

## ARTICLE 3

### ENFORCEMENT AND ADMINISTRATION

- 3-1 DISTRICT AGENTS AND REPRESENTATIVES:** Each member of the Board of Directors of the District, and any agent of the District designated by the Board, shall have full authority to act for and on behalf of the District in any matter affecting the administration or enforcement of these Rules and Regulations.
- 3-2 CONCURRENT JURISDICTION:** District personnel are hereby authorized and empowered to enforce any and all applicable provisions of the Englewood Wastewater Utility Ordinance, and any lawful order or direction of Englewood within the area of the District with the same force and effect as if such provision or order were set forth verbatim in these Rules and Regulations or issued by the District. Likewise, duly accredited personnel of Englewood are hereby authorized and empowered to enforce such provisions or orders within the area of the District with the same force and effect as District Personnel.
- 3-3 RIGHT OF ENTRY FOR INSPECTIONS AND OBSERVATION AND EMERGENCY CORRECTIVE MEASURES:** Duly authorized representatives of the District bearing proper credentials and identification shall be permitted to enter upon all property at reasonable times for the purpose of inspecting, observing, measuring, sampling, and testing, or to effect any emergency maintenance, repairs or corrective procedures, in connection with the enforcement and administration of these Rules and Regulations. This does not impose any obligation upon the District to effect any maintenance, repair or correction procedure. To the extent practicable, District representatives will give notice to the occupant of any commercial or private residential premises prior to entry. (See Section 18-8-106, C.R.S.).
- 3-4 SUSPENSION OR TERMINATION OF SERVICE:** In addition to and without waiving any other available remedy, the District shall have and may exercise the right to suspend or terminate service to any property where a violation of these Rules and Regulations has occurred.
- 3-4-1 Immediate Suspension/Termination.** The District may terminate service immediately and without notice upon revocation of any Tap or Discharge Permit, or suspend service when such suspension is necessary in order to stop or prevent an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, or causes interference or damage to District or Englewood facilities, or causes the Treatment Plant to violate any condition of its National Pollutant Discharge Elimina-

tion System (NPDES) permit. In the absence of emergency circumstances, the District will provide notice and an opportunity to be heard prior to suspension or termination of service.

### **3-4-2 Notice and Opportunity for Hearing.**

**3-4-2.1** When it appears that any fees or charges imposed under these Rules and Regulations have become delinquent, or any use being made of private or District sewer facilities, are not in conformity with these Rules and Regulations, any permit or approved plans, or any applicable agreement or contract, the District may, at its sole discretion, in addition to any other remedies the District may have, mail or deliver to the owner of the property where or as to which the deficiency occurs, at the service address or a known current mailing address for the Property Owner of the affected property, or affix to the main entry door of the affected property, a notice advising the Property Owner and/or anyone acting on his/her behalf, of the deficiency, and that sewer service to the property will be suspended on account of such deficiency on a date not less than 30 days from the date of the notice (the shut-off date) unless the stated deficiency is sooner cured.

**3-4-2.2** Upon written request to the District, the Property Owner receiving such notice has the right to a hearing concerning the deficiency. If the Property Owner does not cure the stated deficiency or request a hearing within the time provided, the District shall order the service to be suspended on the shut-off date.

**3-4-2.3** If the Property Owner makes written request for hearing, the District shall schedule and hold such hearing, at which the Property Owner may be represented by counsel at his/her expense, to be held before an impartial hearing officer appointed by the Board. The hearing officer shall issue a decision within a reasonable time, and shall state the reasons supporting his/her decision. If the hearing officer finds that the deficiency does not exist, or has been cured, he/she shall order services reinstated at once. At the time of his/her appointment, such hearing officer shall be instructed, in writing, that total impartiality is a condition of the appointment, notwithstanding that his/her compensation, if any, will be paid by the District.

**3-4-3 Execution of Order.** Any person notified of a suspension or termination of sewer service shall immediately stop or discontinue the discharge of any and all wastewater from the property affected by such order. The District may take such steps as deemed necessary, including immediate severance or blockage of the connection, in order to enforce the suspension or termination order.  
(Cross reference: 3-6-14 Violation of Suspension/Termination Order)

- 3-4-4 Reinstatement of Suspended Service.** Any suspension order shall be rescinded by the District upon a determination that the deficiency forming the basis for such suspension order has been cured and that no further or other non-conforming conditions or uses of the District system are evident on the property affected by the suspension order. The District shall not reinstate service until the person requesting reinstatement has paid the full amount of any applicable disconnection charge and the District's reasonable estimate of any applicable Reconnection Charge imposed under Section 7-7, and any and all other amounts then due to the District from such person.
- 3-4-5 Grounds for Termination; Effect.** Service shall be terminated and not merely suspended if (1) the Tap or Discharge Permit therefore is revoked; or (2) the connection providing such service was not authorized when made; or (3) the service was suspended at least two times within the preceding five years. Any service terminated under this Section 3-4 may not be reinstated. The Property Owner of any property for which service has been terminated may apply for new service for such property as provided in Article 5.

### **3-5 CURE OF VIOLATIONS:**

- 3-5-1 Order to Cure.** If the District determines that any sewer facilities are not in conformity with these Rules and Regulations or that the terms of any easement or other agreement between the District and a Property Owner are being violated, it may give written notice thereof to the Property Owner at the service address or any other address for such person known to the District. Such notice shall specify the non-conformity, direct the Property Owner at Property Owner's sole cost and subject to Parts B and C, Article 9, to perform specified curative work, and specify the period of time determined by the District to be reasonably necessary for completion of the curative work.
- 3-5-2 District Cure at Owner Cost.** If the Property Owner fails within the specified time following such notice to cure the non-conformity stated therein, the District may, in addition to and without waiving any other remedy, perform the work and charge the Property Owner for the District's actual costs incurred in connection therewith, calculated in accordance with the rates set forth in the Appendix hereto. Those provisions of Article 7 applicable to invoicing and collection of fees and charges shall apply to any charges assessed to the Property Owner under this Section.  
(Cross reference: 7-8 CURE CHARGES; 7-12 WITH-HOLDING APPROVALS, ACCEPTANCES AND PERMITS)

- 3-6 APPEALS:** Any orders, directives or decisions of the District relating to the administration or enforcement of these Rules and Regulations may be appealed, in writing, to the Board of Directors, within 10 days of the effective date of the order, directive or decision.
- 3-7 PROPERTY OWNER RESPONSIBLE:** For the purposes of this Article, it shall be presumed that the Property Owner of the property served by any District Facilities where or upon which a violation of these Rules and Regulations exists, or the owner of property which directly benefits from such violation, is the person who caused or permitted the same to occur, *provided, however,* that such presumption shall not limit the District's authority to impose penalties or seek damages against other parties, either in place of the Property Owner or in addition thereto, who violate any provisions of these Rules and Regulations including this Article 3, at the District's sole discretion.
- 3-8 CIVIL DAMAGES:** In addition to and without waiving any other available remedy, the District may recover civil damages from any person liable under the laws of the United States or the State of Colorado to the District as a result of any violation of these Rules and Regulations or other unlawful act or omission. Such damages shall include the District's actual costs of discovering, investigating, curing, mitigating and repairing the consequences of such violation or other unlawful acts or omissions.
- 3-9 INJUNCTIVE RELIEF:** In addition to and without waiving any other available remedy, the District may seek injunctive relief from any act or omission which violates these Rules and Regulations, or which otherwise jeopardizes the property or health of any person, including the District.
- 3-10 REMEDIES CUMULATIVE:** The remedies available to the District under these Rules and Regulations and under the laws of the State of Colorado shall be deemed cumulative, and the utilization by the District of any single such remedy or combination thereof shall not preclude the District from utilizing any other remedy or combination thereof.
- 3-11 WHEN PROPERTY OWNER LIABLE FOR EXCAVATION AND REPAIR:** If any person reports a backup in a Service Line and attributes same to a blockage or other condition of District Facilities, and the District cannot, by other reasonable means, determine the accuracy of such claim, the District Facilities will be excavated and inspected. Then, if it is determined that the Service Line backup was not caused by a blockage or other condition of the District Facilities, the Property Owner shall be obligated to the District for the costs of such excavation, inspection and related expenses. If, as a part of such excavation and inspection, the Service Line is repaired, the Property Owner shall reimburse the District for all costs of such repair, in addition to the excavation and inspection charges, provided that the Property Owner is given prior notice of such repair. Nothing herein shall obligate the District to repair any Service Line.

**3-12 PENALTY CHARGES:** For the purposes of defraying the District's costs and expenses incurred in discovering, investigating, curing, and repairing the consequences of violations of applicable requirements, and in order to deter persons from committing such violations, there are hereby imposed penalty charges, as set forth in Appendix 2 hereto, upon any person whom the Board finds and determines causes, or attempts to cause, or who permits, solicits, aids or abets any other person to cause or attempt to cause, by act or omission, any of the following violations:

**3-12-1 Unauthorized Connection.** For any connection made to the District System without a proper Tap Permit therefor.  
(Cross reference: 5-1 PERMIT REQUIRED; 5-5 MULTIPLE USE OF TAP PROHIBITED; 8-1-4 Unauthorized Connection)

**3-12-2 Unauthorized Use or Discharge.** For discharging or otherwise putting wastewater into the District System without proper District authorization therefor, or introducing any foreign materials or wastewater into the District System in violation of any provision of these Rules and Regulations, other than by the means described in Section 3-12-1 above.  
(Cross reference: 8-1-5 Unauthorized Discharge; 8-1-8 Foreign Materials)

**3-12-3 Interceptor Violations.** For bypassing, failure to have, failure to use, or failure to maintain to District standards any grease, oil, or sand/sediment interceptor. The implementation of penalties for interceptor violations shall be in accordance with the District's grease, oil, and sand/sediment discharge prevention program, as the same may be approved and revised by the District Board of Directors from time to time.  
(Cross reference: 9A-3 and 9A-4 INTERCEPTORS)

**3-12-4 Swimming Pool Discharge Violations.** For failure to obtain or comply with the terms of a swimming pool discharge permit.  
(Cross reference: 9A-4-1 Permit Required)

**3-12-5 Interference; Failure to Permit Inspection or Observation.** For interfering with the employees or agents of the District in the performance of their duties, or refusing to permit District employees or agents to inspect or observe the premises.  
(Cross reference: 3-3 RIGHT OF ENTRY FOR INSPECTION AND OBSERVATION AND EMERGENCY CORRECTIVE MEASURES; 8-1-11 Interference)

**3-12-6 Prohibited Drains.** For connecting a prohibited drain to the District System.  
(Cross reference: 9A-6 CERTAIN DRAINS PROHIBITED)

- 3-12-7 Tampering.** For bypassing, breaking, damaging, destroying, removing, uncovering, altering, defacing, or otherwise tampering with any portion of the District System, obstructing the flow of wastewater in the District System, or obstructing access to District Facilities.  
(Cross reference: 5-10-3 Mechanical Controls; 8-1-14 Tampering; 8-1-13 Obstructing Flow; 9A-3 INTERCEPTORS)
- 3-12-8 Easement Violations.** For placing any plant or structure prohibited in accordance with Section 8-1-10 within the boundaries of any District right-of-way or easement.  
(Cross reference: 8-1-10 Right-of-Way/Easement Violations)
- 3-12-9 Unauthorized Entry.** For opening any manhole or entering any portion of the District System without authorization. Licensed plumbers may open District manholes in an emergency to determine whether wastewater is flowing in the manhole, but must close the manhole cover properly when such determination has been made. Licensed plumbers may not under any circumstances enter a District manhole without authorization.  
(Cross reference: 8-1-7 Unauthorized Entry)
- 3-12-10 Infiltration.** For continuing to permit root infiltration, storm runoff, or groundwater to enter the District System after reasonable notice to cure such condition.  
(Cross reference: 9A-1-2 Maintenance)
- 3-12-11 Escape of Wastewater.** For permitting wastewater to escape from the District System.  
(Cross reference: 8-1-6 Escape of Wastewater)
- 3-12-12 Failure to Report.** For failing to report damage to or alteration of any District facility, or any foreign materials or obstruction in the flow of wastewater in any District facility.  
(Cross reference: 1-13 DUTY TO REPORT)
- 3-12-13 Failure to Notify of Use Changes.** For failure to notify the District of any use change resulting in need for grease or sand interceptor.  
(Cross reference: 9A-8 CHANGES IN USE, EQUIPMENT OR SERVICE)
- 3-12-14 Violation of Stop Work Order.** For performing or continuing to perform any work in violation of a Stop Work Order.  
(Cross reference: 9B-3 STOP WORK ORDERS)

**3-12-15 Failure to Provide Record Drawings.** For failure to furnish record drawings of facilities as installed and as required by these rules and regulations.  
(Cross reference: 5-6-2 Record Drawings)

**3-12-16 Violation of Suspension/Termination Order.** For failure to stop or eliminate the discharge of wastewater from property effected by an Order suspending or terminating service to such property.  
(Cross reference: 3-4-3 Execution of Order)

**3-12-17 False Official Statement.** For making or filing with the District any statement, report or application which the person making or filing same knows or has reasonable cause to know is false or substantially inaccurate, or omitting any material fact in connection with such statement, report or application when the omission thereof leaves the remainder of the information given misleading or substantially inaccurate.  
(Cross reference: 1-13 DUTY TO REPORT; 5-2-1 Approval Standards; 5-2-3 Revocation; 5-7-2 Increased Volume Permits; 5-10-1 Permit Required; 6-8-1.2 (4) Grantor Requirements; 6-10-1.3 (1) Property Owner and/or Property Owner Requirements; 8-1-15 False Official Statement; Report; 9A-8 CHANGES IN USE, EQUIPMENT OR SERVICE)

**3-12-18 Failure to Give Notice of Excavation.** For failure to give notice of excavation in any area where District Facilities are located.  
(Cross reference: 1-14 NOTICE OF EXCAVATIONS)

**3-12-19 Unauthorized Connection of Two or More Taps.** For joining two or more taps without the express authorization of the District, including but not limited to interconnections and manifolding; an amount equal to twice the Tap Fee for the size of such connection, as established by Section 7-2 below, in addition to any Tap Fee imposed or paid pursuant to said Section for the connection when made in conformity with these Rules and Regulations.  
(Cross reference: 5-1 PERMIT REQUIRED; APPLICATION; 5-4 NON-TRANSFERABILITY OF TAP PERMIT OR TAP FEE; 5-5 MULTIPLE USE OF TAP PROHIBITED; 8-1-17 Unauthorized Joining of Two or More Taps; 9A-1 SERVICE LINES)

**3-13 SEPARATE VIOLATIONS:** After notice to correct any violation, a separate and distinct violation shall be deemed committed upon each day or portion of thereof that any such violation shall occur or continue. Those provisions of Article 7 applicable to invoicing and collection of fees and charges shall apply to any and all charges imposed under Section 3-12.