber real and personal property;
  - d. To manage, control and supervise all of the business and affairs of the District;
  - e. To appoint, hire and retain agents, employees, consultants and attorneys;
  - f. To fix and, from time to time, increase or decrease fees, rates, penalties or charge for services, programs or facilities furnished by the special district;
  - g. To assess reasonable penalties for delinquency in the payment of rates, fees, tolls or charges or for any violations of the rules and regulations of the special district together with interest on delinquencies from any date due at not more that one percent per month or fraction thereof and to shut off or

discontinue water and sewer service for such delinquencies and delinquencies in the payment of taxes or for any violation of the rules and regulations of the special District and to provide for the connection with and the disconnection from the facilities of such District;

- h. To acquire water rights and construct and operate facilities within and without the District;
- I. To fix and, from time to time, increase or decrease system development charges (a.k.a tap fees). The Board may pledge such revenue for the payment of any indebtedness of the special District;
- j. To levy and collect ad valorem taxes on and against all taxable property within the special District, which shall not be limited except as provided in Part 3 of Article 1 of Title 29, Colo. Rev. Stat. (1973);
- k. To adopt, amend and enforce rules, regulations and bylaws not in conflict with the Constitution and the laws of this State for carrying on the business, objects and affairs of the Board and of the special District;
- l. To exercise any other powers that have been or may be granted to Metropolitan Districts by the State of Colorado.

7.3.7 Ad Valorem Tax. The Board of Directors shall, before December 15th of each year and in the manner required by law, certify to the Board of the County Commissioners of Pitkin County, Colorado, the rate of any ad valorem tax levy which the Board of Directors shall have fixed as the annual levy for the District.

#### 7.4 Mill Levy; Rate Changes; Prospective Connections.

7.4.1 Mill Levy. The Board shall annually determine the need for both operating and debt mill levies and shall set the mill levy rate in accordance with the need to satisfy either or both. Mill levies shall be certified to the County each year and shall comply fully with all state laws.

7.4.2 Rate Changes. Prior to the drafting of the annual budget, the Board shall meet with its manager to confirm any rate, fee or levy changes. Such changes shall, by resolution of the Board, be included in these rules, regulations and bylaws. The Board shall make all necessary budgetary adjustments in consideration of such fee changes.

## APPENDIX I

### SYSTEM DEVELOPMENT CHARGE SCHEDULE

The System Development Charge (Tap Fee) and the Water Rights Dedication In-lieu of Fee, to connect to water facilities within the Buttermilk Metropolitan District shall be based on the cumulative costs of developing and constructing the water system. An illustration of fees is provided below for clarification but should not be relied upon for determining the appropriate fees to be assessed by the District. The District shall make the final determination of fees that are required before permitting access to potable water service. A four bedroom home with “typical” water uses is assumed to represent 2.74 Fixture Units of demand for water service. This amount shall serve as the basis for determining additional system development charges due for homes seeking water service above 2.74 Fixture Units .

The System Development Charge may also include a requirement to provide water rights, consumptive use credits or annual augmentation water lease payments to the District to offset any increase to depletions that have been adjudicated within the District’s Plan for Augmentation.

Minimum Fee for System Capacity:	\$20,021 per Fixture Unit above 2.74 FU
Minimum Fee for Augmentation:	\$2,190 per Fixture Unit Above 2.754
<b>Minimum Fee for Water Rights:</b>	<b>\$9,000 per Fixture Unit Above 2.74</b>
Extra-territorial Users surcharge	1.4 times the in District fee.
Minimum Fee for Line Improvement:	To be determined by District

**APPENDIX II**  
FEES, CHARGES, FINES AND PENALTIES SCHEDULE

ROADS & PARKING

Special Use Parking Permit	\$150.00 month (\$5/day)
Road Cut Permit	125.00
Parking Violation - each offense	30.00
Booting of Vehicle - each offense	50.00
Towing of Vehicle - each offense	150.00 or actual cost
Abandoned Vehicle	Tow plus disposal charge
Failure to yield to snowplow	30.00
Unauthorized use of District Road or ROW	30.00/occurrence/day
Encroachment into Right-of-Way or easement	50.00/day
Dumping/plowing of snow into ROW	30.00/day
Vehicles will be booted or towed if outstanding tickets are not paid within ten days and a subsequent (repeat) violation occurs. All fines and boot charges must be paid before vehicle will be released.	
Heavy Vehicle Use Fee	Per Section 6.9 herein

TRESPASS ON EASEMENTS

Unauthorized use of any Easement/Trespass	\$50.00 fine/day
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DRAINAGE SYSTEMS

Illegal dumping of materials in District drainage way	\$300.00 fine plus all costs of clean up and fines levied by other governments or agencies
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LICENSES AND PERMITS

Right-of-way Use License	\$100.00 plus admin costs
Easement Use Permit	100.00 plus admin costs

MISCELLANEOUS FEES

Inspection fees	Actual cost of inspection & administration
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MISCELLANEOUS FINES

Failure to control noxious weeds	\$50.00/citation
Tampering with irrigation controller	\$50.00 per occurrence

WATER SYSTEM FINES

Violation of water restrictions (1 warning)	\$500 second violation \$1,000 per violation 3 <sup>rd</sup> or more
Tampering, bypassing of meter, unauthorized use	\$1,000 per occurrence plus all costs

ANY FEE OR PERMIT NOT PAID PRIOR TO COMMENCEMENT OF WORK SHALL BE SUBJECT TO A TREBLING OF FEES, CHARGES OR FINES PLUS ANY COSTS OF COLLECTION.

ANY FINE NOT PAID WITHIN THE PERIOD PRESCRIBED IS SUBJECT TO A LATE FEE OF \$20 PLUS INTEREST AT 1.5% PER MONTH PLUS ALL COSTS OF COLLECTION