

## TITLE 7

### ADMINISTRATIVE PROCEDURES

#### ARTICLE I. ENFORCEMENT PROCEDURES

##### SECTION 1. General

Should analysis by the District of the discharge of any IU show that such discharge exceeds standards specified in Article II, Sections 1, 2 and 3 of Title 2 or any condition of an IU's Wastewater Discharge Permit, the District may, at its option, institute voluntary compliance proceedings as outlined in Section 2 of this Article, or take such other actions as are authorized by this Code, statutes, regulations, at law or in equity. Additionally, should the District, at its option, elect to begin voluntary compliance proceedings as outlined in said Section 2 of this Article and then determine that such proceedings are ineffective or futile or are likely to be ineffective or futile if continued, it may terminate said voluntary compliance proceedings at such point, and, at the option of the Plant Operations Manager, require the IU to attend a Standards Meeting as outlined in Section 3A of this Article, or proceed with any other remedies authorized by this Code, statutes, regulations, at law or in equity. The Board of Trustees may adopt an Enforcement Management System/Enforcement Response Guide (EMS/ERG) to implement this Article. Following adoption, this guide will be made available to the public. Enforcement steps, as set forth in this Article and in the EMS/ERG will normally be followed, but they need not be. The District may, based on specific facts, elect to omit any or all compliance steps short of a show cause hearing, or may elect to proceed with administrative proceedings set forth in this Article at any level while simultaneously pursuing other remedies it may have available under the provisions of this Code, at law or in equity.

Amended 2-23-04, Ord. 03/04-O-04

##### SECTION 2. Voluntary Compliance Procedures

###### A. Letter of Violation (LOV)

A Letter of Violation (LOV) is a written notice to an IU issued by the District stating that the District has observed the violation of pretreatment standards or requirements and expects the non-compliance to be corrected and explained, together with a statement that additional enforcement action may be pursued if corrections are not accomplished in a timely manner. A LOV shall also state that an explanation of the violation does not excuse it of any previous violations.

###### B. Notice of Review Meeting

1. The following voluntary proceedings between the District and a user whose wastewater has been shown to violate the user's Wastewater Discharge Permit or any provisions of Title 2 or Title 3, Article III, Section 2 B1(b) and(c) or F(11) of this Code may be followed by the District in an effort to assist the user and to ensure compliance with this Code short of court action.

The proceedings outlined in this Section are voluntary and are not to be construed as conditions precedent for the District using any of the remedies set forth in this Code or other District ordinance.

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2. Should analysis by the District indicate that the limitations on discharge have been exceeded in the discharge of a user, a violation is presumed to have occurred. The District shall notify the user, in writing, (which writing is hereinafter called "Notice of Review") as to the particulars of such presumed violation, and set a time and place for a meeting (hereinafter called a "Review Meeting") to be attended by representatives of the District and the user. The purpose of this meeting shall be to discuss and establish means of preventing violations of any of the limitations on discharge.

### SECTION 3. Compulsory Compliance Procedures

#### A. Standards Meeting

Should a violation by a user occur following a Review Meeting with that user, the District shall notify the offending user, in writing, through a "Notice of Standards Meeting" as to the particulars of such violation(s) and set a time and place for a meeting (hereinafter called a "Standards Meeting") to be attended by representatives of the District. The Plant Operations Manager, or his designee, shall conduct the meeting. District may, upon determination that a violation has occurred, send the user Notice of Standards Meeting without first having a Review Meeting or follow any procedures under Section 2 hereof. The purpose of such a meeting shall be to establish such procedures, investigations, and studies as the District deems necessary and desirable for the determination of such action as it may require of the user to control and prevent discharges in violation of the limitations on discharge and to attempt to obtain compliance with the provisions of this Code by conciliation and persuasion. A Standards Meeting conducted pursuant to this Section shall satisfy the requirements of 70 ILCS 2405/26(8).

#### B. Investigative Order

Following the Standards Meeting described in Section 3A of this Article, the District may direct the user to take such actions as may be necessary to control and prevent discharges in violation of the limitations on discharge, including furnishing a schedule and providing a final date of compliance. To accomplish this, the District may issue an Investigative Order requiring the user to make such investigations and studies as the District deems necessary to determine actions the user may be required to take to control and prevent violations of discharge limits. An Investigative Order issued by the District may include an Interim Limit as defined in Section 3.D. of this Article, for the duration of the order.

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Failure to comply with the Investigative Order of the District, or failure to comply with the schedule, as approved, shall be deemed a violation of the provisions of this Title and may be grounds for revocation of the user's WDP, if applicable, and shall subject the user to the penalties set forth in Title 8 of this Code.

C. Administrative Order

Following the completion of the investigations and studies described in Section 3B of this Article, the District may direct the user to take such action as may be required to prevent discharges in violation of the limitations on discharge. Such direction and requirements shall be incorporated in an Administrative Order issued at the completion of the actions required under the Investigative Order. An Administrative Order may contain an interim limit for the duration of the Order.

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Failure to comply with the Administrative Order regarding pretreatment facilities, or failure to comply with the schedule as approved, shall be deemed a violation of the provisions of this Title, may be grounds for revocation of the user's WDP, if applicable, and shall subject the user to the penalties set forth in Title 8 of this Code.

D. Interim Limits

Any Investigative Order or Administrative Order issued to a user under provisions of this Article may include interim limits for the duration of such order. Interim limits shall be determined at or following a Standards Meeting, shall be a condition of the Investigative Order or Administrative Order and shall be approved by the Board. Interim limits may be established for categorical or local limits, and when established, shall not exceed three times the applicable categorical limit or local limit for the user. If the pollutant for which interim limits are issued has both local and categorical limits, the interim limit shall not exceed three times the most restrictive limit. The user shall acknowledge that any violation of such limits will, in addition to any other remedies or causes of action District may have, result in fines for each such violation. The amount of the fines shall be established in the Investigative Order or Administrative Order which shall be accepted in writing by the user and approved by the Board. Failure of a user to so agree shall be cause for denial of the interim limits and enforcement of the categorical or local limits against the user as well as any other remedies the District may have. Compliance with Interim Limits shall not relieve the user from liability under any provisions of this Code, Federal or State Regulations or statute except as specifically provided in the IO or AO in which it is incorporated. Procedures for determining fines and the consequences of violations of interim, categorical and local limits shall be specified in the District's EMS/ERG by separate ordinance.

E. Appearance Before The Board

The Director may, at any time, and without limitation on any other remedy the District may have, or as a precondition to any other remedy District may have,

request a user to appear before the Board of Trustees at any regular or special board meeting and answer questions regarding violations of this Code.

#### SECTION 4. Suspension of Service and Revocation of Permit

##### A. Responsibility of the Board of Trustees

The Board shall have responsibility for reviewing all requests for revocation of discharge permits, disconnection of IUs from the District POTW, revocation of variance granted under provisions of Title 2 of this Code, and appeals under the procedures established in Section 5 of this Article. Only the Board shall have the authority to approve such revocation of permits, variances, and disconnection of building sanitary sewers, and only the Board shall be empowered to take final action on appeals.

##### B. Conditions for Revocation

Any IU who violates this Code, or applicable State and Federal statutes and regulations, or the following, is subject to having its permit revoked in accordance with the procedures of Section 4 of this Article:

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1. Failure of an IU to factually report the wastewater constituents and characteristics of its discharge as determined by the IU's or District's analysis;
2. Failure of the IU to report significant changes in process activity or wastewater constituents and characteristics;
3. Refusal of reasonable access to the IU's premises by District representatives for the purpose of inspection or monitoring; or,
4. Tampering with, disrupting, or destroying District equipment as determined by the Board, by a preponderance of evidence, which determination shall be final.
5. Failure to report an accidental discharge of a pollutant in a reportable quantity.
6. Failure to report an upset of IUs' treatment facilities.
7. Violations of conditions of the permit.

##### C. Show Cause Hearing

1. The District Director may order any IU who causes, or allows an unauthorized discharge, to show cause before the Board why the proposed enforcement action should not be taken. A notice shall be served on the IU specifying the time and place of a hearing to be held by the Board regarding

the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the IU to show cause before the Board why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least five (5) days before the hearing. Service may be made on any agent or officer of a corporation.

2. The Board shall develop rules of procedure and evidence for the conduct of such hearings. The Board may itself conduct the hearing and take the evidence, or may designate any of its members or any member of its legal staff to:
  - a. Issue, in the name of the Board, notices of hearing and subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;
  - b. Take the evidence;
  - c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations, to the Board for action thereon.
3. At any hearing held pursuant to this Title, testimony taken shall be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefore.
4. After the Board has reviewed the evidence, it may issue an order to the IU responsible for the discharge directing either: a) that the discharge permit be revoked and the IU cease discharging to District sewers at a specified time thereafter, or b) that following a specified time, the permit be revoked unless adequate treatment facilities, devices or other related appurtenances have been installed and operated properly to comply with the discharge permit, or c) that such other relief, including, without limitation, levy of fines or disconnection as deemed necessary by the Board to abate the discharge be granted.

If the IU fails to cease such discharge in accordance with the Board's order, the District may disconnect such discharge on order of the Board. The Board may also issue such additional orders and directives, as it deems necessary.

5. Following an order of revocation, the IU shall cease to discharge wastewater, other than sanitary wastewater, to the District POTW. Failure to do so shall be considered to be a violation of an order of the Board, constitute evidence of continuing harm to the District and provide grounds for an order of disconnection or for the granting of relief by injunctive, temporary

restraining orders or mandamus.

## SECTION 5. Appeal Procedures

In the event an IU is dissatisfied with enforcement or sampling procedure used by the District as it applies to his discharge to the sanitary sewer, except as such dissatisfaction relates to proceedings under Section 4 of this Article, and desires to object to such enforcement or sampling procedure, the IU shall seek relief exclusively through the use of the following administrative procedures. The procedure outlined herein is voluntary, and shall not act as a bar or condition precedent to District's use of any remedies provided herein. So that problems or disputes may be resolved on the lowest practicable level, the procedures outlined below shall be followed in order;

### A. Initial Review of Complaint

IU shall contact the District with his complaint or questions, and shall be referred to the appropriate department for initial screening. Where the problem is routine in nature or requires only explanation, no further action will be taken.

B. Where an IU is not satisfied with the response given by the appropriate department, the complaint or question shall be reduced to writing and referred to management personnel, to be assigned by the District Director for review. The management personnel so designated shall review the file and consult with the IU in an effort to resolve the problem. If the matter can be resolved to the IU's satisfaction at this level, no further action will be required.

C. If the review and discussion between the management personnel and the IU do not resolve the matter, a report on the complaint, together with the manager's recommendations, will be forwarded to the District Director for his consideration and decision. If the decision of the District Director resolves the matter, no further action will be required.

D. If the findings and actions by the District Director do not satisfy the IU, the entire file, together with recommendations from the District Director, shall be given to the Board of Trustees, who, after review of the file and recommendations of the District Director, shall meet with the IU and review the complaint. Following the review of the file and discussion with the IU, the Board of Trustees will make a final decision on the matter.

## SECTION 6. Upsets

A. An upset shall constitute an affirmative defense to an action brought for non-compliance with applicable pretreatment standards if the IU can demonstrate that it has been in consistent compliance with all applicable pretreatment standards and if the requirements of subsections B, C, and D of this Section are met.

B. An IU who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence

that:

1. An upset occurred and the IU can identify the cause(s) of the upset;
2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;
3. The IU has submitted the following information to the District immediately upon becoming aware of the upset (if this information is provided orally, a written submission must be provided within fifteen (15) days):
  - a. A description of the indirect discharge and cause of noncompliance;
  - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
  - c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

C. Burden of Proof

In any enforcement proceeding, the IU seeking to establish the occurrence of an upset shall have the burden of proof.

D. IU Responsibility in Case of Upset

The IU shall control production or all discharges to the extent necessary to maintain compliance with all applicable regulations upon reduction, loss, or failure of its treatment facility until the facility is restored, or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

SECTION 7. Bypass

A. Bypass not Violating Applicable Pretreatment Standards or Requirements.

An IU may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is also necessary for essential maintenance to assure efficient operations. Such bypasses are not subject to the provisions of Subsections B and C of this Section. If any bypass violates applicable pretreatment standards or requirements, regardless of cause, such bypass shall be governed by the remainder of this Section.

B. Notice of Impending Bypass.

1. If an IU knows in advance of the need for a bypass, it shall submit prior notice to the District at least ten days before the date of the bypass.
2. An IU shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the District within twenty-four (24) hours from the time the IU becomes aware of the bypass. The IU shall submit a written report within five (5) days of the time it became aware of the bypass. Such written submission shall contain a description of the bypass, 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 by the IU to reduce, eliminate and prevent recurrence. The Plant Operations Manager may waive the written report on a case-by-case basis if he receives the oral report within twenty-four (24) hours.

C. Prohibition of Bypass.

1. Bypass is prohibited and District shall take enforcement action against an IU for a bypass unless (a) bypass was unavoidable to prevent loss of life, personal injury or severe property damage, (b) there were no feasible alternatives to the bypass limited to the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment down time. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass occurring during normal periods of equipment downtime or preventive maintenance, and (c) the IU submitted notices as required under Paragraph B of this Section.
2. District may approve an anticipated bypass after considering its adverse effects if it determines that the bypass will meet the (3) three conditions listed in Subsection C(1), above.

SECTION 8. Publication of IUs in Significant Noncompliance (SNC)

The District shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the District, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates Title 1, Article II, Sections 78.A.3 and 4 and 78.G.,J. and K of District's Code of Ordinances.

## ARTICLE II. COLLECTION AND APPEAL PROCEDURES

### SECTION 1. Collection Procedures

- A. Whenever wastewater treatment bills become delinquent, as set forth in Title 3, Article III, Section 2F(9), the same shall become and constitute a lien upon the real estate to which wastewater treatment service is supplied pursuant to the terms and provisions of Section 11 of the "Sanitary District Act of 1941" (70 ILCS 3010/7 and 3010/1). The claim for lien shall be made in the form of a sworn statement setting out (1) a description of the real estate, sufficient for identification thereof, upon or for which such service was supplied, (2) the amount or amounts of money due for such service, and (3) the date or dates when such amount or amounts became delinquent. If all amounts shown due remain unpaid after recording as provided by law, District may foreclose such lien in like manner and with like effect as in the foreclosure of mortgages on real estate. In addition to penalties and costs attributable and chargeable to the recording of such notice of lien, user and owner shall be liable for interest upon all unpaid balances after delinquency remaining from time to time unpaid at the rate of six percent (6%) per annum.

District may also, at its discretion, file a suit against the owner, occupier, user of the real estate, or any person receiving any direct or indirect benefit from District services in a civil action to recover money due for wastewater treatment service, plus reasonable attorney's fees, the same to be fixed by order of the court.

In addition to or in lieu of the remedies provided in this subsection, District may pursue any other remedy it may have, as set forth in this Code or provided by law, without first meeting the requirements of this subsection.

- B. In all cases where the wastewater treatment charges have become delinquent and District elects to file a statement thereof in the Office of the Recorder of Deeds as hereinabove set forth, there shall be added, in addition to the amount due District, such charges and expenses as are necessary and required to verify the legal description of the property to which the lien is to attach, plus a sum established by the Board as sufficient to cover the cost of preparation of such notices and forms required. In each instance, the Director or duly appointed employee of the District shall be authorized and directed to include such additional costs in the amount claimed due to the District in the notice of lien. Liens may be filed before or after disconnection of the property, filing of suit or District's undertaking any other remedy that it may have under law or the provisions of this Code or other District ordinances.
- C. Anything in this Code to the contrary notwithstanding, the District Board of Trustees shall have the right to revoke discharge permits subject to the provisions of this Code or other District ordinances.

D. Where summons is served on the District in connection with a mortgage foreclosure or a procedure in the manner of, or with like effect as a mortgage foreclosure, and a lien has been filed, or there is a balance owing for the account for said property that is delinquent within the meaning of this Code, District may, in addition to any other remedies it may have, take the following actions:

1. Issue a final bill as described in Title 3, Article III, Section 2F(7).
2. Advise the owner and any other interested party:
  - a. That bills for services to the property are delinquent.
  - b. Of the amount of the final bill for the property and the date it will become delinquent.
  - c. That the owner must, within fifteen (15) days of the date of final bill, pay the outstanding balance of the account in full, including all past due amounts whether liened or unliened, plus the amount of the final bill, and must further deposit with the District an amount equal to six (6) times his average quarterly bill computed using his bills for the preceding three (3) quarters, to ensure payment of future bills incurred during the pendency of the foreclosure and period of redemption.

Failure to make such payments may be grounds for disconnection of the user's property in accordance with Section 3 of this Article.

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If the payments and deposits as described herein are made by the user or by another person on the user's behalf, and if payments of user charge bills incurred during the pendency of the mortgage foreclosure or other legal action as described herein are made in a timely manner, the deposit or any remaining portion of it shall be remitted to the said person making the deposit within thirty (30) days of the termination of said proceeding. In the event payments of user charges for the premises are not made during the pendency of said proceeding, the District may use part or all of the deposit to pay delinquent user charge bills, including final bills, and may disconnect the property upon delinquency of any bill pursuant to Section 3 of this Article.

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If an owner has no delinquent user charge bill when a mortgage foreclosure proceeding is commenced against his property but thereafter becomes delinquent in the payment of his user charge bills, the District Director may cause a final bill to be issued following the procedures outlined in this Section, as if the user had a delinquent user charge bill on the date that service was made on the District of a complaint to foreclose mortgage or similar action.

- E. All amounts charged under this Code are due and shall continue to be due hereunder, whether or not said sewer is disconnected or water service is shut off. No sewer shall be reconnected or water service be restored until the terms pursuant to Section 3 of this Article, or any applicable order of a Court of competent jurisdiction, including costs and deposits specified therein, have been paid.

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- F. Except as otherwise specified in this Code, all notices required to be made by the provisions of this Code may be made by United States mail. Liens set forth in Section 1.A of this Article, may be filed without notice.

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- G. Enforcement Procedures set forth in Article I are not applicable to the collection procedures established in this Article or to the appeal procedures established in Section 2 of this Article or to disconnection procedures established in Section 3 of this Article.

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## SECTION 2. Appeal Procedures

In the event a user is dissatisfied with his bill for services rendered, or with the operation of the user charge system, and desires to obtain relief, the user shall seek relief through the use of the following administrative procedures within thirty (30) days of the mailing of the bill; provided, however, that cases arising under the provisions of Sections 3 and 4, and Sub-section 1D of this Article shall be governed by the provisions of the respective sections and not by this Section. So that problems or disputes may be resolved in the lowest practicable level, the procedures outlined below shall be followed by users in the order shown:

- A. Initial review of complaint. User shall contact the District with his complaint or question, and shall be referred to the appropriate department for initial screening. Where the problem is routine in nature, or requires only explanation, no further action will be required.
- B. Where a user is not satisfied with the response given by the appropriate department, the complaint or question shall be reduced to writing and referred to management personnel designated by the District Director for review. The management personnel so designated shall review the file and consult with the user in an effort to resolve the problem.

If the matter can be resolved to the user's satisfaction at this level, no further action will be required.

- C. If the review and discussion between the management personnel and the user do not resolve the matter, a report on the complaint, together with the manager's recommendations, will be forwarded to the District Director for his consideration and decision. If the decision of the District Director resolves the matter, no further action will be required.

- D. If the findings and actions by the District Director do not satisfy the user, the entire file, together with recommendations from the District Director, shall be given to the Board of Trustees or a committee of the Board who, after review of the file and recommendations of the District Director, shall meet with the user and review the complaint. Following the review of the file and discussion with the user, the Board of Trustees or said committee shall make a final decision on the matter. Such final decision shall be a final order of the Board of Trustees and no further administrative relief shall be available through the District.

### SECTION 3. Disconnection Procedures

- A. District may undertake disconnection of a user's sanitary sewer service or disconnection of water service pursuant to this Section without first having to take any other enforcement action set forth in this Code.
- B. Public Water Supply Disconnection
  - 1. Upon initiation of public water supply disconnection, a Notice of Disconnection shall be sent by certified or registered mail to the user's last known address, at least ten (10) days prior to the date of water shut off. If there is more than one delinquent user, the Notice shall be mailed to the last known address of each user. The Notice of Disconnection may also be personally served upon the user(s). Notice will also be sent to the property owner as determined from a search of public records by regular mail if the owner is other than the delinquent user. The District may also notify any other person with an interest in the subject premises whose rights may be affected by continued enforcement proceedings. The mailing of the Notice of Disconnection shall be construed as service unless returned as undeliverable. In the cases where the Notice of Disconnection cannot be delivered by certified or registered mail, the Notice of Disconnection shall be posted on the premises. The person making the posting shall certify to the District of the date and time of the posting. Notice of Water Shut Off shall state the service address, the amount of delinquent charges, interest and penalties and the earliest date at which disconnection of water service shall occur.
  - 2. The user must pay any costs incurred by District in preparing for water shut off, as required as appropriate. These costs shall include service fees, reasonable attorney's fees, other direct District costs necessary to provide notice or obtain service and disconnection charges. Disconnection charges may also include the costs incurred by the District in dispatching personnel to the site of water shut off where water shut off will be accomplished, and may include any costs incurred by District for termination of water service under the provisions of an Intergovernmental Agreement between District and a water utility. Disconnection charges may include the costs incurred by District in preparing for disconnection

of the property, even if disconnection does not take place.

3. Water service shall be restored to a property which has had its water shut off upon (a) payment of all outstanding charges, interest and penalties and payment of all costs and fees incurred by the District in performing the water shut off and any deposits required by the District, or (b) approval of an acceptable payment schedule. If a payment is made by check and the check is returned for insufficient funds, water service to the property shall be immediately shut off and remain shut off until all costs incurred by District are paid in cash, certified check or money order and all other requirements of this Title are complied with. If District determines that a water utility has shut off water service to a property and the property also has a delinquent user charge bill, the water service to the property shall remain shut off until District's user charges are paid in full.

Amended 1-30-06, Ord. 05/06-O-04

#### C. Compliance Meeting

1. Whenever non-payment of user charges by a user results in an amount of delinquent user charges equal to or greater than One Hundred Dollars (\$100.00) or the account has had a delinquent balance for longer than one year, whichever occurs first, the District may prepare a Notice of Violation to be sent by certified or registered mail to the user. The Notice of Violation shall specify the amount of delinquent user charges and penalties, the period of delinquency, the service address, and the time and place for a compliance meeting to be attended by the Director and by the user. The District may also notify any other person with an interest in the subject premises whose rights may be affected by continued enforcement proceedings.
2. The compliance meeting shall be scheduled not less than seven (7) days nor more than twenty-one (21) days from the date the Notice of Violation is sent. Any request for a continuance must be in writing setting forth in detail the reasons for the request. The Director may grant or deny continuances upon said written request. The purpose of the compliance meeting shall be to obtain a voluntary plan to remedy the delinquent user charges. It is specifically designed as an informal process and is not penal in nature. The compliance meeting shall be conducted by the Director. No formal rules of evidence shall be in effect and the proceedings shall not be transcribed by a court reporter. The Director and user shall discuss a compliance schedule for remedying the delinquent charges.
3. Within ten (10) working days, a letter shall be issued by the Director indicating the results of the meeting and setting forth any Compliance Schedule developed for remedying delinquent user charges. This letter may specify dates of future meetings as may be required to monitor progress in remedying the delinquent charges. If no voluntary agreement to remedy the delinquent charges is reached, the Director may recommend that the user be

required to show cause why the subject real estate should not be disconnected from the District's wastewater facilities or have its water shut off.

4. The compliance meeting is an optional procedure which may be instituted by the District at its sole election. The District may at any time cancel, terminate, or bypass the compliance meeting and require the user to show cause why the subject real estate should not be disconnected from the District's wastewater facilities or have its water service terminated whenever the Director determines it is in the best interests of the District to so proceed.

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D. Show Cause Hearing for Sewer Disconnection

1. The show cause hearing procedure shall be initiated by the Board of Trustees upon recommendation of the Director. The Board of Trustees may conduct the hearing or designate an individual Trustee or panel of Trustees to conduct the hearing. For purposes of this subsection, "hearing officer" shall mean either the Board or a designated Trustee or panel of Trustees, as the case may be.
2. Upon initiation of the show cause hearing procedure, the District shall prepare a Notice to Show Cause stating the delinquent amount and penalties, the delinquent period, the service address, the time and place of a show cause hearing, the name and address of the hearing officer, and requiring the user to appear at the hearing and show cause, if any, why the subject real estate should not be disconnected from the District's wastewater facilities or its water service be terminated. The Notice to Show Cause shall be served by certified or registered mail to the user's last known address. If there is more than one delinquent user, the Notice shall be mailed to the last known address of each user. Notice will also be sent to the property owner as determined from a search of public records by registered or certified mail if the owner is other than the delinquent user. The mailing of the Notice to Show Cause shall be construed as service. The Notice to Show Cause may also be personally served upon the user. The District may also notify any other person with an interest in the subject premises whose rights may be affected by continued enforcement proceedings.

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3. If service cannot be obtained on the user, as evidenced by a return of certified or registered mail unclaimed, or a report from the Sheriff's office or process server, that the user cannot be found, the hearing officer may direct that the Notice to Show Cause be served upon the owner of the property. In such cases, the provisions of Section 3.D of this Article shall apply to the owner as if he or she was the user.

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4. The show cause hearing shall be scheduled neither less than ten (10) nor more than twenty-one (21) days from the date the Notice to Show Cause is sent. Any request for a continuance must be made in writing to the hearing officer setting forth in detail the reasons for the request. The hearing officer shall grant or deny continuances in writing upon said written requests.
5. Upon written request prior to the hearing, the District shall provide the following:
  - a. A list of all witnesses expected to testify at the show cause hearing; and
  - b. Copies of any documents expected to be used at the show cause hearing.
6. The District shall make its employees available for examination at the show cause hearing upon written request. Further, upon written request, the Hearing Officer shall request the presence of any other person the user expects to examine as a witness at the show cause hearing.
7. The Director may enter into stipulations of fact or law on behalf of the District.
8. The following procedures shall apply to all Show Cause Hearings:
  - a. The show cause hearing shall be recorded by a certified court reporter or by tape recorder;
  - b. The hearing officer shall open the hearing by stating his name and authority for holding the hearing and stating the user's name and the service addresses involved;
  - c. The hearing officer shall ask for the appearances of the parties and in responding thereto, any persons representing the various parties shall state for the record their names and whom they represent;
  - d. The District shall offer a copy of the Notice to Show Cause as an exhibit into evidence and establish the date of mailing thereof. The user shall be given an opportunity to object to the form of sufficiency of notice. Notice may be waived by the user;
  - e. The hearing officer shall determine, for the record, whether due notice was given;
  - f. Following the determination of notice, the hearing officer shall solicit an opening statement from the District and then from the user;

- g. Following the opening statements, the District shall examine its witnesses and present its documents. The user shall be afforded an opportunity to cross-examine the witnesses and object to any documents presented as evidence;
- h. After the District presents its witnesses and documents, the user shall be afforded the same opportunity to call witnesses and present documents. The District shall be afforded the opportunity to cross-examine the witnesses and object to any documents presented as evidence;
- i. The hearing officer shall accept or reject any documents offered as evidence. Such acceptance or rejection shall be noted for the record. No formal rules of evidence shall apply. All evidence which is relevant and authentic may be accepted into evidence.
- j. Following the presentation of witnesses and documents, the hearing officer shall solicit closing statements from the District and then from the user;
- k. The hearing officer may suspend the hearing to show cause and set a date on which the hearing is to continue.

9. The District shall have the burden of showing, by a preponderance of the evidence, the following elements:

- a. Notice of the hearing conforming to the provisions of Section 3 C(2), C(3) and C(4) of this Article;

Amended 2-23-04, Ord. 03/04-O-04

- b. Service provided to the service address(es) and charges for such services;

- c. Non-payment of user charges after demand for such payment;

10. Decision of Hearing Officer

- a. The hearing officer shall render a decision in writing with specific findings as to the elements set forth in Section 3 D(8) of this Article within thirty (30) days of the hearing, or within such longer period as the hearing officer deems necessary, so long as notice is given to the parties of the longer period. In cases of sewer disconnection, the written decision shall be mailed to the user, owner, if different from user, Winnebago County Board of Health and City of Rockford Building Department. In cases of water shut off, the written decision shall be mailed to the user, owner, if different from user, and any other parties as required by the applicable Intergovernmental

Agreements. If the hearing officer finds that the District has proven each of the elements set forth in Section 3 D(8) of this Article, the hearing officer shall make a recommendation to the Board of Trustees. That recommendation may be that the subject real estate be disconnected from the District's wastewater facilities immediately, or after a stated period of time during which the user may cure the delinquency, that no disconnection take place because the user has a justifiable reason for nonpayment of user charges. The hearing officer's decision may also include a requirement that the user or owner pay any costs incurred by District in preparing for disconnection, including personnel costs and equipment rental costs for personnel and equipment that proceed to the site of disconnection. Rates of pay shall be based on the District's current pay scales, and equipment charges shall be based on District's then current rental charges as established by separate ordinance.

Amended 1-30-06, Ord. 05/06-O-04

11. In all cases where the hearing officer finds that the District has proven nonpayment of user charges, the hearing officer may assess the costs of enforcement as part of the recommendations. These costs shall include hearing officer fees, service fees, reasonable attorney's fees, other direct District costs necessary to provide notice or obtain service and disconnection charges. Disconnection charges may include the costs incurred by District in preparing for disconnection of the property, even if disconnection does not take place.

Amended 1-30-06, Ord. 05/06-O-04

12. Except for users whose property has previously been scheduled for a disconnection hearing, and who have, within two years of such a scheduled hearing, incurred delinquency for such property in an amount of \$50.00 or more, the Board of Trustees shall authorize disconnection of sewer service for non-payment user charges only after a show cause hearing has been provided and the recommendation of the hearing officer has been submitted to it. For properties previously scheduled for Show Cause Hearing whose delinquent balance has reached or exceeded \$50.00 within two years of the prior scheduled hearing, neither a Show Cause Hearing nor Order shall be required prior to issuance of an Order of Disconnection.

Amended 1-30-06, Ord. 05/06-O-04

13. Notice of Disconnection

A Notice of Disconnection shall be sent by certified or registered mail, at least ten (10) days prior to the disconnection date, to the user, to the mortgage and lien holders of record, to the taxpayer, the local health department and building code enforcement office. The Notice of Disconnection shall state the service address, the amount of delinquent charges, interest, and penalties, and the earliest date at which disconnection shall occur.

Amended 1-30-06, Ord. 05/06-O-04

14. Reconnection

Sewer service may be reconnected to any property which is disconnected pursuant to the terms of this title upon payment of all outstanding charges, interest and penalties and payment of all costs and fees incurred by the District in performing the disconnection, as well as costs assessed by the hearing officer at the show cause hearing and any deposits required by the hearing officer's order. If a payment is made by check and the check is returned for insufficient funds, sewer service to the property shall be immediately disconnected and remain disconnected until all costs incurred by District are paid in cash, certified check or money order and all other requirements of this Title are complied with.

Amended 1-30-06, Ord. 05/06-O-04

15. If District personnel and equipment have been marshalled and dispatched to disconnect a property from sewer service, and offer of payment is made prior to the disconnection, shall only be stayed if all past delinquent charges, interest, penalties and other fees assessed by the Board are paid and if District's costs in marshalling and dispatching its personnel and equipment are paid.

Amended 1-30-06, Ord. 05/06-O-04

SECTION 4. Collection of District Invoices  
Ord. 04/05-O-05, Effective 03-01-2005

District may issue special invoices for certain services provided by the District that is not related to the user fee. Examples of special invoices include, but are not limited to, fees pursuant to Title 4 and Title 5; wastewater discharge permit fees; penalties for violations of the Code of Ordinances as set forth in Title 8; special laboratory analytical services; and sewer repair costs not applied to the user fee bill as set forth in Title 3, Article III. Section 2E.5. The collection and appeal procedures for special invoices shall follow the procedures as outlined in Article II of this Title.