
ORDINANCE NO. 2013-1

**ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MALAGA COUNTY WATER DISTRICT
ADOPTING THE MALAGA COUNTY WATER DISTRICT CODE**

WHEREAS, since its formation, the Board of Directors of the Malaga County Water District ("District") has adopted, and from time to time amended, various ordinances setting forth the rules and regulations of the District; and

WHEREAS, the Board of Directors of the District desire to adopt the Malaga County Water District Code to enhance access to the District's rules and regulations for the public, employees, and members of the Board and the simplify enforcement of the District's rules and regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE MALAGA COUNTY WATER DISTRICT as follows:

SECTION 1. Chapter 1 of Title 1 of the Malaga County Water District Code is adopted and shall read as follows:

"TITLE I GENERAL PROVISIONS

Chapter 1 Adoption

1.01.010 ADOPTION.

Upon adoption by the Board of Directors of the Malaga County Water District this District Code is hereby declared to be and shall hereafter constitute the official District Code of the Malaga County Water District.

1.01.020 TITLE, CITATION, REFERENCE.

This Code shall be known as the "Malaga County Water District Ordinance Code" and it shall be sufficient to refer to said Code as the "Malaga County Water District Code" or "Malaga Code" in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance or resolution adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the Malaga County Water District Code. Further reference may be had to the titles, chapters, sections and subsections of the Malaga County Water District Code and

such references shall apply to that numbered title, chapter, section or subsection as it appears in the Code.

1.01.030 COPIES OF THE CODE.

Three copies of the Malaga County Water District Code are filed for use and examination by the public in the office of the Secretary to the Board of Directors of Malaga County Water District. A copy of the Malaga Code may also be published and/or available online at the Districts web page.

1.01.040 AMENDMENTS.

Whenever a reference is made to this Code or to any portion thereof, or to any ordinance or resolution of the Malaga County Water District, codified herein, the reference shall apply to all amendments, corrections and/or additions now or hereafter made.

1.01.050 HEADINGS, INTERPRETATION.

A. Headings. Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof.

B. Interpretation.

The following rules of interpretation and application shall apply to the Malaga Code as follows:

1. Wherever reference is made to gender, gender includes the masculine, feminine and neutral genders.
2. The singular shall include the plural and the plural shall include the singular.
3. Present tense shall include the past and the future tenses and vice versa unless stated otherwise or manifestly inapplicable.

C. Whenever any act or omission is made unlawful by this Code, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

D. Whenever a time within to act is set forth in this Code, the time shall be computed by excluding the first day and including the last day, unless

the last day is a Saturday, Sunday or a holiday, in which case the last day shall be the next regular business day.

1.01.060 REFERENCE TO SPECIFIC RESOLUTIONS OR ORDINANCES.

The provisions of this Code shall not in any manner affect matters of record which refer to, or are otherwise connected with resolutions which are therein specifically designated by number or otherwise and which are included within the Code, but such reference shall be construed to apply to the corresponding provisions contained within this Code.

1.01.070 ORDINANCES AND RESOLUTIONS PASSED PRIOR TO ADOPTION OF THE CODE.

A. Purpose. The purpose of this Malaga Code is to govern the rules and regulations for the Malaga County Water District and the Services it provides and is intended to supersede any previous ordinance or resolution pertaining or relating to the same subject matter. If in the event any provision of this Malaga Code conflicts with any provision of any previous ordinance or resolution adopted by the Malaga County Water District Board of Directors then, the provisions of this Malaga Code shall govern.

B. Repeal of Prior Ordinances. All ordinances passed by the Malaga County Water District prior to the adoption of this Malaga Code are hereby repealed, except such as are referred to herein as being still in force or are by necessary implication herein reserved from repeal. The following ordinances are hereby not repealed by this Malaga Code: tax levy ordinances, appropriation ordinances, ordinances relating to boundaries and annexations, franchise ordinances, and any other ordinances granting special rights to persons or corporations, contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants, salary ordinances, ordinances establishing or naming facilities or public places, improvement ordinances, bond ordinances, ordinances relating to elections, ordinances relating to the transfer or acceptance of real property by or from the District, the Master Schedule of Fees, Charges, Penalties and Recovered Costs and all special ordinances. Nothing in this Malaga Code shall repeal or otherwise amend Resolution No. 10-13-09 regarding the imposition of a moratorium on establishment of new connections for water and Sewer service within the boundaries of the Malaga County Water District.

1.01.080 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Code. The Governing Board of the District declares that it would have passed this Code and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause, phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

1.01.090 COURT PROCEEDINGS.

The repeal of any ordinance does not affect any prosecution for violations of an ordinance committed prior to the effective date of the repeal, does not waive any fee or penalty due and unpaid prior to the effective date of the repeal, and does not affect the validity of any bond, cash or other security filed or deposited with the District pursuant to a requirement of a repealed ordinance. Further, the repeal of any ordinance shall not affect the repealing or reviving clause of an ordinance repealed thereby."

SECTION 2. Chapter 3 titled "Definitions" is hereby added to Title 1 of the Malaga County Water District Code as follows:

"Chapter 3 Definitions

1.03.010 DEFINITIONS.

The following words and phrases, whenever used in the Malaga Code, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases or the definitions set forth herein conflict with a definition of the same word or phrase(s) in an applicable federal or state law, code or regulation, such federal, state law and/or regulation shall control.

"Act" or "Clean Water Act" shall mean the "Federal Water Pollution Control Act.

"Air-Gap Separation" means a physical break between a supply pipe and a receiving vessel. The air-gap shall be at least double the diameter of the supply pipe measured vertically above the top rim of the vessel, in no case less than one inch.

"Applicant" means a person making an application to the District for any purpose set forth in this Code including, but not limited to, applications for water or Sewer service, Permits or other Services provided by the District.

"Approved Backflow Prevention Device" shall mean devices which have passed laboratory and filed evaluation tests performed by a recognized testing organization which has demonstrated their competency to perform such tests to the California Department of Health.

"Authorized or Duly Authorized Representative of the User" means:

A. If the User is a corporation:

1. The President, Secretary, Treasurer, or Vice President of the corporation in charge of a principal business function, or any other Person who performs similar policy or decision-making functions for the corporation; or

2. The Manager of one or more manufacturing, production, or operating facilities, provided the Manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for Individual Wastewater Discharge Permit, or other Permit requirements; and where authority to sign documents has been assigned or delegated to the Manager in accordance with corporate procedures.

B. If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

C. If the User is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

D. The individuals described in paragraphs A through C above may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the Discharge originates or having overall responsibility for environmental matters of the company, and the written authorization is submitted to the District.

"Approved Water Supply" means any water supply whose potability is regulated by a state or Local Health Agency.

"Automatic Violation" means a violation defined by any provision in the Malaga Code as an Automatic Violation.

"Auxiliary Supply" means any water supply on or available to the premises other than the Approved Water Supply.

"AWWA Standard" means an official standard developed and approved by the American Water Works Association. (AWWA).

"Backflow" means a flow condition, caused by a differential in pressure that causes the flow of water or other liquids gases, mixtures or substances into the distributing pipes of a potable supply of water from any source or sources other than an Approved Water Supply source. Backsiphonage is one cause of Backflow. Back pressure is the other cause.

"Best Available Technology Economically Achievable (BAT or BATEA)" shall mean, subject to economic and engineering feasibility limitations, incorporation of the top-of-the-line current technology, with a capacity up to and including no Discharge of Pollutants. Considerations include the age of the equipment and facilities involved; the process used; the engineering aspects of applying various types of control techniques; process changes; the cost of achieving the effluent reduction resulting from applying the technology; and non-water quality environmental impacts, such as energy use.

"Best Conventional Pollutant Control Technology (BCT)" shall mean measures and practices for point sources of conventional Pollutants, determined with consideration of the reasonableness attainment costs versus effluent reduction benefits, the age of equipment and facilities involved, and energy impacts.

"Best Management Practices (BMPs)" as defined by 40 CFR 403.3 as it may be amended, shall mean schedules of activities, prohibitions of

practices, maintenance procedures, and other management practices to prevent or reduce water pollution. The term also includes treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Best Practicable Technology (BPT or BPCTA)" shall mean technology based on the average of the best existing performance levels achieved by exemplary plants of various sizes, ages, and unit processes within an industry.

"Biochemical Oxygen Demand (BOD)" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in terms of concentration (milligrams per liter).

"Blowdown" shall mean the minimum Discharge of recirculating water to Discharge materials contained in the process, when the further buildup would cause concentrations or amounts to exceed limits established by best engineering practice.

"Board" shall mean the Board of Directors of the Malaga County Water District.

"Building" shall mean any structure used for human habitation for a place of business, recreation or other purpose containing Sanitary Facilities.

"Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the Discharge from drainage piping inside the walls of a Building and which conveys liquid wastes to the Building Sewer intersecting at a point two feet from the Building foundation.

"Building Sewer" shall mean that portion of any Sewer beginning at the plumbing or drainage outlet of any Building and running to the property line or to a Private Sewer.

"Categorical Industrial User or CIU" shall mean an Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.

"Categorical Pretreatment Standard" or "Categorical Standard" shall mean any regulation containing Pollutant Discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act that apply to a specific category of Users and appear in 40 CFR Chapter 1, subchapter N, parts 405-471.

"CFR" shall mean the Code of Federal Regulations.

"Citation" or Administrative Citation" shall mean a Civil Citation issued pursuant to this Code stating that there has been a violation of one or more provisions of the Malaga Code and setting the amount of the administrative penalty to be paid by the Responsible Party.

"Combined Sewer" shall mean a Sewer receiving both surface runoff and Sewage.

"Commercial Establishments" shall mean any Building used for conducting private or public wholesale or retail transactions involving the exchange of Services, commodities or financial business. Such facilities normally produce domestic Wastes, but may also contain Industrial Wastes.

"Community Sewer" shall mean a Sewer owned, operated and/or maintained by the District, a city, or other public agency tributary to the treatment facility operated by the District.

"Compatible Pollutant" shall mean BOD, suspended solids, pH (within the range of 6.0 - 9.0) and fecal coliform bacteria, and such additional Pollutants as are now or may be in the future specified and controlled in this District's California Regional Water Quality Control Board waste Discharge permit for its wastewater facilities where said facilities have been designed and used to reduce or remove such Pollutants.

"Computable Pollutant" means a Pollutant for which enough concentrations on data is available to calculate or document a change in loading.

"Condominium" shall mean residence sited in multiple residence unit Buildings but usually owned by different individuals. Common areas of the subdivision are owned jointly by all unit owners.

"Contamination" shall mean an impairment of the quality of the Waters of the State by Waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. Contamination shall include any equivalent effect resulting from the disposal of Wastewater, whether or not Waters of the State are affected.

"Contamination" means a degradation of the quality of the potable water by any foreign substance which creates a hazard to the public health, or which may impair the usefulness or quality of the water.

"Contractor" shall mean any Contractor licensed by the State of California to enter into contracts for and to perform the work of installing, repairing, replacing or relocating Sewers under District jurisdiction, or the Owner of private property doing Owners own residential Sewer work on Owners private property only.

"Controlled Substance" shall mean any substance which is a toxic substance or an Incompatible Pollutant or which may cause pollution or which may interfere with or pass through the POTW, or which is regulated by this Ordinance or a Non-residential Wastewater Discharge Permit.

"Cooling Water" shall mean the water Discharged from any use such as air conditioning, cooling or refrigeration, during which the only Pollutant added to the water is heat.

"County" shall mean the County of Fresno, California.

"Cross Connection" means any physical connection between the piping system from the District Service and that of any other water supply that is not, or cannot be, approved as safe and potable for human consumption, whereby water from the unapproved source may be forced or drawn into the District Distribution Mains.

"Discharge" shall mean to pump, to place, to deposit, to permit, or to cause to flow or to be transported by a flow, including the introduction of pollutants into the POTW from any non-domestic source.

"District" shall mean the Malaga County Water District located in the County of Fresno, State of California.

"District's Counsel" shall mean an attorney appointed by the Governing Board to represent the District.

"District Engineer" or "Engineer" shall mean the Engineer appointed by and acting for the Board and shall be a Registered Professional of the State of California.

"District Inspector" or "Inspector" shall mean the Inspector acting for the Board and may be a Member of the Board, the District Engineer, an Inspector appointed by the Board, or person otherwise authorized to by agency having jurisdiction to inspection District's POTW.

"Distribution Mains" means water lines in streets, highways, alleys, and easements used for public and private fire protection and for general distribution of water.

"Domestic Wastes" shall mean liquid wastes from the noncommercial preparation, cooking, and handling of food; or containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial Buildings, industrial facilities, and institutions.

"Double Check Valve Assembly" means an assembly of at least two independently acting check valves including tightly-closing shut-off valves on each side of the check valve assembly and test cocks available for testing the water-tightness of each check valve.

"Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency or other duly authorized official of said agency.

"Equivalent SFR Unit" or "ESU" shall mean any Discharge of wastewaters, expressed in fractions or multiples of the prevailing quantities of daily emissions of gallonage, pounds of BOD and pounds of SS for the average single family residence ("SFR") as stated in the Master Schedule of Fees, Charges, Penalties and Recovered Costs, or as it may be amended."

"ERP" shall mean enforcement response plan.

"Existing Source" shall mean any Building, structure, facility or installation from which there is or may be a Discharge of Pollutants, and which is not a New Source, as defined herein.

"Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sales of food.

"General Manager" or "Manager" means the person holding the position or acting in the capacity of General Manager of the District who shall administer and enforce the rules and regulations of the District.

"Governing Board" or "Board" shall mean the five-person Board of Directors constituted under the County Water District Act (Water Code Sections 30000 et seq.) empowered as a group acting in public meetings to legislate in all matters related to the District's jurisdiction as established by the laws of the State of California.

"Hazardous Substance" shall mean any substance which is imminently hazardous to District personnel, the public, or the environment; and includes but is not necessarily limited to: (A) any substance designated a Hazardous Substance by the Federal Water Pollution Control Act, (B) any element, compound, mixture, solution or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation and Liability Act, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic Pollutant listed under section 307(a) of the Federal Water Pollution Control Act, (E) any hazardous air Pollutant listed under section 112 of the Clean Air Act, and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to Section 7 of the Toxic Substances Control Act.

"Health Agency" means the California Department of Health Services, or the Local Health Agency with respect to a small water system.

"Hearing Officer" means any person, persons or entity appointed by the Board of Directors or any District official designated by the Board of Directors, by resolution to preside over the Administrative Hearings provided for by this Chapter.

"Holding Tank Waste" shall mean any waste from holding tanks such as vessels, chemical toilets, industrial process detention tanks, and brine tanks and grease/sand interceptors.

"House Sewer" shall mean any Sewer or Building Drain beginning at the plumbing or drainage outlets of any Buildings and running to the property line.

"Incompatible Pollutant" shall mean any Pollutant which is not a "Compatible Pollutant" as defined in this section or which may interfere with or pass through the wastewater facilities or which may cause abnormal increase in the operation costs of the wastewater facilities.

"Indirect Discharge" or "Discharge" means the introduction of pollutants into the POTW from any non-domestic source.

"Individual Wastewater Discharge Permit" means an Individual Wastewater Discharge Permit issued pursuant to Title 3 of this Code.

"Industrial User" or "User" means a source of Indirect Discharge.

"Industrial Wastewater" shall mean the liquid wastes resulting from the processes employed in industrial, manufacturing, trade, or business establishments, as distinct from Domestic Wastes. This includes Wastewater from a source other than an industrial plant or facility which introduces Hazardous Substances into Publicly Owned Treatment Works, including, without limitation: medical offices; dental offices; hospitals; schools; research, educational and commercial laboratories; warehouses; shopping centers; car washes; print stores; residential, commercial, and public uses of pesticides and fertilizers; gas stations; and septage collection and disposal.

"Infectious Waste" shall mean wastes which contain pathogenic organisms.

"Institutional Facilities" shall mean any publicly or privately-owned school, publicly-owned Building from which federal, State, County, City or Special District activities are conducted or offered for public use. Such facilities shall include, but is not limited to, schools, hospitals, jails, libraries, offices, equipment yards and maintenance Buildings, laboratories, parks, rubbish stations, detention homes and fire stations.

"Interference" means a Discharge that, alone or in conjunction with a Discharge or Discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, uses or disposals; and, therefore, is a cause of a violation of the District's NPDES permit or of the prevention of Sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations:

Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the "Resource Conservation and Recovery Act" ("RCRA"); any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection Research and Sanctuaries Act.

"Lateral Sewer" shall mean that portion of the Building Drain within a public street, which, with the House Sewer, comprises the Side Sewer.

"Local Health Agency" means the county or city health authority.

"Local Limit" shall mean specific Discharge limits developed and enforced by the District upon industrial or commercial facilities to implement the general and specific Discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

"Main Sewer" shall mean a Public Sewer designed to accommodate more than one Lateral Sewer.

"Manager" shall mean the General Manager, or his or her designee, of the District or the Manager's designated representative(s) acting within the scope of the policy directives of the Governing Board of the District.

"Mass Emission Rate" shall mean the weight of material Discharged to the Sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.

"Master Schedule of Fees, Charges, Penalties and Recovered Costs" means the Master Schedule of Fees, Charges, Penalties and Recovered Costs as established and amended, from time to time, by resolution of the Board of Directors of the Malaga County Water District. The Master Schedule of Fees, Charges, Penalties and Recovered Costs may also be referred to herein as the "Master Schedule of Fees" or "Schedule of Fees."

"May" and "should" are permissive.

"Mobile Home" shall mean a residence on wheels or a County or State approved "permanent foundation" which requires a special permit to be moved and usually, but not always, sited in a park or development exclusively zoned for such residences. Frequently, the spaces are rented from the owner-operator of such developments which can offer community facilities such as a recreation Building, swimming pools, sauna, etc. Mobile Homes are those mobile residences with 400 square feet or more of floor space.

"Month" means a calendar month.

"Multiple Family Dwellings" shall mean Buildings such as duplexes, triplexes, apartments, etc., under a single owner, usually occupied by renters.

"Must," "will" and "shall" are each mandatory.

"National Pollution Discharge Elimination System" or "NPDES" shall have the same meaning as defined in 40 CFR 403.3, or as amended.

"Natural Outlet" shall mean a channel, pond, ditch, lake or other body of surface or ground water.

"New Source" shall mean:

1. Any Building, structure, facility or installation from which there is (or may be) a Discharge of Pollutants, the construction of which commenced after the publication of the proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

a. The Building, structure, facility, or installation is constructed at a site at which no other source is located; or

b. The Building, structure, facility, or installation totally replaces the process or production equipment that causes the Discharge of Pollutants of an Existing Source; or

c. The production or wastewater generation process of the Building, structure, facility or installation are substantially independent of an Existing Source at the same site. In determining these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

2. Construction on a site at which an Existing Source is located results in a modification rather than a new source if the construction does not create a new Building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous on-site construction program (i) any placement, assembly, or installation facilities or equipment; or (ii) significant site preparation work including clearing, excavating, or removal of

existing Buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contract foreseeability, engineering, and design studies do not constitute a contractual obligation under this paragraph.

"Non-Residential" shall mean all uses other than as defined for Residential.

"Nuisance" shall mean anything which is injurious to health or is indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property or which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal as set forth in this Malaga Code or as determined by the Board.

"Official" or "Enforcement Officer" or "Public Officer" shall mean the General Manager, or his or her designee, or any other individual or body appointed or designated by the Board of Directors or the General Manager, or his or her designee, to enforce violations of the Malaga County Water District Ordinance Code.

"Ordinance" or "Code" shall mean any provision of the Malaga County Water District Ordinance Code (also referred to as the "Malaga Code").

"Owner" means the person owning the fee, or the person in whose name the legal title to the property appears, by deed duly recorded in the County Recorder's Office, or the person in possession of the property or Buildings under claim of, or exercising acts of ownership over same for himself, or as executor, administrator, guardian or trustee of the owner. Owner may also be referred to herein as the User and vice versa.

"Outside Sewer" shall mean a Private Sewer beyond the limits of the District, not subject to the control or jurisdiction of the District.

"Pass Through" shall mean a Discharge which exits the POTW into Waters of the State in quantities or concentrations which, alone or in

conjunction with a Discharge or Discharges from other sources, is a cause of a violation of any requirement of the POTW's Waste Discharge requirements (including an increase in the magnitude or duration of a violation).

"Pathogenic Organisms" shall mean bacteria, protozoa, viruses, or other life forms which may cause disease.

"Permit" shall mean any written authorization required pursuant to this Code or any other rule, regulation or ordinance of the District for the installation of any Sewer Facilities connected to the Sewerage System.

"Permittee" shall mean the Person to whom the Permit was issued.

"Person" shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint-stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state and local governmental entities.

"P.C.B." shall mean polychlorinated biphenols, a group of synthetic organic compounds.

"pH" shall mean a measure of the hydrogen-ion concentration in a solution, expressed as the logarithm (base ten) of the reciprocal of the hydrogen-ion concentration in gram moles per liter.

"Plumbing System" shall mean the distributing pipes for the water supply; the fixtures and fixture traps; the soil, Waste, and vent pipes; the Building Drain and Building Sewer; and the Storm Water drainage pipes; with their devices, appurtenances, and connections within and adjacent to the Building.

"Pollution" or "Pollutants" shall mean an alteration of the quality of the Waters of the State by Waste to a degree which adversely affects such waters for beneficial use or facilities which serve such beneficial uses. Pollution may include Contamination. Pollutants constitute the elements causing the adverse effect.

"Premises" means all structures on permanent foundations used for human habitation or place of business, recreation or other purposes shall be classified as single premise.

"Pretreatment" shall mean application of physical, chemical, or biological processes to reduce the amount of Pollutants in or alter the nature of the Pollutant properties in a Wastewater prior to discharging such wastewater into the wastewater facilities.

"Pretreatment Program" shall mean the Pretreatment Program of the District as set forth in Section 3.05.020.

"Pretreatment Requirement" shall mean any substantive or procedural requirement related to Pretreatment, in addition to any/all requirements of the Act or any other National or State Pretreatment Standard, imposed on a User.

"Pretreatment Standard (or National Pretreatment Standard)" as defined by 40 CFR 403.3, or as it may be amended, shall mean any regulation containing Pollutant Discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive Discharge limits established pursuant to 40CFR 403.5.

"Private Fire Protection Service" means water Service and facilities for Building fire sprinkler system, hydrants, hose reels and other facilities installed on private property for fire protection and the water available therefore.

"Private Sewer" shall mean a Sewer which has an independent Sewage disposal system not connected with a Public Sewer and which accommodates one or more Premises.

"Public Fire Protection Service" means the Service and facilities of the entire water supply, storage and distribution system of the District, including the fire hydrants affixed thereto, and the water available for fire protection, excepting house Service Connections and appurtenances thereto.

"Public Sewer" shall mean a Sewer in a public right-of-way or easement owned, permitted or controlled by the District or any other POTW, if applicable, or any Sewer constructed by the District.

"Public Water System" means a system for the provision of piped water to the public for human consumption that has five or more Service Connections or regularly serves an average of 25 individuals daily at least 60 days out of the Year.

"Publicly Owned Treatment Works (POTW)" shall mean a treatment works as defined by section 212 of the Federal Water Pollution Control Act, which is owned by a State or municipality (as defined by section 502(4) of the Federal Water Pollution Control Act), or as they may be amended. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal Sewage or industrial Wastes of a liquid nature. It also includes Sewers, pipes and other conveyances only if they convey Wastewater to a POTW treatment plant. POTW shall also mean the Sewerage System of the District.

"Reclaimed Water" means a Waste-water which, as a result of treatment, is suitable for the uses other than potable use.

"Reduced Pressure Principle Backflow Prevention Device" means a device incorporating two or more check valves and an automatically operating differential relief valve located between the two checks, a tightly closing shut-off valve on each side of the check valve assembly, and equipped with necessary test cocks for testing.

"Regular Water Service" means water Service and facilities rendered for normal domestic, commercial and industrial purposes on a permanent basis and the availability of water therefor. No water Service shall be made available to any firm or individual unless annexed to the District, nor will water be served to anyone not being served by the District's Sewers. If Sewer service is unavailable, the Board may provide water Service if it is agreed that Sewer service will be used when available.

"Residence, Residential or Residential Unit" shall mean a Building for occupancy by one or more persons as a permanent or temporary habitat. Normally used to refer to and known as a Single Family Residence (SFR), physically separate from any other Building, or the equivalent thereof in a Multiple Family Dwelling or other Building.

"Responsible Party" means any person who is responsible for violating the provisions of the Malaga County Water District Code as described in this Chapter.

"Sanitary Facilities" means such facilities, devices and systems within a Building used for or useful in collection and Discharge of Sanitary Wastewater into the Wastewater Facilities or Private Sewer, as applicable.

"Sanitary Wastewater" shall mean (1) Domestic Wastes with storm and surface water excluded; (2) Wastewater Discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office

Buildings, industrial plants, or institutions; and (3) the water supply of a community after it has been used and Discharged into a Sewer.

"Schedule of Penalties" means a schedule of fines and/or penalties for violation of any of the provisions of the Malaga Code. The Schedule of Penalties shall be part of the Malaga County Water District Master Schedule of Fees, Charges, Penalties and Recovered Costs.

"Secretary" shall mean that person appointed by the Board to serve as Secretary of the District.

"Service" means the furnishing of water, Sewer.

"Service" or "Service Connection" means the pipe line and appurtenant facilities such as the curb stop, meter and meter box, if any, all used to extend water Service from a distribution main to premises. Where Services are divided at the curb or property line to serve several customers, each such branch Service shall be deemed a separate Service.

"Service Connection" refers to the point of connection of a User's piping to the Water Supplier's facilities.

"Sewage" shall mean a combination of water-carried Wastes from Buildings connected to the Sewerage System of District or to any Private Sewer.

"Sewer" shall mean a pipe or conduit for transporting Wastewater.

"Sewer Connection" means the connection of a Building to the District Sewer system.

"Sewerage System" shall mean the collection, transport, pumping, treatment, and disposal facilities owned, operated, or maintained by the District.

"Side Sewer" shall mean the part of the horizontal piping beginning at the foundation wall of any Building and terminating in the Sewerage System or Private Sewer and include the Building Sewer and Lateral Sewer.

"Significant Industrial User" or "SIU" shall mean:

1. An Industrial User subject to Categorical Pretreatment Standards; or

2. An Industrial User that:

- a. Discharges an average of twenty-five thousand (25,000) gpd or more of processed wastewater to the POTW (excluding sanitary, non-contact cooling and boiler Blowdown Wastewater);
- b. contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
- c. is designated as such by the District on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

"Significant Non-Compliance" shall have the same meaning as 40 CFR 403.8(f)(2)(viii), or as it may be amended, which reads in relevant part as follows:

"For the purposes of this provision, a Significant Industrial User (or any Industrial User which violates paragraphs (f)(2)(viii)(C), (D), or (H) of this section) is in significant noncompliance if its violation meets one or more of the following criteria:

(A) Chronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

(B) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);

(D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge;

(E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(G) Failure to accurately report noncompliance;

(H) Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment program."

"Single-Family Dwelling/Single-Family Residence/SFR" shall mean premises designed, improved or used as a residence for one family only and for no other purpose, with sanitary and kitchen facilities.

"Slug Discharge" or "Slug Load" shall mean any Discharge at a flow rate of concentration, which could cause a violation of the prohibited Discharge standards in Title 3 of this Ordinance including, but not limited to, Sections 3.05.030 or 3.05.040. A Slug Discharge is any Discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass-Through or any other way of violating the POTW's regulations, Local Limits or Permit conditions.

"Special District" shall mean a local agency as defined in Section 54725 of the Government Code of the State of California.

"Standard Industrial Classification (SIC)" shall mean the compilation of industries and their Discharges of Pollutants, which is printed by the U.S. Office of Management and Budget in its Standard Industrial Classification Manual.

"Storm Water" shall mean any flow occurring during or immediately following any form of natural precipitation and resulting therefrom whether Discharged or otherwise entering the Sewerage System or not.

"Street" shall mean any public highway, road, street, avenue, alley, way, easement or right-of-way.

"Suspended Solids (SS)" shall mean the total suspended matter that floats on the surface of, is suspended in, or settles from wastewater, or other liquids, and which is removable by laboratory filtering.

"State" means the State of California.

"Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this district which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

"Temporary Water Service" means water Service and facilities rendered for construction work and other uses of limited duration, and the water available therefore.

"Tenant" and "Occupant" applies to a Building or land, includes any person who occupies the whole or a part of such Building or land, whether alone or with others.

"Total Toxic Organics" shall mean the sum of all quantifiable values greater than 0.01 mg/L for all toxic organics covered by the electroplating point source category and the metal finishing point source category.

"Toxic Substances" shall mean any Toxic Substances in amounts exceeding standards promulgated by the Administrator of the United States Environmental Protection Agency pursuant to Section 307 (a) of the Act, and the "Toxic Substances Control Act" (P.L. 94-469), or as they may be amended, and chemical elements or compounds, phenols or other taste or odor-producing substances, or any other substances which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the treatment system.

"Trailer" shall mean mobile residence normally set up in a park constructed to provide utility hookups for such dwellings. Trailers are limited to 35 feet in length by the California Motor Vehicle Code and may be towed on the public highway without a special permit. Such residences have less than 400 square feet of floor space.

"Unpolluted Water" shall mean water not containing any Pollutants limited or prohibited by applicable regulations, standards, or limitations and whose Discharge will not cause any violation of receiving water quality standards.

"User" shall mean any Person who Discharges, causes, or permits the Discharge of Wastewater into the District's Wastewater Facilities. User includes a source of Indirect Discharge.

"User Classification" shall mean a classification of User based on the 1972 (or subsequent) edition of the Standard Industrial Classification (SIC) Manual prepared by the Office of Management and Budget.

"Waste" shall mean Sewage and any and all other Waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such Waste placed within containers of whatever nature prior to, and for purposes of, disposal.

"Wastewater" shall mean Waste and water, whether treated or untreated, Discharged into or permitted to enter a Community Sewer.

"Wastewater Constituents and Characteristics" shall mean the individual chemical, physical, biological and radiological parameters, including volume and flow rate and such other parameters that define, classify, or measure the contents, quality, quantity, or strength of Wastewater.

"Wastewater Treatment Facilities" or "WTF" or "Malaga Wastewater Treatment Facilities" or "MWTF" shall mean any devices, facilities, structures, equipment, or works owned, operated or maintained by the District for the purpose of the collection, transmission, storage, treatment, recycling, reclamation and disposal of industrial and domestic Waste, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including, but not limited to, intercepting Sewers, outfall Sewers, Sewage collection systems, pumping, power, and other equipment, and their appurtenances: extension, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

"Water Connection" means the connection of a Building to the District water system.

"Water Supplier" means the person who owns or operates the Approved Water Supply system.

"Water User" means any person obtaining water from an Approved Water Supply system.

"Watercourse" shall mean a channel in which a flow of water occurs either continuously or intermittently.

"Waters of the State" shall mean any water, surface or underground, including saline waters within the boundaries of the State.

"Year" means a calendar year.

SECTION 3. Chapter 5 titled "District Policies" is hereby added to Title 1 of the Malaga County Water District Ordinance Code as follows:

"1.05.010 ESTABLISHMENT.

The District shall establish and maintain policies relating to the conduct of District operations and any other matter required by law or which the Board deems necessary or convenient. Said policies shall be referred to as District Policies and shall be maintained in the Malaga County Water District Policy Manual.

1.05.020 PURPOSE, CONFLICT.

A. Purpose. The purpose of the Malaga County Water District Policy Manual is to supplement not supplant any federal, state, or local law or regulation including the Malaga Code. The Policy Manual shall serve as a guideline for the operation of the District for use by District employees, residents, businesses, and the general public.

B. If any policy contained in the District Policy Manual conflicts with any provision of the Malaga Code or any other federal, state, or local law or regulation, then such ordinance, law or regulation shall govern.

1.05.030. ADOPTION BY REFERENCE.

The Board of Directors of the Malaga County Water District hereby adopts by reference the Malaga County Water District Policy Manual. A copy of

the District Policy Manual shall be maintained and available for the public at the District office.

1.05.050 AMENDMENT.

The District policies may be amended, from time to time, by resolution of the Board of Directors of the Malaga County Water District."

SECTION 4. Chapter 7 titled "Penalty" is hereby added to Title 1 of the Malaga County Water District Ordinance Code as follows:

"1.07.010 PENALTY.

A. The penalty for the violation of any section of the Malaga Code shall, unless otherwise indicated, be a misdemeanor with the maximum penalty prescribed by California law including, but not limited to, California Water Code §§31106, 31029, and 31142 and Penal Code §498.

1.07.020 NON-EXCLUSIVE, ADDITIONAL REMEDIES.

A. Nonexclusive. The penalties and remedies described in this Chapter, and in the Malaga Code, shall be non-exclusive and cumulative.

B. Additional Remedies. The Malaga County Water District reserves the right to use any method of enforcing this Code and any remedy available at law in conjunction with or independently from the Districts Enforcement Response Plan (3.08.010) including, but not limited to:

1. Civil Penalties. A User who has violated, or continues to violate, any provision of this Code, an Individual Wastewater Discharge Permit or other Permit or order issued pursuant to this Code or any other statute or regulation or any other Pretreatment Standard or requirement shall be liable to the District for a civil penalty of not less than One Thousand Dollars (\$1,000.00) per day, per violation. Each day a violation exists shall constitute a separate violation and in the case of a monthly or long-term average violation of a Discharge limit, penalties shall accrue for each day during the period of the violation. In addition to the civil penalty, the District may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the costs of any actual damages incurred by the District.

2. Injunctive Relief. When the District finds that any User has violated or continues to violate any provision of this Ordinance Code, an Individual Wastewater Discharge Permit, or any other Permit or order issued under this Code or any other law or regulation, or any other Pretreatment Standard or requirement, the District may petition the Superior Court of California, County of Fresno, or any other court having jurisdiction, through the District's attorney for the issuance of a temporary or permanent injunction, as applicable, which restrains or compels the specific performance of the Individual Wastewater Discharge Permit order or other requirement imposed by this Ordinance or any other law or regulation on the activities of the User. The District may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses and the costs of any actual damages incurred by the District in such action.

3. Administrative Citations. The District may, to enforce any applicable provisions of this Code, issue administrative citations pursuant to Chapter 9 of Title 1 of this Code.

4. Administrative Complaints. In addition to all other remedies available at law, the Malaga County Water District may, to enforce any applicable provisions of this Code, issue administrative complaints pursuant to §§54725, et seq., of the Government Code or any other applicable statute or regulation.

5. Show-Cause Hearing. The District may order a User who has violated, or continues to violate, any provision of this Ordinance, an Individual Wastewater Discharge Permit or any other order issued hereunder, or any other Pretreatment Standard or requirement to appear before the Board of Directors, or the Board of Directors' designee, to show cause why enforcement action should not be taken. Notice of the hearing shall be given to the User and specify the time and place for the hearing. Such notice shall be served personally or by United States registered or certified mail (return receipt requested) at least twenty (20) days prior to the hearing. Such notice may be served on any authorized representative of the User. Such notice and show-cause hearing shall not be a prerequisite to any other remedy available to the District to enforce this Code.

6. Compliance Orders. The District may order a User which has violated, or continues to violate, any provision of this Ordinance, an Individual Wastewater Discharge Permit or any other Permit or order

issued under this Code, or any other Pretreatment Standard or requirement, to come into compliance within a specified time. A compliance order may not extend any deadline for compliance established by a Pretreatment Standard or other requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. The issuance of a compliance order shall not be a bar, or a prerequisite for, taking any other action or the District seeking any other remedy against the User.

7. Cease and Desist Orders. The District may issue an order requiring the User to cease and desist any violation and to immediately comply with all requirements and take such remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the Discharge. The issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action or the District pursuing any other remedy against the User.

8. Water Supply Severance. The District may order that the water service to the User be severed. Water service will only be reconnected, at the User's expense, after the User has satisfactorily demonstrated to the District its ability to comply.

1.07.030 ISSUANCE OF CITATIONS BY DESIGNATED DISTRICT EMPLOYEES.

Pursuant to Penal Code §836.5, the Board of Directors of the Malaga County Water District may designate an officer or employee of the Malaga County Water District to arrest a person without a warrant whenever the officer or employee has reasonable cause to believe that that person to be arrested has committed a misdemeanor in the presence of the officer or employee that is a violation of a statute or ordinance that the officer or employee has the duty to enforce. The officer or employee may issue a Citation to any such person and release such person pursuant to Chapter 5C of Part 2 of Title 3 of the California Penal Code. Such designated employees shall not be deemed to be peace officers.

1.07.040 RIGHT OF ENTRY.

A. Investigation. The District may enter upon the private property of any Person within the jurisdiction of the District in order to investigate possible violations of an ordinance of the District or to review and/or copy any records required to be kept under the provisions of this Code, to inspect any monitoring equipment or Pretreatment Facility or Discharge-producing

process; or sampling any Discharge of Wastewater to the POTW. When the General Manager, or his or her designee, determines that entry is required, the District will make every attempt to make such entry during normal business hours but may enter upon the property at any hour under emergency circumstances. In such event, the General Manager, or his or her designee, shall make effort to immediately notify the User or the User's Duly Authorized Representative. The entry shall be made with the consent of the owner or Tenant of the property or, if consent is refused, with a warrant duly issued pursuant to §31016 of the Water Code or the Code of Civil Procedure. If, during the course of an investigation the District discovers an actual violation of any District, City or County ordinance shall notify the appropriate County or other affected agency within a reasonable time.

B. Enforcement. In order to enforce the provisions of any ordinance of the District, including an ordinance fixing charges for the furnishing of commodities or Services, the District may correct any violation of any ordinance of the District pursuant to Water Code §31016 or by any other means permissible pursuant to any other law, statute, or regulation."

SECTION 5. Chapter 9 titled "Administrative Citations" is hereby added to Title 1 of the Malaga County Water District Ordinance Code as follows:

"1.09.010 TITLE.

This Chapter shall be known as the Administrative Citations ordinance of the Malaga County Water District.

1.09.020 PURPOSE.

A. This Chapter is adopted to protect the health, safety and welfare of the citizens of the Malaga County Water District and to provide a method to penalize Responsible Parties who fail or refuse to comply with certain provisions of the Malaga County Water District Code; to minimize the expense and delay of enforcement of the Malaga County Water District Code by criminal Citation; and to allow the District to recover costs associated with the enforcement process, while continuing to give persons who have been issued Citations due process.

1.09.030 AUTHORITY.

Government Code §53069.4 authorizes a local agency to enact by ordinance an administrative procedure to govern the imposition,

enforcement, collection, and administrative review of administrative fines or penalties issued for violation of an ordinance.

1.09.040 PROCEDURES - GENERAL.

A. Any person violating any provision of the Malaga County Water District Code may be issued an Administrative Citation by an Enforcement Officer as provided for by this Chapter.

B. Each and every day a violation of any provision of the Code exists will constitute a separate and distinct offense.

C. Each section of the Code violated on any day shall constitute a separate and distinct violation.

D. A fine for violations of the Code may be assessed by means of an Administrative Citation issued by the Enforcement Officer and shall be payable directly to the District.

E. The amount of fine for a violation of the Code shall be determined by resolution of the Board of Directors of the Malaga County Water District and may be amended, from time to time, by resolution of the Board of Directors of the Malaga County Water District.

F. Administrative fines assessed by means of an Administrative Citation shall be collected by the procedures specified in this Chapter.

1.09.050 PROCEDURES - ISSUANCE OF ADMINISTRATIVE CITATION(S).

A. Upon discovering or observing any violation of the Malaga Code, the Enforcement Officer shall determine the party responsible for the violation. If a business or other entity the Responsible Party shall be deemed to be the person who is in immediate control of the business or site on that day. The Enforcement Officer may also determine that the owner(s) or officer(s) of the business or property or entity are the Responsible Party.

B. Determination of an Automatic Violation:

1. Any violation defined by the Malaga Code or the Schedule of Penalties as an Automatic Violation; or

2. Violations that create an immediate danger to the public health, safety, and welfare, as determined by the Enforcement Officer, and for which immediate correction is required; or

3. Repeat or chronic violations where either formal or informal notice of the violation, and previous reasonable opportunities to correct, have been provided, as determined by the Enforcement Officer or General Manager, or his or her designee; or

4. Non-continuing violations for which it is not possible or practical to provide prior notice and an opportunity to correct.

C. Issuance of Notice to Correct:

1. Except as provided in subsection B of this section, the Enforcement Officer may issue a written notice to the Responsible Party of the violation. Said notice need not be in any particular form, but shall include:

a. the date of the violation;

b. the address or a description of the location where the violation occurred;

c. a description of the nature of the Malaga Code violation, including identifying the Malaga Code section(s) violated;

d. identify what action is necessary to correct the violation;

e. provide the Responsible Party with not less than ten (10) days to correct the violation, unless (i) a lesser time is specified elsewhere in the Malaga Code for correcting the violation(s); or (ii) the Enforcement Officer determines that a lesser time is necessary to protect the public health, safety, or welfare of the citizens of the District; and

f. an explanation of the consequences of a failure to correct the violation.

D. Notice:

1. The Enforcement Officer may attempt to locate the Responsible Party at the location of the violation during regular business hours if a business, or at any reasonable time if not a

business. If the Enforcement Officer is able to locate the Responsible Party, the Enforcement Officer shall attempt to obtain the signature of that person on the Administrative Citation. If that person refuses to or does not sign the Administrative Citation, the lack of signature shall in no way affect the validity of the Citation and subsequent proceedings. If the Responsible Party refuses to sign the Citation, the Enforcement Officer may either leave the Citation with the Responsible Party or mail the Citation in accordance with subsection(s) 2 and 3 below.

2. For property related violations, the Enforcement Officer may securely post the Citation in a conspicuous place on the property and mail a copy of the Citation to the Responsible Party by first-class mail within five days of posting to the Responsible Party's business address, principal place of business address, residence address, or other address known to the Enforcement Officer by reliable information.

3. In lieu of personally serving the Responsible Party, if the violation is at a business, the Enforcement Officer may leave a copy of the Citation with a person who is apparently in charge at the place of business and thereafter mailing, by first-class postage, a copy of the Citation to the Responsible Party at the address where the copy was left, or by leaving a copy at the Responsible Party's dwelling or usual place of abode, in the presence of a competent member of the household over the age of eighteen (18), and thereafter mailing, by first-class mail, to the address where the copy was left.

E. If after the expiration of the time period provided to the Responsible Party to correct the violation, the Responsible Party has not corrected the violation, the Enforcement Officer may issue an Administrative Citation to the Responsible Party by any method defined in this section.

F. The notice provided pursuant to subsection C of this section shall be sufficient notice for subsequent violations of the same Code occurring within one Year of the notice even if the violation occurs at a different location, and the Enforcement Officer may proceed directly to issuing an Administrative Citation for future violations of the same Code section occurring within one Year of the notice to the same Responsible Party even if the violation occurs at a different location.

1.09.060 PROCEDURE - CONTENTS OF CITATION.

The Administrative Citation shall be on a form approved by the General Manager, or his or her designee, and should include, where applicable, the following:

- A. The name and address of the Responsible Party;
- B. Date and location of the violation(s) and the approximate time the violation(s) were observed and/or discovered;
- C. Section or sections of the Malaga Code violated and a description of how the section(s) are violated;
- D. A description of the action required to correct the violation(s), if applicable;
- E. Statements to require the Responsible Party to immediately correct the violation(s) and to explain the consequences of failure to correct the violation(s);
- F. Amount of fine imposed for the violation(s);
- G. Explanation of how the fine shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the fine;
- H. Rights of appeal;
- I. Signature of the Enforcement Officer; and signature of the Responsible Party and/or the address where the Citation is served, posted, or mailed.

1.09.070 PROCEDURE - APPEAL OF ADMINISTRATIVE CITATION.

A. Any person receiving an Administrative Citation which carries a monetary penalty shall within thirty (30) calendar days from the date of issue either pay the fine or file an appeal with the General Manager, or his or her designee,. Fines may be paid at the District office. Warning Citations may not be appealed.

B. A Notice of Appeal shall be in writing and shall identify the Citation being appealed, specify basis for the appeal in sufficient detail so that a Hearing Officer can understand the grounds for the appeal, an address where further notices may be delivered to the Responsible Party by first-

class mail and shall be accompanied by an advance deposit of the total penalty amount or an advance deposit hardship waiver application form as described in section 1.09.080H. The Notice of Appeal must be received by the General Manager, or his or her designee, at the District office prior to the expiration of thirty (30) calendar days from the date of the issuance of the Citation.

C. If the deadline to file an appeal or pay a fine falls on a Saturday, Sunday, or District Holiday, the deadline for filing an appeal or paying a fine shall be extended until the next regular business day.

D. If a Hearing Officer has not been previously appointed by resolution of the Board of Directors as soon as practicable after receiving a written notice of appeal, the Board Secretary shall place on the agenda of the Board of Directors the appointment of a Hearing Officer. The appointed Hearing Officer shall forthwith fix a date, time, and place for the hearing. Written notice of the time and place for the hearing shall be served at least ten (10) calendar days prior to the date of the hearing to the party appealing the Citation by any one or more of the following means:

1. Personal service; or
2. First-class mail at the address specified in the Notice of Appeal, or if no address is specified, at such other address known to the General Manager, or his or her designee, by reliable information.

E. The failure of any person to receive such notice shall not affect the validity of any proceedings taken under this Chapter. Service by normal first-class delivery mail in the manner described above in subsection C shall be effective on the date of mailing.

F. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of that person's rights to an Administrative Hearing and determination on the merits of the Citation and the amount of the fine.

G. Failure by the Responsible Party to attend the Administrative Hearing shall constitute a waiver of his or her rights to an Administrative Hearing.

H. Any person who intends to appeal an Administrative Citation and is financially unable to make the advance deposit of the penalty as required in section 1.09.080B may request an advance deposit hardship waiver by doing the following:

1. Completing an advance deposit hardship waiver application form available from the General Manager, or his or her designee, at the District office which shall be signed by the Applicant under penalty of perjury;
2. The request shall be filed, along with the notice of appeal, with the General Manager, or his or her designee, within thirty (30) days of the date of the Administrative Citation;
3. The General Manager, or his or her designee, may waive all or part of the requirements of an advance deposit and issue the advance deposit hardship waiver only if the sworn application together with any supporting documents or materials, demonstrating to the satisfaction of the General Manager, or his or her designee, the person's actual financial inability to deposit with the District the full amount of the penalty in advance of the hearing. The General Manager, or his or her designee, in determining the Responsible Party's financial ability or inability to deposit the full amount of the penalty in advance, may consider the amount of the penalty imposed, the income of the Applicant, the expenses of the Applicant and any other factors that are reasonably related to the Applicant's ability to deposit the full amount of the penalty;
4. If the General Manager, or his or her designee, makes a determination to deny all or part of the advance deposit hardship waiver, then a written determination listing the reasons for the denial shall be served by first-class mail to the address on the application. The written determination of the General Manager, or his or her designee, shall be final.
5. If all or part of the advance deposit hardship waiver is denied by the General Manager, or his or her designee, the Applicant shall have ten (10) days from the date the written determination is mailed to make the advance deposit to the General Manager, or his or her designee,. Failure to make the advance deposit in the amount determined by the General Manager, or his or her designee, within ten (10) days from the date the General Manager's, or his or her designee, written determination was mailed will result in the notice of appeal being considered untimely filed. If the deadline to make the advance deposit falls on a Saturday, Sunday, or District Holiday, the deadline for making the advance deposit shall be extended until the next regular business day.

1.09.080 PROCEDURE - APPEAL HEARING.

A. The Hearing Officer shall conduct an informal and orderly proceeding. The technical rules of evidence shall not apply, except that irrelevant and unduly repetitious evidence shall be excluded. Evidence on which persons commonly would rely on in the conduct of their business affairs shall be accepted. All evidence shall be received only on oath or affirmation.

B. During the Hearing, the General Manager, or his or her designee, and/or Enforcement Officer shall present information or testimony relating to the violation and the appropriate means of correcting the violation. The Responsible Party(ies), owner(s), or any other interested person(s) may present testimony or other evidence concerning the violation and the means and time frame necessary for correction.

C. Each party shall have the right to:

1. Call and examine witnesses on any matter relevant to the issues of the Hearing;
2. Introduce documentary and physical evidence relevant to the issues of the Hearing;
3. Cross-examine opposing witnesses on any matter relevant to the issues of the Hearing;
4. Impeach any witness regardless of which party first called the witness to testify;
5. Rebut the evidence;
6. Be represented by anyone who is lawfully permitted to do so; and
7. Provide an interpreter, at his or her own expense, to translate the proceeding, if the party is not proficient in the English language.

D. The Hearing Officer shall direct the order of the proceedings. The hearing shall be tape recorded. The parties, at their sole expense, may have the Hearing recorded by a certified shorthand reporter.

E. The Hearing Officer shall have the authority to grant continuances, from time to time, for good cause shown, upon request of the District, Responsible Party, or the Hearing Officer's own motion.

F. If the violation is related to real property in the District, the Hearing Officer may, upon reasonable notice and consent, inspect the property prior to, during, or after the Administrative Hearing. The Responsible Party shall have the right to be present at the inspection.

G. The Hearing Officer may take official notice, either during the hearing, or after submission of the matter for decision, of any fact which may be judicially noticed by the courts of this state or of official records, regulations, rules, and decisions of state and local agencies, boards and departments and of City and County ordinances. In addition, the Hearing Officer may take official notice of matters in its own files and of prior proceedings under this Chapter involving the same issues. If applicable, the Hearing Officer may also take official notice of any generally accepted technical or scientific matter within the Hearing Officer's expertise. The Hearing Officer shall inform the parties at the hearing on the record, referred to therein, or appended thereto all matters to be noticed. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority.

H. At the conclusion of the Hearing, the Hearing Officer may sustain the Citation, not sustain the Citation, may reduce, waive, or conditionally reduce the fine stated in the Citation. The Hearing Officer may also impose conditions and deadlines by which to correct the violation or pay any outstanding fine, or continue the Hearing, as necessary.

I. The decision of the Hearing Officer shall be in writing and issued within thirty (30) days of the conclusion of the Hearing. The decision shall be served upon the Responsible Party in the manner as the notice of hearing was served on the Responsible Party and is effective upon the date of service. The decision of the hearing officer regarding any appeal is the FINAL ADMINISTRATIVE ORDER AND DECISION. There are NO APPEALS TO THE BOARD OF DIRECTORS. Judicial review may be had only in accordance with the provisions of California Government Code §53069.4. The decision shall contain a statement advising of the right to judicial review, and shall be substantially in the following form:

The decision of the Hearing Officer is the final decision of the District. You have the right to seek judicial review of the decision pursuant to and in accordance with Government Code §53069.4 by

filing an appeal with the Superior Court, County of Fresno. The time to file an appeal is within twenty (20) days after service of this final administrative decision. These are your only rights to judicial review. If you fail to file an appeal within the prescribed time, you may be barred from seeking judicial review.'

J. The time to pay a fine following the Hearing Officer's final Administrative Decision is twenty (20) calendar days after service of the decision unless the Hearing Officer provides for a longer time.

1.09.090 FINES ASSESSED.

A. The amounts of the fines to be assessed for Malaga Code violations pursuant to this Chapter shall be set forth in a Schedule of Penalties established and revised from time to time by resolution of the Board of Directors. The Schedule of Penalties shall be maintained and made available to the public by the Secretary of the Board as part of the Master Fee Schedule.

B. The Schedule of Penalties established by resolution shall specify whether a violation is an Automatic Violation.

C. The Schedule of Penalties established by resolution shall specify any increased penalties for repeat violations of the same Code provision.

D. The payment of a fine or fines shall not excuse the failure to correct the violation nor shall it bar any further enforcement action by the District.

1.09.100 COLLECTION OF FINES.

A. All fines assessed shall be payable to the Malaga County Water District.

B. The failure of any person to timely pay a fine assessed by Administrative Citation or final administrative decision shall result in an assessment of an additional late fee to be charged. The amount of a late fee shall be ten percent (10%) of the total amount of the administrative fine owed.

C. The failure of any person to timely pay a fine assessed by Administrative Citation or final administrative decision constitutes a debt owed to the District. To enforce that debt, the General Manager, or his or her designee, may cause to be filed a claim with the Small Claims or other appropriate court.

D. The General Manager, or his or her designee, may also pursue any other legal remedy to collect such money owed, including but not limited to, contracting for collection, or the imposition of an assessment lien as set forth below:

1. The General Manager, or his or her designee, may impose a special assessment against the property that is the subject of an Administrative Citation, if the Administrative Citation has been issued to a property owner for the amount of the fine, plus late fees, plus an administrative charge established by resolution of the Board of Directors to reimburse the District for costs of imposing the assessment, the assessment shall be imposed by the following procedures:

a. The Board of Directors shall confirm the amount to the assessment at a regularly scheduled meeting or at a special meeting.

b. The property owner and any holder of the mortgage or deed of trust of record shall be notified of the meeting to confirm the assessment in accordance with the notice requirement of this Chapter.

c. After conformation by the Board of Directors, the General Manager, or his or her designee, shall record a Notice of Lien in the office of the County Recorder. When so made, confirmed, and recorded, the confirmed amount shall constitute a lien on that property for the amount of the assessment.

d. After conformation and recordation, a copy may be filed with the tax collector for the Malaga County Water District. The tax collector shall add the amount(s) of the respective assessment(s) to the next regular tax bill or bills levied against the property subject to the lien. Those amounts shall be collected at the same time and in the same manner as ordinary Malaga County Water District taxes are collected, and shall be subject to the same penalties and procedures under foreclosure and sale in the cases of a delinquency as provided for with ordinary Malaga County Water District taxes. Or, after recording, the lien may be foreclosed by judicial or other sale in the matter and means provided by law. The notice of lien for recordation shall be in the form substantially as follows:

NOTICE OF LIEN

Pursuant to Title 1 Chapter 9 of the Malaga County Water District Code, the General Manager, or his or her designee, of the Malaga County Water District did on or about the ____ day of _____, 20____, assess the cost of administrative fines and penalties on the real property hereinafter described; and the same has not been paid nor any part thereof and the Malaga County Water District does hereby claim a lien for such fines and penalties, in the amount of \$_____. Said amount shall be a lien upon the real property until it has been paid in full and Discharged of record.

The real property, upon which a lien is claimed, is that certain parcel of land in the Malaga County Water District, County of Fresno, State of California, more particularly described as follows:

Dated this ____ day of _____, 20____

MALAGA COUNTY WATER DISTRICT

By: _____

[Print Name and Title]

E. If the failure by any person to pay a fine assessed by Administrative Citation results in the filing of an action in any court of proper jurisdiction, to collect the fine, the Malaga County Water District shall be entitled to collect all costs, including reasonable attorney's fees, associated with the filing of such actions.

F. The payment of a fine or fines shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the District.

1.09.110 OTHER REMEDIES.

A. Nothing in this Chapter precludes the Malaga County Water District from using any other available method to enforce the provisions of the Malaga Code, including Administrative Complaints issued pursuant to §§54725, et seq., of the Government Code or other applicable statute or regulation.

1.09.120 ADMINISTRATION.

A. The General Manager, or his or her designee, may adopt any necessary guidelines, policies, or procedures to aid in the interpretation and enforcement of this Chapter.

1.09.130 SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Chapter or any part of the Code adopted herein by reference is for any reason to be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof."

SECTION 6. Chapter 11 of Title I of the Malaga County Water District Code is hereby adopted and shall read as follows:

"Chapter 11 Master Schedule of Fees, Charges, Penalties and Recovered Costs

1.11.010 ADOPTION BY REFERENCE.

The Malaga County Water District hereby adopts by reference the Malaga County Water District Master Schedule of Fees, Charges, Penalties and Recovered Costs which shall be Appendix B to the Malaga Code.

1.11.020 AMENDMENT.

The Board of Directors of the Malaga County Water District may amend the Master Schedule of Fees, Charges, Penalties and Recovered Costs, from time to time, by resolution. The Secretary to the Board of Directors shall maintain a copy of the Master Schedule of Fees, Charges, Penalties and Recovered Costs, as amended, available for use by the public at the District Office.

**1.11.030 MASTER SCHEDULE OF FEES, CHARGES, PENALTIES
AND RECOVERED COSTS ADOPTED PRIOR TO THIS
ORDINANCE**

The adoption of a Master Schedule of Fees, Charges, Penalties and Recovered Costs by this Ordinance Code does not affect the prosecution, collection, imposition, lien, or duty to pay any fee or charge made or levied pursuant to any prior Schedule of Fees, Charges, Penalties or Recovered Costs."

SECTION 8. That Title 2 of the Malaga County Water District Code is adopted and shall read as follows:

"TITLE II WATER SYSTEM

Chapter 1 General Provisions

2.01.010 WATER SYSTEM.

The District furnishes a system, wells, plant, works, facilities and undertaking used for and useful in obtaining, conserving and distributing water for public and private uses, including all parts of the system, all appurtenances to it, and lands, easements, rights in land, water rights, contract rights, franchises, and other water supply, storage and distribution facilities and equipment.

2.01.020 DEFINITIONS.

Unless otherwise defined in this Title, the meanings of terms or phrases used in this Title shall be as defined in this Code.

2.01.030 STANDBY ASSESSMENT.

The District may, pursuant to Article 2, Chapter 1, Part 5, Division 12 beginning at §31027 of the Water Code, charge a standby or availability charge. Such charges may be set forth in the Master Schedule of Fees, Charges, Penalties and Recovered Costs.

2.01.040 NOTICES TO CUSTOMER.

Notices from the District to a customer should, when practicable, be given in writing and delivered in person or by mail to the address given by the customer on the customer's application or, the address of the property owner as listed on the tax rolls. Notice may be given in any other means described in the Malaga Code or any other means permitted or required by any other law or regulation.

2.01.050 NOTICE TO DISTRICT.

Notice from a customer to the District may be given by the customer or his or her authorized representative in writing by personally delivering or mailing said notice to the District Office addressed to the General Manager, or his or her designee,. Notices may also be given to any agent of the District as permitted or required by the Malaga Code or any other law or regulation.

2.01.060 INTERRUPTIONS IN SERVICE.

The District shall not be liable for damage which may result from an interruption in Service; however, whenever possible and as time permits all customers affected will be notified prior to making any major shutdowns.

2.01.070 RATES FOR SERVICE.

The District shall, pursuant to §31000, et seq., of the Water Code, set rates and charges for water service. Said rates and charges shall be set forth in the District's Master Schedule of Fees, Charges, Penalties and Recovered Costs.

Chapter 2 Application for Water Service.

2.02.010 APPLICATION FOR WATER SERVICE.

A. Application. Applications for Service shall be made by the property owner or the property owner's agent, including non-resident property manager with the consent of the owner, in writing on a form to be provided by the District along with a non-refundable application fee, if required.

B. Owner Responsibility. The owner of the property where water Service is provided shall be responsible to pay for all Services provided to the property.

C. Non-transferable. Except as provided by law, applications for Service and Service accounts are non-transferable. In the event of a change of ownership, the new owner of the property, whether the change of ownership is voluntary, involuntary, by operation of law, by grant, gift, devise, inheritance, sale, trust, or by any other means, is required to apply for Service as a condition of Service from the District.

2.02.020 DEPOSITS.

A. The General Manager, or his or her designee, may require that the Applicant provide a deposit in the amount of \$150 or two times the estimated billing amount or other amount as determined by the Manager prior to the opening of any new account for Service if any of the conditions apply:

1. The Applicant has never had an account with the Malaga County Water District; or
2. The Applicant has not had an account in good standing with the Malaga County Water District in the last two Years; or
3. The Applicant has or has had an account with the Malaga County Water District in the last two Years but that account was delinquent or Service water disconnected for nonpayment.

B. Return of Deposit. The Applicant shall have his or her deposit returned if the account remains in good standing and does not become delinquent at any time for two Years or upon termination of the account except for the amount of the deposit necessary to offset any delinquencies or amounts in arrears on the account at the time of closure.

2.02.030 OUTSTANDING DEBT.

An application for Service will not be processed or approved unless and until the District receives payment in full of all outstanding debts to District by Applicant for water Service, or other Service rendered to the Applicant by the District.

2.02.040 PAST DUE TENANTS.

Pursuant to Water Code §31007.5, the District shall not seek to recover any charges or penalties for the furnishing of water to or for a Tenant's residential use from any subsequent Tenant on account of nonpayment of

charges by a previous Tenant. The District will, however, require that Service to subsequent Tenants be furnished only on the account of the property owner. The owner of the Property where the Service is provided will be responsible for all charges for Services provided by the District to the Property.

Chapter 3 Water Service Installation, Connection

2.03.010 WATER SERVICE INSTALLATION CHARGES.

Water Service installation charges shall be paid by the owner and shall be in accordance with the Master Schedule of Fees, Charges, Penalties and Recovered Costs.

2.03.020 WATER MAIN CONNECTION CHARGES.

In addition to charges for water Service installation imposed by Section 2.03.010 of this Chapter, and in addition to costs for meters pursuant to Chapter 8 of this Title, water main connection charges shall be paid in accordance with the Master Schedule of Fees, Charges, Penalties and Recovered Costs or, in an amount determined by the District, shall be paid by the owner of the property receiving Service.

2.03.030 EXTENSIONS OF SERVICE.

A. Within District Boundaries. For water Service within the area of the District, requiring extension of water mains for connection, the owner of the property shall pay for said extension in accordance with the Master Schedule of Fees, Charges, Penalties and Recovered Costs or as determined by the District.

B. Extension of Service to Outside the District. Water Services in territory outside the District shall be approved by resolution of the Board of Directors of the District. All costs associated with the extension shall be in accordance with the Master Schedule of Fees, Charges, Penalties and Recovered Costs, or as determined by the Board shall be paid by the owner or Applicant.

2.03.040 TEMPORARY SERVICE.

Temporary Service may be arranged on a case-by-case basis. Temporary Water Service will be subject to this Code and fees and charges as set forth in the Master Schedule of Fees, Charges, Penalties

and Recovered Costs including, but not limited to, connection and disconnection fees. (See, Chapter 10 of this Title).

Chapter 4 Billing

2.04.010 BILLING PERIOD.

The regular billing period will be monthly or bi-monthly at the option of the District.

2.04.020 OPENING AND CLOSING BILLS.

Opening and closing bills for less than the normal billing period shall be prorated both as to minimum charges and quantity blocks. If the total period for which Service is rendered is less than one (1) month, the bill shall not be less than the monthly minimum charge applicable. Closing bills may be estimated by the District for the final period as an expediency to permit the customer to pay the closing bill at the time Service is discontinued.

2.04.030 PAYMENT OF BILLS.

Bills for water Service shall be rendered at the end of each billing period to include the minimum charge for the following month. Bills shall be payable on presentation.

On each bill for water Service rendered by the District shall be printed substantially the following: "If this bill is not paid on or before the twentieth day of the month following the month in which the bill was sent, Service may be discontinued. A re-connection charge and penalties will be made and collected prior to renewing Service following a discontinuance. Additionally, accounts not paid on or before the 20th day of each month shall be considered delinquent and subject to penalty in an amount set forth in the Master Schedule of Fees, Charges, Penalties and Recovered Costs."

2.04.040 BILLING OF SEPARATE CONNECTIONS NOT COMBINED.

Separate bills will be rendered for each service connection meter installed except where the District has, for its own convenience, installed two or more meters or connections in place of one meter. Where such installations are made the meter readings will combined for billing purposes.

2.04.050 DELINQUENT ACCOUNTS - PENALTY.

Accounts not collected on or before the 20th day of each month following the month in which the bill was sent shall be considered to be delinquent accounts. Delinquent accounts shall incur a penalty in an amount set forth in the Master Schedule of Fees, Charges, Penalties and Recovered Costs.

Chapter 5 Discontinuance of Service

2.05.010 DISCONNECTION FOR NON-PAYMENT.

Service may be discontinued for non-payment of bills on or before the twentieth day of the month following the month during which the bill was sent. A disconnection for non-payment shall be subject to a connection or re-connection fee as set forth in the Master Schedule of Fees, Charges, Penalties and Recovered Costs.

2.05.020 DISCONNECTION FOR NON-PAYMENT - NOTICE.

A. Notice of discontinuance of residential Service for non-payment.

1. At least ten (10) days before any proposed discontinuance of residential water and/or Sewer service for non-payment of a delinquent account of such Service, the District shall mail a notice, postage prepaid, to the customer to whom the Service is billed of the proposed discontinuance provided that such notice is not mailed until at least twenty-five (25) days from the date of the mailing of the District's bill for which no payment was received. If payment is not received, then the District shall give, by mail, in person, or by posting in a conspicuous location at the premises, a notice of disconnection of Service at least forty-eight (48) hours prior to disconnection.

2. Contents of Notice. A notice of discontinuance permitted by this section shall include the following information:

- a. The name and address of the customer whose account is delinquent; and
- b. The amount of the delinquency; and

c. The date by which payment or arrangements for payment is required in order to avoid discontinuance of Service; and

d. The name and telephone number of a representative of the District who can provide additional information or make payment arrangements.

B. Notice of Discontinuance of Service to Multi-Unit Residential Structures.

1. Where the District furnishes water to a multi-unit residential structure through a master meter or service connection or individually connected or metered Service in a multi-unit residential structure, mobile home park, or other multi-unit residential structure, the District shall give the following notices prior to discontinuance of Service:

a. Notice the property owner pursuant to section 2.05.020(A). The District shall make every good faith effort to inform the residential Occupants, by means of written notice posted on the door of each residential unit at least fifteen (15) days prior to termination, when the account is delinquent, that Service will be terminated on a date specified in the notice or in a manner as permitted by Public Utilities Code §10009.1. Although reference is made to Public Utilities Code §10009.1, such reference is made only to provide a guideline for the Service of notice to residents of multi-unit residential structures.

C. Discontinuance of Non-residential Services for Non-Payment. The District shall provide notice to non-residential water and/or Sewer and/or sanitation Service customers at least ten (10) days prior to the discontinuance of Service for non-payment. The notice shall specify the amount of the delinquency and the date by which payment is required to be made in order to avoid discontinuance of Service.

2.05.030 RE-CONNECTION CHARGE.

A re-connection charge plus penalties will be made and collected prior to renewing Service following discontinuance, as set forth in the Master Schedule of Fees, Charges, Penalties and Recovered Costs.

2.05.040 UNSAFE APPARATUS.

Water Service may be refused or discontinued to any premises where apparatus or appliances are in use which might endanger or disturb the Service to other customers.

2.05.050 CROSS-CONNECTIONS.

Water Service may be refused or discontinued to any premises where there exists a cross-connection in violation of the Malaga Code or state or federal laws.

2.05.060 FRAUD OR ABUSE.

Service may be discontinued if necessary to protect the District against fraud or abuse.

2.05.070 NON-COMPLIANCE WITH REGULATIONS.

Service may be discontinued for non-compliance with this or any other ordinance or regulation related to the water Service.

2.05.080 DISPUTES.

Any charges disputed by customers must be presented to the District, in writing, on or before the date of discontinuance of Service for non-payment. The General Manager, or his or her designee, in his or her discretion, may investigate the disputed charges and may, in his or her discretion, delay the discontinuance of Service until such time as he or she completes investigation of the disputed charge.

2.05.090 UPON VACATING PREMISES.

Customers desiring to discontinue Service should notify the District two (2) days prior to vacating the premises. Unless discontinuance of Service is ordered the customer shall be liable for charges whether or not any water is used.

2.05.100 PAYMENT ARRANGEMENTS.

The General Manager, or his or her designee, at his or her discretion, enter into a payment agreement with a customer to avoid the discontinuance of Service. If the customer fails to comply with the agreement, the District may discontinue Service after giving a residential customer at least forty-eight (48) hours notices prior to the discontinuance of Service. For non-residential customers, the General Manager, or his or her designee, may, at his or her discretion, discontinue Service immediately without giving any further notice if the non-residential customer fails to comply with such payment agreement.

2.05.110 COLLECTION.

The District may collect any and all unpaid rates and charges and penalties for and related to water, Sewer, solid Waste and/or fire line Service in any of the following manners:

1. Collection of charges on the tax roll pursuant to any and all applicable statute(s); or
2. Suit. The District may bring any action to collect delinquent charges in any court of competent jurisdiction and have and recover costs of said suit including attorney's fees, court costs, or other costs incurred by the District in the bringing of such action; or
3. By any other remedy available at law.

Chapter 6 General Use Regulations

2.06.010 SEPARATE CONNECTION REQUIRED.

Each premises shall be Serviced by a separate connection.

2.06.020 NUMBER OF SERVICES PER PREMISES.

The Applicant may apply for as many Services as may be legally or reasonably required for his premises provided that the pipeline system from each Service be independent of the others and that they not be interconnected. The cost of all Services over and above the initial Service shall be borne by the Applicant.

2.06.030 RESPONSIBILITY FOR EQUIPMENT ON CUSTOMER PREMISES.

All facilities installed by the District on private property for the purpose of rendering water Service shall remain the property of the District and may be maintained, repaired or replaced by the District without consent or Interference of the owner or Occupant of the property. The property owner shall use reasonable care in the protection of the facilities. No payment shall be made for placing or maintaining said facilities on private property.

2.06.040 DAMAGE TO WATER SYSTEM FACILITIES.

The customer shall be liable for any damage to the District-owned customer water Service facilities when such damage is from causes originating on the premises by an act of the customer or his or her Tenants, agents, employees, Contractors, licensees or permittee, including the breaking or destruction of locks by the customer or others on or near a meter or connection, and any damage to a meter or other facility that may result from hot water or steam from a boiler or heater on the customer's premises. The District shall be reimbursed by the customer for any such damage promptly on presentation of a bill.

2.06.050 GROUND-WIRE ATTACHMENTS.

All persons are forbidden to attach any ground-wire or wires to any plumbing which is or may be connected to a Service Connection or main belonging to the District; the District will hold the customer liable for any damage to its property occasioned by such ground-wire attachments.

2.06.060 CONTROL VALVE ON THE CUSTOMERS PROPERTY.

The customer shall provide a valve on his side of the Service installation as close as is practicable to the meter or connection location, street, highway, alley or easement in which the water main serving the customer's property is located, to control the flow of water to the piping on his premises. The customer shall not use the Service curb stop to turn water on and off for his convenience.

2.06.070 WATER-WASTE.

No customer shall knowingly permit leaks or Waste of water. Where water is wastefully or negligently used on a customer's premises, seriously affecting the general Service, the District may discontinue the Service if

such conditions are not corrected within five days after giving the customer written notice.

A. In the use of water supplied by the District, no customer shall do or permit any of the following:

1. Water any lawn except by use of a hose held in the person's hand or a sprinkling device, or;
2. Keep, maintain, operate, or use any Water Connection, hose, faucet, hydrant, pipe, outlet, or plumbing fixture which is not tight and free from leakage, or;
3. Willfully or negligently Waste water, or;
4. Flood any part of the premises of another, or;
5. Sprinkle the premises of another so as to prevent the normal use thereof or unreasonably wet objects thereon which should not be subjected to a spray of water except as naturally caused by the elements or by action of the owner of the object, or;
6. Sprinkle or irrigate any yard, ground, premise, or vegetation between the hours of 8:00 a.m. and 7:00 p.m. during the months of March through October inclusive, or;
7. Sprinkle or irrigate any yard, ground, premise, or vegetation unless the watering device used is controlled by an automatic shut-off device, or a person is in immediate attendance of the hose or watering device;

B. Lawn sprinkling systems shall be properly designed, installed, maintained, and operated to prevent wastage of water.

C. When violations of the provisions of this Ordinance occur, a fine, as set forth in the Master Schedule of Fees, Charges, Penalties and Recovered Costs, shall be added to the customer's account to cover the cost of additional water used or Wasted. In addition to this fee, the District may install metered water Service to any premises on which repeated violations of this Chapter have occurred, or in the case of willful Waste of water.

8. Wash any privately owned motor vehicle, Trailer, or boat except from a bucket or in a commercial car wash, provided a hose equipped with a shut-off nozzle may be used for a quick rinse, or;

9. Wash or rinse with a hose or watering device any vehicle, sidewalk, driveway, parking area, tennis court, patio, or any other exterior paved area, except in a manner which prevents the bulk of the runoff water from entering the street and instead diverts such water to other productive purposes such a landscape irrigation.

10. All evaporated coolers shall have automatic float valve shut-off devices.

2.06.080 EMERGENCY WATER RESTRICTIONS.

Nothing in this Malaga Code shall prevent the Board of Directors from declaring a severe drought and instituting emergency water restrictions as permitted by state law. Such declaration and imposition of emergency water restrictions may be done by resolution of the Board of Directors of the District.

Chapter 7 Cross-Connection Control

2.07.010 PURPOSE.

The purpose of this Chapter is to:

1. protect the public water supply against actual or potential Contamination through cross-connections by isolating sources of Contamination that may occur within a Water User's premises because of some undiscovered or unauthorized Cross Connection on the premises;
2. to eliminate existing connections between drinking water systems and other sources of water that are not approved as safe and potable for human consumption;
3. to eliminate cross-connections between drinking water systems and sources of Contamination; and
4. to prevent the making of cross-connections in the future.

These regulations are adopted pursuant to the State of California Administrative Code, Title 17 - Public Health entitled "Regulations Relating to Cross-Connections."

It is unlawful for any person, firm, or corporation at any time to make or maintain or cause to be made or maintained, temporarily or permanently, for any period of time whatsoever, any cross-connection between plumbing pipes or water fixtures being served with water by the District and any other source of water supply or to maintain any sanitary fixture or other appurtenances or fixtures which by reason their construction, may cause or allow Backflow of water or other substances into the water supply system of the District and/or the Service of water pipes or fixtures of any consumer of the District.

**2.07.020 CROSS-CONNECTION PROTECTION REQUIREMENTS:
GENERAL PROVISIONS.**

1. Unprotected cross-connections with the public water supply are prohibited.
2. Whenever Backflow protection has been found necessary, the District will require the Water User to install an Approved Backflow Prevention Device by and at his expense for continued Services or before a new Service will be granted.
3. Wherever Backflow protection has been found necessary on a water supply line entering a Water User's premises, then any and all water supply line from the District's mains entering such premises, Buildings, or structures shall be protected by an Approved Backflow Prevention Device. The type of device to be installed will be in accordance with the requirements this Code.

2.07.030 WHERE PROTECTION IS REQUIRED.

1. Each Service Connection from the District water system for supplying water to premises having an auxiliary water supply shall be protected against Backflow of water from the premises into the Public Water System unless the auxiliary water supply is accepted as an additional source by the District, and is approved by the public Health Agency having jurisdiction.
2. Each Service Connection from the District water system for supplying water to any premises on which any substance is handled in such fashion as may allow its entry into the water system shall be

protected against Backflow of the water from the premises into the public system. This shall include the handling of process waters and waters originating from the District water system which have been subjected to deterioration in sanitary quality.

3. Backflow prevention devices shall be installed on the Service Connection to any premises having (a) internal cross-connection that cannot be permanently corrected and controlled to the satisfaction of the state or local health department and the District, or (b) intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not cross-connection exist.

2.07.040 TYPE OF PROTECTION REQUIRED.

1. The type of protection that shall be provided to prevent Backflow into the Approved Water Supply shall be commensurate with the degree of hazard that exists on the consumer's premises. The type of protective device that may be required (listing in an increasing level of protection) includes: Double Check Valve Assembly (DC), Reduced Pressure Principle Backflow Prevention Device (RP), and an Air-gap separation (AG). The Water User may choose a higher level of protection than required by the District. The minimum types of Backflow protection required to protect the Approved Water Supply, at the User's Water Connection to premises with varying degrees of hazard are given in Table 1 below.

Situations which are not covered in Table 1 shall be evaluated on a case-by-case basis and the appropriate Backflow protection shall be determined by the District or Health Agency.

Table 1.

A. Sewage and Hazardous Substances.

- (1) Premises where the Public Water System is used to supplement the Reclaimed Water supply. (AG)
- (2) Premises where there are Waste-water pumping and/or treatment plants and there is no interconnection with the potable water system. This does not include a single family residence that has a Sewage lift pump. A

RP may be provided in lieu of an AG if approved by the Health Agency and the District. (AG)

(3) Premises where Reclaimed Water is used and there is no interconnection with the potable water system. A RP may be provided in lieu of an AG if approved by the Health Agency and the District. (AG)

(4) Premises where Hazardous Substances are handled in any manner in which the substances may enter a potable water system. This does not include a single family residence that has a Sewage lift pump. A RP may be provided in lieu of an AG if approved by the Health Agency and the District.

(5) Premises where there are irrigation systems into which fertilizers, herbicides, or pesticides are, or can be, injected. (RP)

B. Auxiliary Water Supplies.
Table 1-b

(1) Premises where there is an unapproved auxiliary water supply which is interconnected with the Public Water System. A RP or DC may be provided in lieu of an AG if approved by the Health Agency and the District. (AG)

(2) Premises where there is an unapproved auxiliary water supply and there are no interconnections with the Public Water System. A DC may be provided in lieu of a RP if approved by the Health Agency and district. (RP)

C. Fire Protection Systems.

(1) Premises where the fire system is directly supplied from the Public Water System and there is an unapproved auxiliary water supply on or to the premises (not interconnection). (DC)

(2) Premises where the fire system is supplied from the Public Water System and interconnected with an unapproved auxiliary water supply. A RP may be provided in lieu of an AG if approved by the Health Agency and District. (AG)

- (3) Premises where the fire system is supplied from the Public Water System and where either elevated storage tanks or fire pumps which take suction from the private reservoirs or tanks are used.
- (4) Premises where entry is restricted so that inspections for cross-connections cannot be made with sufficient frequency or at sufficiently short notice to assure that cross-connection do not exist. (RP)
- (5) Premises where there is a repeated history of cross-connecting being established or re-established. (RP)
- (6) Two or more Services supplying water from different street mains to the same Building, structure, or premises through which an inter-street main flow may occur, shall have at least a standard check valve on each water Service to be located adjacent to and on the property side of the respective meters. Such check valve shall not be considered adequate if Backflow protection is deemed necessary to protect the District's mains from pollution or Contamination; in such cases the installation of Approved Backflow Prevention Devices at such Service Connections shall be required.

2.07.050 BACKFLOW PREVENTION DEVICE.

A. Approved Backflow Prevention Devices.

- (1) Only Backflow prevention devices which have been approved by the District shall be acceptable for installation by a Water User connected to the District's potable water system.
- (2) The District will provide, upon request, to any affected customer with a list of Approved Backflow Prevention Devices.

B. Backflow Prevention Device Installation.

- (1) Backflow Prevention Devices shall be installed in a manner prescribed in Section 7603, Title 22 of the California Administrative Code. Location of the devices should be as close as practical to the User's connection. The District shall have the final authority in determining the required location of a Backflow prevention device.

C. Air-gap Separation (AG) - The air-gap separation shall be located on the User's side of and as close to the Service Connection as is practical. All piping from the Service Connection to the receiving tank shall be above grade and be entirely visible. No water use shall be provided from any point between the Service Connection and the air-gap separation. The water inlet piping shall terminate a distance of at least two (2) pipe diameters of the supply inlet, but in no case less than one (1) inch above the overflow rim of the receiving tank.

D. Reduced Pressure Principle Backflow Prevention Device (RP). The approved Reduced Pressure Principle Backflow Prevention Device shall be installed on the User's side of and close to the Service Connection as is practical. The device shall be installed a minimum of twelve inches (12") above grade and not more than thirty-six inches (36") above the grade measured from the bottom of the device and with a minimum of twelve inches (12") side clearance. The device shall be installed so that it is readily accessible for maintenance and testing. Water supplied from any point between the Service Connection and the RP device shall be protected in a manner approved by the District.

E. Double Check Valve Assembly (DC). The approved Double Check Valve Assembly shall be located as close as practical to the User's connection and shall be installed above grade, if possible, and in a manner where it is readily accessible for testing and maintenance. If a Double Check Valve Assembly is put below grade, it must be installed in a vault such that there is a minimum of six inches (6") between the bottom of the vault and the bottom of the device, so that the top of the device is no more than a maximum of eight inches (8") below grade, so there is a minimum of six inches of clearance between the side of the device with the test cocks and the side of the vault, and so there is a minimum of three inches (3") clearance between the other side of the device and the side of the vault.

Special consideration must be given to Double Check Valve Assemblies of the "Y" type. These devices must be installed on their "side" with the tests cocks in a vertical position so that either check valve may be removed for Service without removing the device. Vaults which do not have an integrated bottom must be placed on a three inch (3") layer of gravel.

F. Backflow Prevention Device Testing and Maintenance.

1. The owners of any premises on which, or on account of which, Backflow prevention devices are installed, shall have the devices tested by a person who has demonstrated their competency in testing of these devices to the district. Backflow prevention devices must be tested at least annually and immediately after installation, relocation or repair. The District may require a more frequent testing schedule if it is determined to be necessary. No device shall be placed back in Service unless it is functioning as required. A report in a form acceptable to the District shall be filed with the District each time a device is tested, relocated, or repaired. These devices shall be Serviced, overhauled, or replaced whenever they are found to be defective and all costs of testing repair, and maintenance shall be borne by the Water User.

2. The District will supply affected Water Users with a list of persons acceptable to the district to test Backflow prevention devices. The District will notify affected customers by mail when annual testing of a device is needed and also supply Users with the necessary forms which must be filled out each time a device is tested or repaired.

3. Upon request the District will test a Water User's Backflow prevention device to fulfill the requirements of this Code. The Water User will be charged for the test and any maintenance found necessary to keep the device in working order on the next regular water bill.

G. Backflow Prevention Device Removal.

1. Approval must be obtained from the District before a Backflow prevention device is removed, relocated, or replaced as follows:

a. Removal: The use of a device may be discontinued and the device removed from Service upon presentation of sufficient evidence to the District

to verify that a hazard no longer exists or its not likely to be created in the future.

b. Relocation: A device may be relocated following confirmation by the District that the relocation will continue to provide the required protection and satisfy installation requirements. A retest will be required following the relocation of the device;

c. Repair: A device may be removed for repair, provided the water use is either discontinued until repair is completed and the device is returned to Service, or the Service Connection is equipped with other Backflow protection approved by the District. A retest will be required following the repair of the device: and;

d. Replacement: A device may be removed and replaced provided the water use is discontinued until the replacement device is installed. All replacement devices must be approved by the District and must commensurate with the degree of hazard involved.

2.07.060 USE SUPERVISOR.

At each premises where it is necessary, in the opinion of the District, a use supervisor shall be designated by and at the expense of the Water User. This use supervisor shall be responsible for the monitoring of the Backflow prevention devices and for avoidance of cross-connections. In the event of Contamination or pollution of the drinking water system due to a cross-connection of the premises, the District shall be promptly notified by the use supervisor so that appropriate measures may be taken to overcome the Contamination. The Water User shall inform the District of the use supervisor's identity on, as a minimum, an annual basis and whenever a change occurs.

2.07.070 WATER SYSTEM SURVEY.

A. The District shall review all requests for new Services to determine if Backflow protection is needed. Plans and specifications must be submitted to the District upon request for review of possible cross-connection hazards as a condition of Service for new Service Connections. If it is determined that a Backflow prevention device is necessary to protect the Public Water System, the required device must be installed before Service will be granted.

B. The District may require an on-premise inspection to evaluate cross-connection hazards. The District will transmit a written notice requesting an inspection appointment to each affected Water User. Any Water User who cannot or will not allow an on-premise inspection of his piping system shall be required to install the Backflow prevention device the District considers necessary.

C. The District may at its discretion, require a re-inspection for cross-connection hazards of any premise to which it serves water. The District will transmit a written notice requesting an inspection appointment to each affected Water User. Any Water User who cannot or will not allow an on-premise inspection of his piping system shall be required to install the Backflow prevention device the District considers necessary.

2.07.080 CUSTOMER NOTIFICATION - DEVICE INSTALLATION.

A. The District will notify the Water User of the survey findings, listing the corrective actions to be taken if any are required. A period of 60 days will be given to complete all corrective actions required, including installation of Backflow prevention devices.

B. A second notice will be sent to each Water User who does not take the required corrective actions prescribed in the first notice within the 60 days period allowed. The second notice will give the Water User a two week period to take the required corrective action. If no action is taken within the 2 week period, the District may terminate water Service to the affected Water User until the required corrective actions are taken.

2.07.090 CUSTOMER NOTIFICATION - TESTING AND MAINTENANCE.

A. The District will notify each affected Water User when it is time for the Backflow prevention device installed on their Service connection to be Service Connection tested. This written notice shall give the Water Users 30 days to have the device tested and supply the Water User with the necessary form to be completed and resubmitted to the District.

B. A second notice shall be sent to each Water User which does not have a Backflow prevention device tested as prescribed in the first notice within the 30 day period allowed. The second notice will give the Water User a two (2) week period to have Backflow prevention device tested. If no action is taken within the two week period, the District may terminate water Service to the affected Water User until the subject device is tested.

2.07.100 WATER SERVICE TERMINATION GENERAL.

When the District encounters Water Users that represent a clear and immediate hazard to the potable water supply that cannot be immediately abated, the district shall institute the procedure for discontinuing the District water Service.

2.07.110 BASIS FOR TERMINATION.

Conditions or water uses that create a basis for water Service termination shall include, but are not limited to, the following items:

1. Refusal to install a required Backflow prevention device;
2. Refusal to test a Backflow prevention device;
3. Refusal to repair a faulty Backflow prevention device;
4. Refusal to replace a faulty Backflow prevention device;
5. Direct or indirect connection between the Public Water System and a Sewer line;
6. Unprotected direct or indirect connection between the Public Water System and a system or equipment containing contaminants;
7. Unprotected direct or indirect connection between the Public Water System and an auxiliary water system;
8. A situation which presents an immediate hazard to the Public Water System.

2.07.120 WATER SERVICE TERMINATION PROCEDURES.

A. For conditions 1, 2, 3, or 4, the District will terminate Service to a customer's premises after two (2) written notices have been sent specifying the corrective action needed and the time period in which it must be done. If no action is taken within the allowed time period, water Service may be terminated.

B. For conditions 5, 6, 7, or 8, the District will take the following steps:

1. Make reasonable effort to advise Water User of intent to terminate water Service.

2. Terminate water supply and lock Service valve. The water Service will remain inactive until correction of violations have been approved by the District.

Chapter 8 Meters

2.08.010 METER READING.

Meters will be read as nearly as possible on the same day of each month. Billing periods containing less than twenty-seven (27) days or more than thirty-three (33) days for bills rendered monthly or less than fifty-four (54) days and more than sixty-six (66) days for bills rendered bi-monthly, will be prorated.

2.08.020 ADJUSTMENT FOR METER ERRORS - METERS.

If a meter tested at the request of a customer pursuant to Section 2.8.06 is found to be more than two percent (2%) fast, the excess charges for the time Service was rendered the customer requesting the test, or for a period of six (6) months, whichever shall be the lesser, shall be refunded to the customer.

2.08.030 ADJUSTMENT FOR METER ERRORS - SLOW METERS.

If a meter tested at the request of a customer pursuant to Section 2.8.06 is found to be more than twenty-five percent (25%) slow in the case of domestic Services, or more than five percent (5%) slow for other than domestic Services, the District may bill the customer for the amount of the undercharge based, upon corrected meter readings for the period not exceeding six months, that the meter was in use.

2.08.040 NON-REGISTERING METERS.

If a meter is found to be not registering, the charges for Service shall be at the minimum monthly rate or based on the estimated consumption, whichever is greater. Such estimates shall be made from previous consumption for a comparable period or by such other method as is determined by the District and its decision shall be final.

2.08.050 METERS REQUIRED.

All customers, except Service to Single-Family Dwellings built prior to October 1, 1991, shall be equipped with a water meter.

2.08.060 METERED CONNECTIONS.

For all metered Services, the District will furnish, install and maintain all meters with the owner of the property where the connection is made to pay the cost of the meter, installation and maintenance. The cost of the meter, installation and maintenance shall be in accordance with those set forth in the Master Schedule of Fees, Charges, Penalties and Recovered Costs. For existing water meters which are owned by the property owner, those meters shall be of a type approved by the District and, upon replacement, those meters shall be installed and maintained by the District in accordance with this section.

2.08.070 METER LOCATIONS.

Meters, where required, should be installed at the curb, property line, or in sidewalks or in any other location designated by the District. If the owner, for any reason, desires to change the location of the meter or meters servicing the property, the property owner shall make a request to change the location of the meter(s) to the General Manager, or his or her designee, and if the request is approved, pay all fees and costs associated with the change of location of the meter(s) as set forth in the Master Schedule of Fees, Charges, Penalties and Recovered Costs or as determined by the District.

2.08.080 METER READING.

Meters should be read as nearly as possible on the same day each month, or bi-monthly in the case of bi-monthly billing. Readings for partial monthly or bi-monthly billing periods may be done on a prorated basis.

2.08.090 METER TESTS.

All meters shall be tested by the District prior to installation and no meter will be installed which registers more than two percent (2%) fast. If an owner desires to have a meter serving his or her premises tested, he or she shall request that the meter(s) be tested and make a deposit for the meter(s) tests as set forth in the Master Schedule of Fees, Charges, Penalties and Recovered Costs. Once the request is granted and deposit paid, the owner shall make the meter(s) to be tested available to the District at a reasonable time during normal business hours.

Chapter 9 Public Fire Protection

2.09.010 USE OF FIRE HYDRANTS.

Fire hydrants are for use by the District or by organized fire protection agencies pursuant to contract with the District. Other parties desiring to use fire hydrants for any purpose must first obtain written permission from the District prior to use and shall operate the hydrant in accordance with instructions issued by the District and shall be metered. The User shall pay for the use of a hydrant in accordance with the Master Schedule of Fees, Charges, Penalties and Recovered Costs. Unauthorized use of hydrants will be prosecuted according to law.

2.09.020 MOVING OF FIRE HYDRANTS.

When a fire hydrant has been installed in the location specified by the proper authority, the District has fulfilled its obligation. If a property owner or other party desires a change in the size, type or location of the hydrant, the owner shall bear all costs of such changes. Any change in the location of a fire hydrant must be approved by the District and proper authority.

2.09.030 PRIVATE FIRE PROTECTION.

A. The Applicant for private fire protection Service not now installed shall pay the total actual cost plus 10% of installation of Service from the distribution main to the customer's premises including the cost of a detector check meter or other suitable and equivalent device, valve and meter box, said installation to become the property of the District. Deposit and payment shall be in accordance with the Master Schedule of Fees, Charges, Penalties and Recovered Costs.

Chapter 10 Temporary Service

2.10.010 TEMPORARY SERVICE.

Temporary Service may only be established upon approval of an Applicant for temporary Service by the District. Said application shall be on a form approved by the District.

2.10.020 DURATION OF SERVICE.

Temporary Service Connections shall be disconnected and terminated within six (6) months after installation unless an extension of time is granted in writing by the District.

2.10.030 DEPOSIT.

The Applicant shall deposit, in advance, the estimated cost of installing and removing the facilities required to furnish said Service exclusive of the cost of salvageable material and deposit for any equipment/facilities of the District as determined by the District. Upon discontinuance of Service, the actual cost including any costs for repairs or replace District equipment/facilities shall be determined and an adjustment made as an additional charge, refund or credit. Applicant will be charged in accordance with the Master Schedule of Fees, Charges, Penalties and Recovered Costs.

2.10.040 INSTALLATION AND OPERATION.

All facilities for temporary Service to the customer connection shall be made by the District and shall be operated in accordance with its instructions.

2.10.050 RESPONSIBILITY FOR METER AND INSTALLATION.

The Applicant shall use all possible care to prevent damage to the meter or to any other loaned facilities of the District which are involved in furnishing the temporary Service from the time they are installed until they are removed, or until forty-eight (48) hours' notice in writing has been given to the District that the Contractor or other person is through with the meter or meters and the installation. If the meter or other facilities are damaged, the cost of making repairs shall be paid by the Applicant.

2.10.060 TEMPORARY SERVICE FROM A FIRE HYDRANT.

If temporary Service is supplied through a fire hydrant, a permit for the use of the hydrant shall be obtained from the proper authority and the District. It is specifically prohibited to operate the valve of any fire hydrant other than by the use of a spanner wrench designated for this purpose. All connections to a Hydrant must be in a manner approved by the District and shall be metered. Any extraction of water from a Hydrant without a meter shall be an unauthorized use.

2.10.070 UNAUTHORIZED USE OF HYDRANTS.

Tampering with any fire hydrant for the unauthorized use of water therefrom, or for any other purpose, is a misdemeanor, punishable by law.

2.10.080 RATES.

The rates for regular Service and minimum charge, if applicable, for water shall be as set forth in the Master Schedule of Fees, Charges, Penalties and Recovered Costs."

SECTION 9: That Title 3 of the Malaga County Water District Code is hereby adopted and shall read as follows: ↵

"TITLE 3 SEWER SYSTEM

Chapter 1 General Provisions

3.01.010 TITLE.

This Title 3 of the Malaga County Water District Ordinance Code is and may be referred to herein as the "Malaga County Water District Sewer Use Ordinance" or "SUO."

3.01.02 PURPOSE.

A. To provide standards, provisions and requirements for the design, method of construction, and use of materials in sanitary Sewer Systems installed, altered or repaired within the District.

B. To set forth requirements for Discharge into the District's Waste water collection, transport, and treatment system enabling the District to meet its obligations to comply with various federal, state, and local acts, laws, statutes, regulations and grants.

3.01.030 AUTHORITY.

A. Sewer Works. The Malaga County Water District operates a Sewerage System and operates a POTW pursuant to, among other things, the provisions of Section 403 of Title 40 of the Code of Federal Regulations and the Act.

B. Pretreatment Program. The Malaga County Water District is authorized pursuant to this Ordinance to apply and enforce the requirements of Sections 307(b) and (c), and 402(b)(8) of the Act and any regulations implementing those sections. The District shall have the authority in addition to all other provisions of this Ordinance to apply or enforce the provisions of 40 CFR 403.8(f)(1)(I) through (viii). This authority includes, but is not limited to, the provisions of the District's Pretreatment Program set forth in Section 3.05.020.

3.01.040 DEFINITIONS.

Unless otherwise defined in this Title, the meanings of terms or phrases used in this Title shall be as defined in this Code.

3.01.050 SEWER REQUIRED.

The Owner of any Building situated within the District and abutting on any Street in which there is now located or may in the future be located a Public Sewer of the District or within 100 feet thereof is hereby required at Owner's expense to connect said Building directly with the proper Public Sewer in accordance with the provisions of this Code, within ninety (90) days after date of official notice to do so, when such connection is deemed necessary by the District.

3.01.060 SEPARATE SEWER.

A. No two adjacent lots fronting on the same street shall be permitted to join in the use of the same Side Sewer.

3.01.070 PERMITS AND FEES.

No Public Sewer, Side Sewer, or other Sanitary Facilities shall be installed, altered or repaired within the District until a Permit for the work has been obtained from the District and all fees paid in connection with the requirements of the Malaga Code.

3.01.080 OCCUPANCY PROHIBITED.

No Building, Industrial Establishment or other structure shall be occupied until the Owner of the Premises has complied with all rules and regulations of the District.

3.01.090 RATES FOR SERVICE.

Rates and charges for Sewer service shall be established by the District pursuant to §31100 of the Water Code and set forth in the Master Schedule of Fees, Charges, Penalties and Recovered Costs.

3.01.100 STANDBY ASSESSMENT.

The District may, pursuant to §31100, et seq., of the Water Code, charge a standby or availability charge. Such charges may be set forth in the Master Schedule of Fees, Charges, Penalties and Recovered Costs.

3.01.110 SERVICE APPLICATION, DEPOSITS, BILLING, COLLECTION AND DISCONTINUANCE OF SERVICE.

A. Application. Applications for Service shall be made by the Property Owner or the Property Owner's agents, including non-resident property manager with consent of the owner, in writing, on a form to be provided by the District along with a non-refundable application fee, if required. Applications for residential Sewer Service may be made in conjunction with an application for water Service. The District may require any other application process as set forth in this Code or as determined by the District.

B. Deposits. Deposits for Service may be required and may be included in the deposits as required for water Service in Chapter 2 of this Code.

C. Billing. Sewer Service may be billed with water Service as determined by the District.

D. Collection. Collection of fees and charges may be done in any manner allowed/available at law including the assessment of any unpaid charges being added to the property tax bill of the Owner of the property.

E. Disconnection. Service may be disconnected as provided for by this Code or any other applicable federal or state code or regulation.

Chapter 2 Private Sewage Disposal

3.02.010 PUBLIC SEWER NOT AVAILABLE.

Where a Public Sewer is not available as described in Section 3.01.050, a Building Sewer may be connected to a Private Sewer complying with the rules, regulations and ordinances of the District and all other applicable laws, statutes, acts, or regulations. This section is not intended to and does not create any entitlement of any person to construct and operate a Private Sewer.

3.02.020 PERMIT REQUIRED.

Before commencement of construction of a Private Sewer, the Owner shall first obtain a Permit signed on behalf of the District. The application for such Permit shall be made on a form furnished by the District, which the Applicant shall supplement by any plans, specifications and other information as are deemed necessary by the District. A Permit and inspection fee shall be paid to the District at the time application is filled in accordance with the provisions of this Sewer Use Ordinance. The District permit is in addition to any other permit required to any other federal, state or local agency.

3.02.030 INSPECTION REQUIRED.

A Permit for a Private Sewer shall not become effective until the installation is completed to the satisfaction of the District. The District shall be allowed to inspect the work at any stage of construction and in any event, the Applicant for the Permit shall notify the District when the work is ready for final inspection, and before any underground portions are covered. The notification shall be made at least forty-eight (48) hours, Saturdays, Sundays and Holidays excluded, of the time the Contractor or owner expects the work to be completed and ready for inspection.

3.02.040 DESIGN REQUIREMENTS.

The type, capacities, location and layout of a Private Sewer shall comply with all recommendations of the Department of Public Health of the State of California. No Permit shall be issued for any Private Sewer employing subsurface soil absorption facilities where the area of the lot is determined to be inadequate by the District. No septic tank or cesspool shall be permitted to Discharge to any Public Sewer or any Watercourse.

3.02.050 ABANDONMENT OF FACILITIES.

At such time as a Public Sewer becomes available to a property Serviced by a Private Sewer as provided for herein, a direct connection shall be made to the Public Sewer in compliance with this Malaga Code and the rules and regulations of the District, and any septic tanks, cesspools, and similar Private Sewer shall be abandoned and filled with suitable material as determined by the District.

3.02.060 COST OF MAINTENANCE BY OWNER.

The Owner shall operate and maintain the Private Sewer in a sanitary manner at all times, at no expense to the District.

3.02.070 ADDITIONAL REQUIREMENTS.

No statement contained in this Chapter shall be construed to interfere with any additional requirements that may be imposed by any law, ordinance, rule or regulation or by the Health Officer or the County.

Chapter 3 Building Sewers, Lateral Sewers and Connections

3.03.010 LATERAL SEWERS.

Lateral Sewers will be installed at the locations desired by the Applicant by the District provided the location is approved by the District.

3.03.020 COST OF LATERAL SEWER.

All costs associated with the construction or installation of a Lateral Sewer will be paid by the owner or Applicant. If the District is to install or construct the Lateral Sewer, then the Owner must deposit the estimated cost of such installation, as determined by the District, plus ten percent (10%). If the actual cost of installation or construction of the Lateral Sewer is greater than the amount of the deposit, the Owner of Applicant will be billed for the additional cost. If the cost is less than the deposit, the balance will be refunded to the Applicant or Owner.

3.03.030 PERMIT REQUIRED.

In accordance with this Code, no Person shall construct a Building Sewer, Lateral Sewer or make a connection with any Public Sewer without first obtaining a Permit from the District and paying all fees and connection

charges as required by Master Schedule of Fees, Charges, Penalties and Recovered Costs.

3.03.040 CONSTRUCTION REQUIREMENTS.

Construction of Building Sewers and Lateral Sewers shall be in accordance with the requirements of the County of Fresno and the requirements of the District. In case of conflict, the more stringent shall apply.

3.03.050 MINIMUM SIZE AND SLOPE.

The minimum size of a Building Sewer shall be four inches (4") in diameter. A Building Sewer serving a duplex or multiple dwelling shall be not less than six inches (6") in diameter. When more than one Building Sewer shall be connected to a single Side Sewer, the Side Sewer from the point of intersection of one or more Building Sewers to the Public Sewer shall be not less than six inches (6") in diameter. Notwithstanding the minimum size and slope requirements of this section, the size and slope of all Sewer lines described herein must be approved by the District prior to installation.

3.03.060 SEPARATE SEWER.

No two adjacent lots fronting on the same Street shall be permitted to join in the use of the same Side Sewer. Every Building or Industrial Establishment must be separately connected with a Public Sewer if such Public Sewer exists in the Street upon which the property abuts or in an easement which will serve such property. Exceptions shall only be made by approval of the Board in writing. Exceptions are temporary in nature and issued in the sole discretion and determination of the Board. Exceptions may be terminated on thirty (30) days' notice in writing from the District.

3.03.070 OLD BUILDING SEWERS.

Old Building Sewers may be used in connection with reconstruction only when they meet all requirements of the District and are approved by the District.

3.03.080 CLEANOUTS.

Cleanouts in Building Sewers shall be provided by Owner of Applicant as required by the District.

3.03.090 SEWER TOO LOW.

In all Buildings in which any Building Sewer is too low to permit gravity flow to the Public Sewer, Sanitary Wastewater carried by such Building Sewer shall be lifted by artificial means, approved by the District and approved by the Board, and Discharged to the Public Sewer at the expense of the Owner.

3.03.100 CONNECTION TO PUBLIC SEWER.

Subject to the approval of the District, the connection of the Lateral Sewer into the Public Sewer shall be made at the lateral or "Y" branch, if such lateral or "Y" branch is available at a suitable location. Where no properly located "Y" branch is available, a neat hole may be cut into the Public Sewer to receive the Lateral Sewer, with entry in the downstream direction at an angle of about forty-five degrees (45°). A wye saddle shall be used for the connection and in no case shall the pipe protrude inside the Main Sewer. The invert of the Lateral Sewer at the point of connection shall be made and the connection made secure and watertight. The connection to the Public Sewer shall be made in the presence of the Inspector for the District and under the supervision and direction and in accordance with the rules, regulations and ordinances of the District. Any damage to the Public Sewer shall be repaired at the cost of the Applicant to the satisfaction of the District.

3.03.110 PROTECTION OF EXCAVATION.

All excavations for a Side Sewer installation shall be adequately guarded with barricades or lights so as to protect the public from hazard. Streets, sidewalks, parkways and other property disturbed in the course of the work shall be restored in a manner satisfactory to the District and the County or any other person having jurisdiction thereover.

3.03.120 MAINTENANCE OF A SIDE SEWER.

Side Sewers shall be maintained by the property owner from the Building to the property line.

3.03.130 TESTING.

All Building Sewers and Lateral Sewers shall be tested in the presence of the Inspector for the District by filling the line with water and inspecting for leakage. Fittings, plugs, water and labor for testing shall be furnished by

the person constructing the Sewer. All lines showing leakage shall be repaired or replaced at the expense of the owner of the property and shall be done at the direction and to the satisfaction of the Inspector for the District.

3.03.140 APPLICATION, CONTENTS.

In the application for a Permit to construct a Lateral Sewer, or make a connection to any Sewer, the Owner of the property or Owner's representative shall describe, and shall show by a plat or diagram, the work proposed to be done, the exact location of the Lateral Sewer and the connection to the Main Sewer, and shall state the day upon which the proposed work will be commenced and any other information requested by the District.

3.03.150 PERMIT, DEPARTURE.

When approved by the issuance of the Permit, such location shall not be departed from without written permission of the Board or its authorized representative.

3.03.160 JOINTS.

Joint material used shall be as specified in the construction requirements or as approved by the District.

3.03.170 MAINTENANCE OF LATERAL SEWER.

Except for Sewers installed pursuant to Chapter 2 of this Title and those portions of a Lateral Sewer located on private property which the owner of the property shall maintain up to the property line, it shall be maintained by the District. In the event that damages caused to the Lateral Sewer due to the negligence of the property owner, then any repairs caused by said negligence shall be at the expense of the owner.

Chapter 4 Public Sewer Construction

3.04.010 PERMIT REQUIRED.

In accordance with the Malaga Code, no person shall construct, extend or connect to any Public Sewer without first obtaining a Permit from the District and paying all fees and connection charges and furnishing bonds as required. The provisions of the section requiring Permits shall not be

construed to apply to Contractors constructing Sewer and appurtenances under contract awarded and entered into by the District.

3.04.020 PLANS, PROFILES AND SPECIFICATIONS REQUIRED.

The application for a Permit for Public Sewer construction shall be accompanied by complete plans, profiles and specifications, complying with all applicable ordinances, rules and regulations of District, prepared by a Registered Civil Engineer showing all details of the proposed work based on an accurate survey of the ground. The District may require said plans to be modified as it deems necessary for proper installation. When the Board is satisfied that the proposed work is proper and the plans, profiles and specifications are sufficient and correct, it shall order the issuance of a Permit predicated upon the payment of all connection charges, fees and furnishing bonds as required by the District. The Permit shall prescribe such terms and conditions as the Board finds necessary in the public interest.

3.04.030 SUBDIVISIONS.

The requirements of Sections 3.04.010 and 3.04.020 of this Code. shall be fully complied with before any final subdivision map consent by County shall be approved by the Board. The final subdivision map shall provide for dedication for public use of all Streets, easements or rights of way in which Public Sewer lines are to be constructed. If a final subdivision map of a tract is recorded and the work of constructing Sewers to serve the tract is not completed within the time allowed in the Permit, the Board may extend the time limit or may complete the work and/or take appropriate steps to enforce the provisions of the bond furnished by the subdivider.

3.04.040 EASEMENTS OR RIGHTS OF WAY.

In the event that an easement is required for the extension of the Public Sewer or the making of connections, the Applicant shall procure and have accepted by the Board a proper easement or grant of right of way having a minimum width to allow the laying and maintenance of such extension or connection.

3.04.050 PERSONS AUTHORIZED TO PERFORM WORK.

Only properly licensed Contractors shall be authorized to perform the work of Public Sewer construction within the District. All terms and conditions of the Permit issued by the District to the Applicant shall be binding on the

Contractor. The requirements of this Section shall apply to Side Sewers installed concurrently with Public Sewer construction.

3.04.060 COMPLIANCE WITH LOCAL REGULATIONS.

Any person constructing a Sewer within a Street shall comply with all state, county or other laws, ordinances, rules and regulations pertaining to the cutting of pavement, opening, barricading, lighting and protecting of trenches, backfilling and repaving thereof and shall obtain all permits and pay all fees required by any agency having jurisdiction prior to the issuance of a permit by the District.

3.04.070 PROTECTION OF EXCAVATION.

The Applicant shall take all necessary precautions and/or measures to protect the public including, but not limited to, maintaining such barriers, lights and signs as are necessary to give warning to the public at all times that a Sewer is under construction and of each dangerous condition to be encountered as a result thereof. He or she shall also protect the public in the use of the sidewalk against any such conditions in connection with the construction of the Sewer. Streets, sidewalks, parkways, and other property disturbed in the course of the work shall be reinstalled in a manner satisfactory to the District and the County, or any other agency having jurisdiction thereover.

3.04.080 DESIGN AND CONSTRUCTION STANDARDS.

Minimum standards for the design and construction of Sewers within the District shall be in accordance with the applicable provisions of the ordinances, rules, regulations, policies and the SPECIFICATIONS FOR SEWER CONSTRUCTION heretofore or hereafter adopted by the District, copies of which are on file in the District office. The District may permit modifications or may require higher standards where conditions merit. Said SPECIFICATIONS FOR SEWER CONSTRUCTION approved and adopted and amended by the Board are incorporated into the Malaga Code by this reference.

3.04.090 COMPLETION OF SEWER REQUIRED.

Before any acceptance of any Sewer by the District and prior to the admission or Discharge of any Wastewater into the system, the Sewer shall be tested and shall be complete in full compliance with all requirements of the District and to the satisfaction of the District Engineer.

Chapter 5 Use of Public Sewers

3.05.010 INTRODUCTION.

This Chapter is applicable to areas within the boundaries of the Malaga County Water District and to all other areas and entities which by contract are bound to comply with the ordinances, resolutions, rules, policies and regulations of the District.

3.05.02 PRETREATMENT PROGRAM.

Pursuant to the authority of the District as set forth in Section 3.01.030, the District may adopt and amend, from time to time, any rules, regulations, administrative guidelines or procedures the District may deem necessary to implement the District's Pretreatment Program. Said rules, regulations, administrative guidelines or procedures are incorporated by this reference into this Code and together with the provisions of the Malaga Code shall constitute the District's Pretreatment Program which shall apply to all discharges to the District's POTW. Failure of any User or Person to comply with the District's Pretreatment Program shall be a violation of the Malaga Code.

3.05.030 PROHIBITIONS ON WASTEWATER DISCHARGES.

A. General Prohibitions. No person shall introduce or cause to be introduced into the POTW any Pollutant or Wastewater which causes Passthrough or Interference or which contains any substance or material in violation of any Permit or applicable law or Order. These general prohibitions apply to all Users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other national, state, or local Pretreatment Standards or Requirements.

B. Specific Prohibitions. No Person or User shall introduce or cause to be introduced into the POTW any substance or material in violation of any Permit or applicable law or Order including, but not limited to, the following:

1. Fire or Explosive Mixtures. Liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the Wastewater Facilities or to the operation of such Wastewater Facilities. Prohibited materials include, but are not limited to, gasoline,

kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes and any other liquids having a closed-cup flashpoint of less than 140 F using test methods specified in 40 CFR 261.21, peroxides, chlorates, perchlorates, bromates, carbides, formaldehyde, hydrides, and sulfides.

At no time shall the reading on a combustible gas meter at the point of Discharge, or at any point in the Wastewater Facilities exceed five percent (5%) of the lower explosive limit (LEL) of the meter.

2. Corrosive Wastes. Any Waste which will cause corrosion or deterioration detrimental to the design life expectancy of the Wastewater Facilities. All Wastes Discharged to the Public Sewer must have a pH value in the range of six (6.0) to nine (9.0) standard units. Materials which may be prohibited under this Section include, but are not limited to, acids, caustic, sulfides, concentrated chloride and fluoride compounds, and substances which will react with water to form acidic products.

3. Solid or Viscous Waste. Solid or viscous Waste which will or may cause obstruction to the flow in a Sewer, or otherwise interfere with the proper operation of the Wastewater Facilities. Prohibited materials include, but are not limited to, any Incompatible Pollutant greater than 3/8 inch in any dimension, grease, uncomminuted Garbage, animal guts or tissues, paunch manure, bones, hair, hies or flashings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, polishing compounds, resin beads, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, Waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, and similar substances.

4. Excessive Discharge Rate (Slug Loads).

- a. Hydraulic: that rate of flow which shall result from the averaging of the flow rates over a period of fifteen (15) consecutive minutes and which shall be greater than five (5) times the twenty-four (24) hour total volume expressed in million gallons per day (MGD), of a monthly flow volume greater than that specified by connection permit shall be considered excessive.
- b. Loadings: those concentrations of Pollutants such as toxics, grease and oil, and other constituents, which in a

grab sample are greater by a factor of five (5) than the average 24-hour concentration allowed in the Non-residential Permit or a mass emission greater than that specified by connection permit shall be considered excessive.

- c. B.O.D. and S.S.: those concentrations of Biochemical Oxygen Demand and Suspended Solids which, in a composite sample taken at intervals of fifteen (15) minutes over a period of four (4) hours, are greater by a factor of five (5) than the average 24-hour concentration allowed in the Non-residential Permit or a mass emission greater than that specified by Non-residential Permit shall be considered excessive.
- d. Any Pollutants, including oxygen demanding Pollutants (B.O.D., etc.) released in a Discharge at a flow rate and/or concentration which may cause Interference or pass through.

5. Heat. Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40°C (104°F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits.

6. Oils and Grease.

- a. Oil and grease concentrations or mass emission rates in violation of applicable federal, state, the Pretreatment Program or Pretreatment Standards.
- b. Wax, grease or oil of animal, vegetable, mineral or petroleum origin (including emulsified forms) in any concentration or quantity which may cause or significantly contribute to flow obstruction, pass through or Interference, or otherwise be incompatible with the Wastewater Facilities, or in violation of any permit, the Pretreatment Program, order or applicable law.
- c. Oil and grease total limitations are established at 200 mg per liter in the absence of any other permit, order, or applicable law. Each Premises and/or use may require more stringent standards as determined by the District. In the event

of different limits, the lowest maximum limitation shall be applicable.

7. Noxious Material. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

8. Trucked or Hauled Pollutants. Any trucked or hauled Pollutants, except at Discharge points designated by the POTW. (See, Section 3.05.080).

9. Radioactive Wastes. Radioactive Wastes or isotopes of such half-life or concentration that they do not comply with regulations or orders issued by the appropriate authority having control over their use and which will or may cause damage or hazards to the Wastewater Facilities or personnel operating the Wastewater Facilities.

10. Toxic or Hazardous Substances.

a. Any Toxic or Hazardous Substance in a manner or quantity which is in violation of any federal, state or District regulation, standard or limitation;

b. Except as provided in Section 3.05.080, any Hazardous Substance by truck, by rail, or by dedicated pipeline;

c. Any chemical element or compound, including taste or odor producing substances, which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the Wastewater Facilities.

11. Unpolluted Waters. Any Unpolluted Water including, but not limited to, water from cooling systems or of Storm Water origin, which will increase the hydraulic load on the Wastewater Facilities.

12. Discolored Materials. Wastes with objectionable color not removable by the treatment process. Such color shall be objectionable if it causes the plant effluent to fail to meet State or EPA standards for turbidity or light transmittance, or if it causes pollution to Waters of the State.

13. Interference with Reclamation or Reuse. Any Waste which will cause, threaten to cause, or is capable of causing either alone or by interaction with other substances in the District's effluent or any other product of the treatment process, residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

14. Incompatible Pollutants. Any Waste which is not a "Compatible Pollutant" as defined in this Sewer Use Ordinance or which may interfere with or may pass through the Sewerage System or which may cause abnormal increase in the operation costs of the Wastewater Facilities.

15. Nuisance. Any Waste which will cause, threaten to cause, or is capable of causing either alone or by interaction with other substances a detrimental environmental impact or a nuisance in the Waters of the State or a condition unacceptable to the District or to any public agency having regulatory jurisdiction over the District.

3.05.040 LOCAL LIMITATIONS ON WASTEWATER DISCHARGES.

The following table ("Table 1") specifies the maximum instantaneous concentrations of Pollutants allowable in Wastewater Discharges to the Wastewater Facilities. If any other permit, the Pretreatment program, order, or state or federal or other regulation prescribes a lower maximum concentration of any Pollutants set forth in Table 1, then the lower maximum will apply.

Table 1

pH -- acceptable range 6.0-9.0 pH units (batch discharges outside of the range may be approved on a case-by-case basis, depending on the quantity, pH, and other characteristics).

Temperature -- not to exceed temperatures that will cause Interference or that will cause the influent at the treatment plant to exceed 104°F, but in no case to exceed 150°F.

Radioactivity -- not to exceed limits specified in Title 17 of the California Code of Regulations or other applicable law or regulation.

Electrical Conductivity -- not to exceed 950 umho/cm. A User which has a flow volume less than 3,000 gallons per day and less than 25,000 gallons per month may, if approved by the District in writing, have a maximum

concentration limit for Electrical Conductivity of up to 3,000 umhos/cm except that such Discharge shall not be an Incompatible Pollutant nor shall it pass through the POTW or interfere with the POTW.

Limitations for other Incompatible Pollutants have not been established for general application. The District will determine and implement such limits for such constituents as necessary to ensure compliance with the District's California Regional Water Quality Control Board permit requirements and with more restrictive Pretreatment Standards for new sources as prescribed by the Environmental Protection Agency (EPA), or any other agency with jurisdiction.

The following limits, which apply at the point where Wastewater is Discharged to the POTW are general guidelines and stricter limits may apply as required by the California Regional Water Quality Control Board, the EPA, the District, or any other agency having jurisdiction. All concentrations for metals are for total metal unless otherwise indicated:

Arsenic	5ppm	Zinc	5ppm	Mercury	0.2 ppm
Cadmium	0.1 ppm	Nickel	5ppm	Selenium	1ppm
Copper	5ppm	Silver	5ppm		
Lead	5ppm	Chromium	5ppm		

3.05.050 DILUTION - BYPASS.

- A. The dilution of any Wastewater for the purpose of satisfying Discharge limitations is prohibited.
- B. The bypassing of any Discharge control or monitoring facilities or equipment is prohibited.

3.05.060 NATIONAL CATEGORICAL PRETREATMENT STANDARDS, STATE PRETREATMENT STANDARDS.

- A. National Categorical Pretreatment Standards. Users must comply with the Categorical Pretreatment Standards as set forth in 40 CFR Chapter I, subchapter N, Parts 405-471 which are incorporated into this Code by this reference.

B. State Pretreatment Standards. Users must comply with all applicable State Pretreatment Standards as they are now or may be amended. Said standards are incorporated into this Code by this reference.

3.05.070 LIMITATIONS ON POINT OF DISCHARGE.

No Person shall Discharge any substances directly into a manhole or other opening in the Sewerage System other than through an approved Building Sewer unless, upon written application by the User and payment of the applicable User charges and fees, the District issues a Permit for such direct Discharges.

3.05.080 TRUCKED OR HAULED WASTE.

The Discharge of trucked or hauled Waste is prohibited, except as authorized by the District in accordance with the terms and conditions of a permit for septic pumpage Discharge and the District's regulations and procedures for septic pumpage Dischargers.

All materials removed from Pretreatment devices or facilities and prohibited by this Code, including but not necessarily limited to holding tank Wastes, shall be stored, transported, treated and disposed of in accordance with applicable federal, state and local regulations.

3.05.090 MEDICAL FACILITY WASTE.

Infectious and/or biological Wastes from hospitals, clinics, or mortuaries as defined by the Medical Waste Management Act (§117600, et seq., of the California Health and Safety Code) may only be Discharged into the Waste water system of the District pursuant to and in accordance with a Discharge permit issued by the District.

3.05.100 MONITORING FACILITIES.

A. Control Manholes. When required by the District, the owner of any property served by a Side Sewer carrying Industrial Wastewater shall install a suitable control manhole in the Side Sewer to facilitate observation, sampling and measurement of Waste. Such manhole shall be constructed in accordance with plans approved by the District Engineer. The manhole shall be installed by the Owner at Owner's expense, and shall be maintained by Owner so as to be safe and accessible at all times.

B. Other Monitoring Facilities. User will be required to install and maintain any other monitoring facilities or equipment as required by the District including, but not limited to, sampling and monitoring equipment. Said equipment shall be maintained and calibrated by the User and placed in a location approved by the District. District shall have access to said equipment during normal business hours. If said equipment is located inside the User's fence, said equipment shall be accessible by a gate locked with a lock issued by the District, at the Owner's expense.

3.05.110 MEASUREMENTS AND TESTS.

All measurements, tests and analysis of characteristics of Waste water and Waste made reference to in this Code or as determined to be necessary or required by the District, shall be done in accordance with standard practices and methods. Samples shall, when possible, be taken from the control manholes described herein. In the event that no such control manhole has been required or is available, then the samples shall be taken at the nearest downstream manhole in the Public Sewer to the point at which the Side Sewer is connected. The expense for said measurements, tests, and analysis, shall be done at the expense of the owner of the property.

3.05.120 SPECIAL ARRANGEMENT AGREEMENTS.

Nothing in this Chapter shall be construed as preventing any special agreement or arrangement between the District and any person desiring to or discharging into the District's Sewer system subject to the terms and conditions as may be required by the District, or any other regulatory agency. (See, Section 3.05.170).

3.05.130 SWIMMING POOLS.

It shall be unlawful for any person to Discharge the contents of a swimming pool into a Sewer except in the manner specified herein. The size of pipe carrying Discharge water shall not be larger than two inches (2") and shall not be under a head to exceed twenty feet (20'). If the water is Discharged by pumping, the rate of flow shall not exceed one hundred (100) gallons per minute. Each swimming pool discharging to a Sewer shall be equipped with an approved separator to preclude any possibility of a Backflow of Wastewater into the swimming pool or piping system.

3.05.140 USE OF STORM SEWERS REQUIRED.

Storm Water and all other unpolluted drainage shall be Discharged to such Sewers as are specifically designated as Combined Sewers or storm Sewers, or to a natural outlet approved by the District. Industrial Cooling Water or unpolluted process waters may be Discharged, upon approval of the District, to a storm Sewer, Combined Sewer or natural outlet.

3.05.150 NON-INDUSTRIAL USERS.

Hospitals, clinics, schools, commercial facilities, public agency facilities, and any other class of Discharger including residential Users may require treatment as an Industrial User for purposes of applying this Code as determined by the District.

3.05.160 APPLICABILITY OF STANDARDS AND LIMITS OF THIS CHAPTER - CONFLICTS WITH OTHER REGULATIONS.

In the event that the standards or limits defined in this Chapter conflict with any other federal, state, or local act, law, statute, regulation, or ordinance, the applicable limit or standard shall be the most stringent standard available to protect the health, safety, and welfare of the public.

3.05.170 REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS.

The District shall not receive any Discharge from any User or entity from outside the jurisdictional boundaries without approval of the Board. Such approval shall not be given unless the District has legal authority to regulate said Discharge and enforce an Individual Wastewater Discharge Permit.

3.05.180 FATS, OILS AND GREASE (FOG) CONTROL PROGRAM.

- A. Title. This section shall be referred to as the "Malaga County Water District Fats, Oils and Grease Control Program" or "FOG Control Program."
- B. General FOG Discharge Prohibition. No food service establishment, or other User shall Discharge or cause to be Discharged into the POTW FOG that may accumulate and/or cause or contribute to blockages in the POTW, Sewerage System or Lateral Sewer System that connects to the User.

- C. Specific Prohibitions. The District may include any specific FOG Control Program requirements into any Individual Wastewater Discharge Permit or other Permit as deemed necessary by the District. Any such requirements shall be deemed part of the District's FOG Control Program.
- D. FOG Control Regulations. The District may adopt, by resolution, any regulations it deems necessary to control FOG Discharge into the District's POTW. Such regulations shall be incorporated by reference into this FOG Control Program.

Chapter 6 Permit Issuance

3.06.010 INDIVIDUAL WASTEWATER DISCHARGE PERMIT.

Pursuant to the authority set forth in Section 3.01.030, an Individual Wastewater Discharge Permit shall be issued for a specified time period, shall indicate a specific date upon which it shall expire, and shall be subject to the review and approval of the Board as follows:

- A. Class 1 Permit. A Class 1 Individual Wastewater Discharge Permit shall be issued to Significant Industrial Users for a specified time period not exceeding one (1) year from the effective date of the Permit.
- B. Class 2 Permit. A Class 2 Individual Wastewater Discharge Permit shall be issued to all other Non-residential Users for a specified time period not exceeding three (3) years from the effective date of the Permit.

3.06.020 INDIVIDUAL WASTEWATER DISCHARGE PERMIT APPLICATION.

All Users required to obtain an Individual Wastewater Discharge Permit must submit a permit application on a form provided by the District which may require Users to submit all or some of the following information as part of a permit application:

- A. Identifying Information.
 - 1. Name and address of the facility, including the name of the operator and Owner.

2. Contact information, description of activities, facilities and plant production processes on the Premises;

B. Environmental Permits. A list of any environmental control permits held by or for the facility.

C. Description of Operations.

1. A brief description of the nature, average rate of production (including each product produced by type, amount, processes and rate of production), and standard industrial classifications of the operation(s) carried out by such User. The description shall include a schematic process diagram, which indicates points of Discharge to the POTW from the regulated processes.

2. Types of Wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, Discharged to the POTW.

3. Number and type of employees, hours of operation, and proposed or actual hours of operation.

4. Type and amount of raw materials processed (average and maximum per day).

5. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

D. Time and duration of Discharges.

E. Location for monitoring all wastes covered by the Permit.

F. Flow Measurement. Information showing the measure average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of combined waste stream formulas.

G. Measures of Pollutants.

1. The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for existing sources.

2. The results of sampling and analysis identifying the nature and concentration and/or mass where required by the standard or by the District, of regulated Pollutants and the Discharge from each regulated process.

3. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

4. The sample shall be representative of daily operations and shall be analyzed in accordance with the procedures set forth in this Code. Where the standard requires compliance with a BMP or Pollution Prevention Alternative, the User shall submit documentation as required by the District or applicable standards to determine compliance with the standard.

5. Sampling must be performed in accordance with the procedures set forth in this Code.

H. Any other information which may be deemed necessary or required by the District to evaluate the Permit application.

Incomplete or inaccurate applications or applications submitted without the required fees will not be processed and will be returned to the User for completion or revision.

3.06.030 INDIVIDUAL WASTEWATER DISCHARGE PERMIT CONTENTS.

As part of the District's Pretreatment Program, an Individual Wastewater Discharge Permit shall include such individual and general control conditions as deemed reasonable necessary by the District to prevent Passthrough or Interference, protect the quality of the water body receiving the treatment plants affluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW and comply with all state, federal and local laws and regulations.

A. Individual Wastewater Discharge Permits must contain:

1. A statement that indicates the Individual Wastewater Discharge Permit issuance date, expiration date and effective date;

2. A statement that the Individual Wastewater Discharge Permit is non-transferable;

3. Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;

4. Self monitoring, sampling, reporting, notification, and record-keeping requirements shall include an identification of Pollutants or Best Management Practice to be monitored, sampling location, sampling frequency, and sampling type based on federal, state and local law;

5. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedule may not exceed the time for compliance beyond that required by applicable federal, state or local law;

6. Requirements to control Slug Discharge, if determined by the District to be necessary;

7. A requirement that all SIU's notify the POTW immediately of any changes that occur at the facility affecting the potential for a Slug Discharge so that the POTW may reevaluate the need for a Slug Control Plan or other actions to prevent such Discharges;

8. All Best Management Practices required by a Categorical Pretreatment Standard, state or local law, or local limit must be contained in the Individual Wastewater Discharge Permit;

9. A statement that it is the responsibility of the User to perform sampling and that in the event of any exceedence or violation, repeat sampling and analysis shall be done by the User within thirty (30) days of becoming aware of an exceedence; and

10. A statement that the District shall have the ability to sample and analyze any time the District deems appropriate.

B. Individual Wastewater Discharge Permits may contain but need not be limited to the following conditions:

1. Limits on the average and/or maximum rate of Discharge, time of Discharge, and/or requirements for flow regulation and equalization;

2. Requirements for the installation of Pretreatment technology, pollution control, or construction of appropriate containment devices, design to reduce, eliminate, or prevent the introduction of Pollutants into the treatment works;

3. Requirements for the development and implementation of spill-control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine Discharges;

4. Development and implementation of Waste minimization plans to reduce the amount of Pollutants Discharged to the POTW;

5. The unit charge or schedule of User charges and fees for the management of the Wastewater Discharge to the POTW;

6. Requirements for the installation and maintenance of inspection and sampling facilities and equipment including flow measurement devices;

7. A statement that compliance with the Individual Wastewater Discharge Permit does not relieve the permittee of responsibility for compliance with all applicable federal and state Pretreatment Standards, including those which become effective during the term of the Individual Wastewater Discharge Permit; and

8. Other conditions as deemed appropriate by the District to ensure compliance with this Ordinance, and state and federal laws, rules, and regulations.

C. Accidental Discharge/Slug Discharge Control Plans. As part of the Permit issuance procedures, the District shall evaluate whether each SIU needs an Accidental Discharge/Slug Discharge Control Plan or other action to control Slug Discharges. The District may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the District may develop such a plan for any User. An Accidental Discharge/Slug Discharge Control Plan shall address, at a minimum, the following:

1. Description of Discharge practices, including non-routine batch Discharges;

2. Description of stored chemicals;

3. Procedures for immediately notifying the District of an Accidental Discharge or Slug Discharge, as required by this Code; and

4. Procedures to prevent adverse impact from any Accidental Discharge or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants, including solvents and/or measures and equipment for emergency response.

3.06.040 PERMIT ISSUANCE PROCESS.

The User may obtain an application for an Individual Wastewater Discharge Permit from the Board, or their designee. The Permit application will be processed in accordance with procedures determined by the Board, or their designee.

3.06.050 PERMIT MODIFICATION.

A. The District may modify an Individual Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

1. To incorporate any new or revised federal, state or local Pretreatment Standards or requirements;
2. To address significant alternations or additions to the User's operation, processes or Wastewater volume or character since the time of the Individual Wastewater Discharge Permit issuance;
3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized Discharge;
4. Information indicating that the permitted Discharge possess a threat to the District's POTW, District personnel, the POTW's beneficial sludge use, the general public, or the receiving waters;
5. Violation of any terms or conditions of the Individual Wastewater Discharge Permit;

6. Misrepresentations or failure to disclose all relevant facts in the Individual Wastewater Discharge Permit application or any required reporting;

7. Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13;

8. To correct typographical or other errors in the Individual Wastewater Discharge Permit.

3.06.060 INDIVIDUAL WASTEWATER DISCHARGE PERMIT REVOCATION, SUSPENSION, VOID.

A. Revocation or Suspension. The General Manager, or his or her designee, or District Engineer may immediately revoke or suspend an Individual Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

1. Failure to notify the District of significant changes to the Wastewater prior to changed Discharge;

2. Failure to provide prior notification to the District of changed conditions pursuant to this Code;

3. Misrepresentation or failure to fully disclose all relevant facts in the Individual Wastewater Discharge Permit application;

4. Falsifying self-monitoring reports and certification statements;

5. Tampering with monitoring equipment;

6. Refusing to allow the District timely access to the facility premises and records;

7. Failure to meet affluent limitations;

8. Failure to pay fines;

9. Failure to pay Sewer charges;

10. Failure to meet compliance schedules;

11. Failure to complete a Wastewater survey or the Individual Wastewater Discharge Permit application;

12. Transfer of business ownership of a permitted facility; or
13. Violation of any Pretreatment Standard or requirement, or any terms of the Individual Wastewater Discharge Permit or this Code.

In the event of revocation or suspension of an Individual Wastewater Discharge Permit, the District shall attempt to notify the User or the Users Authorized Representative prior to the suspension/revocation, however, failure to do so shall not affect the validity of any order suspending or revoking any Permit.

B. Permit Void. Individual Wastewater Discharge Permit shall be voidable upon cessation of operations or transfer of business ownership. All Individual Wastewater Discharge Permits issued to a User are void upon the issuance of a new Individual Wastewater Discharge Permit to that User.

3.06.070 INDIVIDUAL WASTEWATER DISCHARGE PERMIT REISSUANCE.

A User with an expired Individual Wastewater Discharge Permit shall apply for an Individual Wastewater Discharge Permit reissuance by submitting a complete Permit application in accordance with this Ordinance a minimum of ninety (90) days prior to the expiration of the User's existing Individual Wastewater Discharge Permit.

Chapter 7 Industrial Wastewater Monitoring and Reporting

3.7.010 REPORTING AND RECORDKEEPING REQUIREMENTS.

The District may require any User to monitor, report, and keep any records required by the Malaga Code, any federal or state law or regulation, or as deemed necessary by the District.

3.07.020 BASELINE MONITORING REPORTS.

All Users that become subject to new or revised categorical Pretreatment Standards are required to comply with the following reporting requirements even if they have been designated as Non-Significant Categorical Industrial Users.

A. Within either one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently Discharging to or scheduled to Discharge to the POTW shall submit to the General Manager, or his or her designee, a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their Discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the General Manager, or his or her designee, a report which contains the information listed in paragraph B, below. A New Source shall report the method of Pretreatment it intends to use to meet applicable Categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of Pollutants to be Discharged.

B. Users described above shall submit the information set forth below.

1. All information required in Section 3.060.020.

2. Measurement of Pollutants.

a. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

b. Samples should be taken immediately downstream from Pretreatment facilities if such exist or immediately downstream from the regulated process if no Pretreatment exists. If other Wastewaters are mixed with the regulated Wastewater prior to Pretreatment, the User should measure the flows and concentrations necessary to allow use of the combined Wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;

c. Sampling and analysis shall be performed in accordance with Section 3.07.120;

d. The General Manager, or his or her designee, may allow the submission of a baseline report which utilizes only historical data so long as the data provides information

sufficient to determine the need for Industrial Pretreatment measures;

e. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant Discharges to the POTW.

3. Compliance Certification. A statement, reviewed by the User's Authorized Representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional Pretreatment is required to meet the Pretreatment Standards and Requirements.

4. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 3.07.030 of this Code.

5. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 3.07.150 of this Code and signed by an Authorized Representative as defined in this Code.

3.07.030 COMPLIANCE SCHEDULE PROGRESS REPORTS.

The following conditions shall apply to the compliance schedule required by Section 3.07.020(B)(4) of this Code:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

B. No increment referred to above shall exceed nine (9) months;

C. The User shall submit a progress report to the General Manager, or his or her designee, no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

D. In no event shall more than nine (9) months elapse between such progress reports to the General Manager, or his or her designee.

3.07.040 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of Wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the General Manager, or his or her designee, a report containing the information described in Section 3.06.020(F) and (G) and 3.07.020(B)(2) of this Code. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 3.05.060, this report shall contain a reasonable measure of the User's long term production rate. For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant Discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 3.07.150 of this Code. All sampling will be done in conformance with Section 3.07.120.

3.07.050 PERIODIC COMPLIANCE REPORTS.

A. All Users must submit twice per year, June 30 and December 31, reports indicating the nature, concentration of Pollutants in the Discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the District or the Pretreatment Standard necessary to determine the compliance status of the User.

B. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at

all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its Discharge.

C. If a User subject to the reporting requirement in this section monitors any regulated Pollutant at the appropriate sampling location more frequently than required by the General Manager, or his or her designee, using the procedures prescribed in Section 3.07.120 of this Code, the results of this monitoring shall be included in the report.

3.07.060 REPORTS OF CHANGED CONDITIONS.

Each User must notify the General Manager, or his or her designee, of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its Wastewater at least sixty (60) days before the change.

A. The General Manager, or his or her designee, may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an Individual Wastewater Discharge Permit application under Chapter 6 of this Title.

B. The General Manager, or his or her designee, may issue a new Individual Wastewater Discharge Permit or modify an existing Individual Wastewater Discharge Permit in response to changed conditions or anticipated changed conditions.

3.07.070 REPORTS OF POTENTIAL PROBLEMS.

A. In the case of any Discharge, including, but not limited to, accidental Discharges, Discharges of a nonroutine, episodic nature, a noncustomary batch Discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the General Manager, or his or her designee, of the incident. This notification shall include the location of the Discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

B. Within five (5) days following such Discharge, the User shall, unless waived by the General Manager, or his or her designee, submit a detailed written report describing the cause(s) of the Discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW,

natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this Code.

C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a Discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a Discharge to occur, are advised of the emergency notification procedure.

D. Significant Industrial Users are required to notify the General Manager, or his or her designee, immediately of any changes at its facility affecting the potential for a Slug Discharge.

3.07.080 REPORTS FROM UNPERMITTED USERS.

All Users not required to obtain an Individual Wastewater Discharge Permit shall provide appropriate reports to the General Manager, or his or her designee, as the General Manager, or his or her designee, may require.

3.07.090 NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.

If sampling performed by a User indicates a violation, the User must notify the General Manager, or his or her designee, within twenty four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the General Manager, or his or her designee, within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the District performs sampling at the User's facility at least once a month, or if the District performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the District receives the results of this sampling, or if the District has performed the sampling and analysis in lieu of the Industrial User.

3.07.100 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

A. This provision does not create a right to discharge any substance not otherwise permitted to be Discharged by this Code, a permit issued thereunder, or any applicable federal or state law.

B. Any User who commences the Discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream Discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste Discharged. However, notifications of changed conditions must be submitted under Section 3.07.060 of this Code. The notification requirement in this Section does not apply to Pollutants already reported by Users subject to Categorical Pretreatment Standards under the self monitoring requirements of this Chapter.

C. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.

D. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the General Manager, or his or her designee, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the Discharge of such substance within ninety (90) days of the effective date of such regulations.

E. In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

3.07.110 ANALYTICAL REQUIREMENTS.

All Pollutant analyses, including sampling techniques, to be submitted as part of a Wastewater Discharge Permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the Pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the Pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the General Manager, or his or her designee, or other parties approved by EPA.

3.07.120 SAMPLE COLLECTION.

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

A. Except as indicated in Section B and C below, the User must collect Wastewater samples using 24-hour flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the General Manager, or his or her designee. Where time proportional composite sampling or grab sampling is authorized by the District, the samples must be representative of the Discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the District, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 3.07.020 and 3.07.040 (40 CFR 403.12(b) and (d)), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the General Manager, or his or her designee, may authorize a lower minimum. For the reports required by paragraphs Section 3.07.050 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

3.07.130 DATE OF RECEIPT OF REPORTS.

Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

3.07.140 RECORDKEEPING.

Users subject to the reporting requirements of this Code shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Code, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under this Code. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the District, or where the User has been specifically notified of a longer retention period by the General Manager, or his or her designee.

3.07.150 CERTIFICATION STATEMENTS.

A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver - The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Chapter 6 of Title 3 of the Code; Users submitting baseline monitoring reports; Users submitting reports on compliance with the Categorical Pretreatment Standard deadlines; Users submitting periodic compliance reports required by this Code; and a statement must be signed by an Authorized Representative:

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

Chapter 8 Enforcement

3.08.010 ENFORCEMENT RESPONSE PLAN.

In addition to all other enforcement procedures provided in this Malaga Code, the District shall develop and implement an enforcement response plan (ERP). The ERP shall contain detailed procedures indicating how the District will investigate and respond to instances of industrial user noncompliance. The ERP may be adopted and amended, by resolution of the Board of Directors and shall contain, at a minimum, the following:

- 1. A description of how the District will investigate instances of noncompliance;**
- 2. Describe the types of escalating enforcement responses the District will take in response to all anticipated types of Industrial User violations and the time periods within which response will take place;**
- 3. Identify (by title) the official(s) responsible for each type of response; and**

4. Adequately reflect the District's primary responsibility to enforce all applicable Pretreatment Requirements and Standards as detailed in 40 CFR 403.8(f)(1) and (f)(2).

The ERP, as adopted and amended by Resolution of the Board of Directors, shall be incorporated by this reference into this Malaga Code.

3.08.020 ENFORCEMENT COST RECOVERY.

The District shall be entitled to recover any and all costs to the District related to the enforcement of this Title including but not limited to administrative, staff, testing, engineering, and attorney costs. The amount of the costs shall be determined by the General Manager or his or her designee. Anyone wishing to contest the amount of the charges imposed by this Section may appeal to the Board by submitting a request for an appeal to the General Manager, or his or her designee, in writing within 30 days after the date the charge was billed to the IU, Owner or Responsible Party. Cost of providing specific services may be set forth in the Master Schedule of Fees, Charges, Penalties and Recovered Costs. Cost recovery pursuant to this Section shall be non-exclusive, in addition to any other method of cost recovery, and in addition to any penalties imposed by the District for violation of this Code.

SECTION 10. Title 4 of the Malaga County Water District Code is hereby adopted and shall read as follows:

"Title 4 RECREATIONAL FACILITIES

Chapter 1 General Provisions

4.01.010 AUTHORITY.

Pursuant to Article 8 of Part 5 of Division 12 beginning at §31130 of the Water Code of the State of California, the Malaga County Water District has the authority to organize, promote, conduct and advertise programs of community recreation; establish systems of recreation and recreation centers including parks and parkways; acquire, construct, improve, maintain and operate recreational centers within the District; prescribe reasonable rules and regulations to govern the use of such facilities; and exercise other powers as permitted by law.

4.01.020 PURPOSE.

The purpose of this Chapter is to set forth policies, rules and regulations to promote, maintain and operate community recreation facilities, parks, pools, and recreational facilities within the jurisdiction of the District.

4.01.030 DEFINITIONS.

Unless otherwise defined in this Title, words and phrases in this Title shall have the same meaning as the same words and phrases defined in this Code.

A. As used in this Title, the following words and phrases shall be defined as:

"Parks" means any Park, grounds, community center, Buildings, pools, roadways, or other facilities owned or used by the District for recreational purposes.

"Written Permission of the District" means a Permit or other form provided by the District approving a specific use, activity or event in any Park. Such written permission may contain any reasonable rules, conditions or requirements.

4.01.040 RULES AND POLICIES.

A. Adoption of Rules. The Board may, by resolution, adopt any rules, policies or regulations governing the use and enjoyment of any Parks or other recreational facilities owned or used by the District.

B. Violation of Rules. It shall be unlawful for any Person to violate any rule, policy or regulation adopted by the District whether or not such rule, policy or regulation is posted by the District.

4.01.050 FEES AND CHARGES.

Pursuant to §31130, et seq., of the Water Code, the District may establish fees or charges for the use of Parks or recreational facilities. Said fees or charges shall be set forth in the Master Schedule or Fees, Charges, Penalties and Recovered Costs.

A. Savings Clause. Nothing in this Title is intended to or shall prohibit the District from exercising any power or remedy available as law."

4.01.060 GENERAL RULES.

It shall be unlawful for any Person, within any Park or other recreational facility which is owned, leased, under the control of, or maintained or operated by the Malaga County Water District to violate any of the following:

- A. Fires - Picnicking. No person shall make or kindle a fire or cook any meal within any Park except in stoves, BBQ's or other facilities specifically provided by the District or in a container commercially manufactured for such purpose. Fires or open flames may only be located in areas designated for such use during open Park hours or by Written Permission of the District.
- B. Park Hours. Closed to Public. The District may establish hours of operation of any Park located within the District and no Person shall enter any Park or area of any Park which is closed to the public. Closed areas or hours of operation shall be designated by signs posted at all entrances thereto.
- C. Alcohol. No Person shall provide or consume alcoholic beverages in any Park or in any Building or structure, thereon, not expressly designated as permitting such use or consumption without first obtaining Written Permission of the District and any/all necessary Permits.
- D. Controlled Substances. Possession, distribution, or use of any Controlled Substance (as defined by applicable sections of the California Penal or Health and Safety Codes) anywhere in any Park of the District is strictly prohibited.
- E. Firearms, Weapons and Fireworks. No Person shall carry or discharge any firearm, rifle, pistol, air rifle, paintball, soft pellet or similar gun, slingshot, bow and arrow or other similar device or weapon within or into any Park without Written Permission of the District. No Person shall carry, possess or discharge any firework, firecracker, rocket or other type of explosive without Written Permission of the District.
- F. Explosives, Inflammable Materials. No Person shall use, possess or ignite explosives or highly flammable materials of any kind, including gas, lighter fluid, oil, or other fuel, except as necessary for a vehicle or equipment without Written Permission of the District.
- G. Skateboards, Skates. No Person shall use a skateboard, skates, scooter or other similar device in an unsafe or hazardous manner as to

endanger any other Person or in any area specifically prohibiting such use. Any Person using a skateboard, inline skates, scooter or similar device in any Park must wear protective equipment including helmet, elbow pads, and knee pads.

H. Bicycles. No Person shall ride a bicycle within a Park except in areas authorized for vehicular travel or specifically authorized for bicycle use. All Persons required by law to wear a helmet or other protective equipment while riding a bicycle shall wear such helmet or other protective equipment while using a bicycle or similar device in any Park.

I. Hazardous Activities. No Person shall engage in model airplane flying, propelling a rocket or missile of any type, driving golf balls, engaging in archery or other hazardous activity within any Park except in an area specifically designated for such activity or by Written Permission of the District.

J. Concessions and Profiteering. No Person or commercial enterprise may use a Park for financial gain without first obtaining Written Permission from the District and any/all necessary Permits.

K. Noise. No Person shall willfully make or continue or load, unnecessary, annoying noise or engage in riotous, boisterous, threatening, indecent or abusive language or conduct within a Park as to create a nuisance or disturb the public peace or the quiet enjoyment of any reasonable Person of normal sensitivity who is lawfully present in any Park or nearby property.

L. Amplified Sounds. No Person shall cause the amplification of sound within any Park if the noise level causes annoyance or discomfort to any reasonable Person of normal sensitivity lawfully present in the Park or on nearby properties or otherwise disturbs the public peace or creates a nuisance. Amplified sounds may be permitted by Written Permission of the District.

4.01.070 PENALTY.

In addition to any other penalties provided by this Code, any Person violating any provision of this Chapter, or any rules, policies, or regulations adopted pursuant to this Chapter may be expelled from any Park by the District, General Manager, or his or her designee, including, but not limited to, authorized District employees, referees, umpires, or other designee. Any Person so expelled from any Park who refuses to leave the Park or facility or who returns to the Park or facility without permission of the

District shall be in violation of this Code, such violation shall be punishable as a misdemeanor or infraction or as otherwise permissible by this Code or any other law or regulation.

4.01.080 SAVINGS CLAUSE. Nothing in this Title is intended to or shall prevent the District from exercising any power or purpose authorized by law. Nothing in this Title shall supersede or infringe upon any agreement entered into the District for the collection of solid Wastes entered into prior to the adoption of this Ordinance."

SECTION 11. That Chapter 2 of Title 4 of the Malaga County Water District Code is adopted and shall read as follows:

"Chapter 2 Assessment District (Reserved)"

SECTION 12. Title 5 of the Malaga County Water District Code is hereby added to read as follows:

"Title 5 SANITATION SERVICE

Chapter 1 Sanitation Service

5.01.010 AUTHORITY.

Pursuant to Article 9 of Part 5 of Division 12 beginning at §31135 of the Water Code of the State of California, the Malaga County Water District is authorized to acquire, construct, and operate facilities for, or make contract with others for the collection and disposal of the garbage, waste and trash of the District and its inhabitants.

5.01.020 MANDATORY SERVICE.

A. For residential solid waste, the accumulation, collection, removal and disposal of refuse, rubble, garbage, green waste and dry recyclables, except where otherwise precluded by state law, shall be controlled by the District for the protection of the public health, safety and welfare.

B. Every person owning or occupying a residence in the District shall subscribe to solid waste collection from the District or contract agent having a valid solid waste agreement with the District. Disposal of solid waste in any other manner within the District is prohibited.

5.01.030 RULES AND REGULATIONS.

A. Rates. The District may prescribe, revise and collect rates and other charges for the collection of solid waste and collect the same together with the water or sewer rates, or both. Said rates shall be set forth in the Master Schedule of Fees, Charges, Penalties and Recovered Costs.

B. Unpaid Charges. Unpaid charges for solid waste collection may result in an assessment of the amount of the unpaid charges being added to the property tax bill of the Owner of the property.

C. Except as provided for and in conjunction with a community clean-up day, no Person shall throw or deposit or cause to be thrown or deposited any solid waste or recyclables in or upon any vacant lot, street, alley, gutter, highway, Park or other public place or keep any residential rubbish, solid waste, or recyclables in any manner except as provided for in this Chapter.

D. No Person shall deposit solid waste in the container of another Person, or set out solid waste for collection in another Person's service location except as may be permitted by the District.

E. No Person shall permit or consent to another Person depositing solid waste in his or her container or setting out solid waste for collection at his or her residence or Premises, except as may be permitted by the District.

F. No Person shall burn solid waste in a home heating furnace, fireplace, wood stove, excepting that non-plasticized wastepaper may be used for kindling of fires in wood-burning appliances, as permitted by the District or any other agency having jurisdiction.

G. Use of Containers. Every residence or multi-family residential unit shall obtain and use containers provided by the District or the District's authorized contractor for the disposal of solid wastes and/or recyclables. No Person shall dispose of any solid waste or recyclables in any container except those provided by the District or the District's authorized contractor.

5.01.050 VIOLATION.

Violation of any section of this Chapter shall be subject to any remedy set forth in this Code or available at law."

SECTION 13. California Environmental Quality Act: The City Council having considered the Staff Report and all public comments, has determined that the amendment is not a project under the California Environmental Quality Act because the

amendment has no potential for resulting in a physical change in the environment. Since the amendment is not a project, no environmental documentation is required.

SECTION 14. Severability: If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Ordinance. The Board of Directors hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases have been declared invalid or unconstitutional.

SECTION 15: Effective Date and Posting of Ordinance: This Ordinance shall be effective immediately upon adoption. The Districts Secretary shall publish a summary of the ordinance within fifteen (15) days after adoption with the names of the directors voting for and against this ordinance. Additionally, the Secretary shall post a certified copy of the full text of this ordinance with the names of the directors voting for and against this ordinance in the office of the District. (Water Code Sections 31027, 31105, and 31141.)

WHEREFORE, this Ordinance was passed and adopted by the Board of Directors of the Malaga County Water District this 25th day of February, 2014, by the following vote:

AYES:

NOES:

ABSENT:

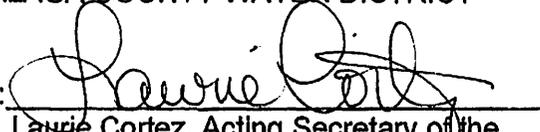
CERTIFICATION

I, Laurie Cortez, duly qualified, appointed, and acting Secretary of the Malaga County Water District do hereby certify that the foregoing is a true statement of the action taken by the Board of Directors of the District at a regular meeting of the Board held on February 25, 2014.

MALAGA COUNTY WATER DISTRICT

Dated: February 25, 2014.

By:

A handwritten signature in black ink, appearing to read "Laurie Cortez", written over a horizontal line.

Laurie Cortez, Acting Secretary of the
Malaga County Water District.