



**moulton niguel** water district

## **ARTICLE IV**

# **RULES AND REGULATIONS**

**June 16, 2016**

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## **ARTICLE IV RULES AND REGULATIONS**

### **SECTION 1. - GENERAL**

Water and sewer service by District is provided subject to the availability of facilities or adequate capacity in facilities, funds, or financing for the construction thereof, or all of the foregoing, and is available on the following terms and conditions, including all terms, conditions, and charges hereinafter established and provided for. Neither these rules nor any other act of or on behalf of the District shall create a right to service of any kind until a formal written Service Agreement has been executed by all parties, and all fees and charges of District have irrevocably been accomplished. This is a declaration of existing policy and not intended as a change by District of any of its policies or requirements. Additionally, the District may undertake a project on behalf of one or more improvement districts to provide "Supplemental Capacity," which in such instances unless otherwise specified will be facilities included within the Master Plan of Facilities of the District and may be within the Plan of an improvement district pursuant to and for which bonds have been authorized. In such instances, if authorized bonds are not available, supplemental funds must be committed and/or required as a condition precedent to any right to obtain service by means of any such supplemental facilities. For such purposes there is established by the District the "Supplemental Capacity Acquisition Fund," hereinafter referred to as the "SCAF," in which accounts may be established from time to time for projects such as the "MNWD 1985 Sewer Project." District is subject to or may accept contracts or permits from time to time from various other agencies such as, but not limited to, the United States Environmental Protection Agency (EPA), California State Water Resources Control Board, and Air Resources Board. Such contracts or permits may limit use of existing or future capacity of facilities. All existing service agreements or indications of willingness to serve from the District are subject to or are hereby subordinated to any future such lawful conditions until rescinded or determined invalid. The availability of such service on the basis herein set forth is intended to be furnished to each member of the public or each segment of the public on the same basis to the extent all such applicants, owners, or customers are similarly situated and desire to be served, and may be served in an equal and comparable manner as determined by the Board to be in the best interests of the District's overall program.

Various improvement districts have been formed and activated for the purpose of providing such water and sewer service. To varying degrees, some of these improvement districts have constructed facilities or acquired capacity to provide service. Each applicant shall verify the existence of available capacity and the probable duration of such availability. Facts necessary for such verification may be obtained from the District. However, the fact that the District provides such information is not a commitment to provide water or sewer

service or a guarantee that capacity will be available at the time of application therefore. In the alternative, an improvement district or portion thereof has been or in the future may be provided with water or sewer service by means of contracts with the District for short-term use of presently unused capacity. Such contracts may require the advancement of funds for the construction of necessary facilities or the payment of the capital cost and annual cost of operating and maintaining such facilities, and any facilities of the MNWD 1985 Sewer Project for which the SCAF has been established. The general areas presently included within the boundaries of the Water District and existing improvement districts are depicted on Exhibit "A" to these Rules and Regulations.

The facilities contemplated to be constructed within the District are as set forth in the Plan of Works of the District or any of its improvement districts as amended from time to time in the manner provided by law, hereinafter in some instances referred to collectively as "the Plan." The Plan contemplates collecting, treating, reclaiming, and beneficially reusing the resulting recycled water. The collection, treatment, and reuse of such sewage and wastewater is proposed to be accomplished in the most environmentally sound and economically feasible and practical manner determined by District to be possible. For these reasons, the District desires to construct on a staged basis the facilities needed in concert with past, present, and, to the extent possible, future environmental and land use decisions. It is contemplated that it may be accomplished independently or in conjunction with other entities or as a member of regional entities created for such purposes, including South Orange County Wastewater Authority, or similar undertaking in the future. The District intends to constructively cooperate, to the extent of its legal authority, in the formulation and implementation of the Air Quality Maintenance Plan of the California Air Resources Board and the United States Environmental Protection Agency.

The District neither determines nor intends to determine or precipitate land use decisions or the accomplishment of any plans of development of various owners of undeveloped property within the District. The District, subject to such land use decisions by others and subject to all provisions of law including, but not by way of limitation, the California Environmental Quality Act, will exert all reasonable efforts to have facilities and capacity in facilities available to provide service to the extent and on the conditions hereby described.

All water and sewer service from the District shall be available in accordance with the following rules and regulations, and on the basis of the charges established therefore from time to time and subject to all penalties and charges for violations thereof, or any statutes applicable to District.

## **SECTION 2. - DEFINITIONS**

The terms hereinafter set forth, unless otherwise specified, shall have the following meanings:

1. "Agricultural Consumer" shall mean consumers entitled to water for irrigation of parks, greenbelts, landscape areas, and agricultural developments at the irrigation rate set forth in the water rate section.
2. "Applicant" shall mean any person, firm, corporation, association, or agency who uses or desires to obtain service from District by means of its water, sewerage, or recycled water facilities.
3. "Board" shall mean any person, firm, corporation, association, or agency who uses or desires to obtain service from District by means of its water, sewerage, or recycled water facilities.
4. "Customer" shall mean any person, firm, corporation, association, or agency who uses or desires to obtain service from District by means of its water, sewerage, or recycled water facilities.
5. "District" shall mean the Moulton Niguel Water District.
6. "District Transmission Lines" shall mean those parts of the District's water and recycled water system constructed by funds provided by the overall District, or capacity in joint facilities, the cost of which has been or is borne in this manner.
7. "Domestic Sewage" shall mean the water-borne wastes derived from the ordinary living process which are of such volume and character as to permit satisfactory disposal by the District's facilities, except any such liquid or such substances as are hereinafter precluded from being delivered or deposited in any facilities of District.
8. "Engineer" shall mean a duly qualified, registered engineer authorized to act for the District.
9. "Improvement District" shall mean any of the improvement districts of the District heretofore established under Section No. 36410 of the Water Code or, in the future, any same or similar proceedings.

10. "Industrial Waste" shall mean any and all liquid or solid waste substance, not sewage, from any producing, manufacturing, or processing operation of whatever nature.
11. "Industrial Waste Treatment Plant or Facility" shall mean any works or devices for the treatment of industrial waste prior to its discharge into the District's sewerage facilities.
12. "Lateral Connection" shall mean the point of connection of the customer's lateral sewer to the main sewer of District.
13. "Lateral Sewer" shall mean the line from the lateral connection on the District's main sewer to the building or improvements of the applicant, owner, or customer.
14. "Main Sewer" shall mean extensions from the trunk sewer system constructed and dedicated to the District by a developer or property owner.
15. "Main Sewer Charge" shall mean a charge imposed by the District for the developer's share of the cost of a trunk sewer which also serves as the main sewer and is utilized to serve a tract.
16. "Manager" shall mean the General Manager of District or the person authorized by the Board or the General Manager to act on his behalf.
17. "Non-Reclaimable Sewage" shall mean any and all liquid or solid waste substance other than reclaimable sewage emanating from within District including, but not limited to, liquid or solid waste substance from any producing, manufacturing, or processing operation. It shall not include any liquid or solid substance which cannot be treated or disposed of by the then-existing facilities of District for treatment or disposal of non-reclaimable sewage by reason of the design thereof, applicable waste discharge or other requirements, actual or possible increased operation and maintenance costs, or possible damage to District's facilities.
18. "Plan Check & Inspection Fees" shall mean fees to be paid to the District by the applicant at the time he submits improvement plans for District approval. The amount of fees shall be a percentage of the bond amounts as established by the District.
19. "Potable Water" shall mean that water furnished to the customer which is pure, wholesome, potable, and does not endanger the lives or health of human beings,

and which conforms to the latest edition of the United States Public Health Service Drinking Water Standards or any other applicable standards.

20. "Pretreatment" shall mean treatment which the District may require prior to permitting discharge of sewage into any of District's sewerage facilities, if necessary, to insure compliance by District with these Rules and Regulations and applicable federal or state statutes, regulations, contracts, or all of the foregoing, individually or collectively, or if determined by the District to be necessary to protect the facilities of the District from any possible present or future damage.
21. "Primary Water Mains" shall mean those parts of the District's water system constructed with the proceeds of bonds issued for an improvement district or other funds of an improvement district or capacity in facilities constructed for more than one improvement district of the District.
22. "Property Owner" or "Owner" shall mean the holder of legal title, contract purchaser, or lessee under a lease with an unexpired term of more than one (1) year jointly with the holder of title.
23. "Reclaimable Sewage" shall mean wastewater which can be treated and recycled by District's facilities so as to be usable for some beneficial propose. The existing and planned facilities of District are based on primary solids separation, activated sludge treatment, secondary solids separation, effluent coagulation, filtration, and chlorinating.
24. "Recycled Water" shall mean water served from the District's off-site facilities including, but not limited to, a combination of treated wastewater and intercepted surface and subsurface stream flow, supplemented by other waters, including potable water.
25. "Secondary Water Mains" shall mean extensions of primary distribution mains constructed and dedicated to the District by a developer or property owner.
26. "Secondary Water Main Charge" shall mean a charge imposed by the District for the developer's share of the cost of a primary water main which also serves as the secondary water main and is utilized to serve a tract.
27. "Security Deposit" shall mean monies required to be deposited with the District for the purpose of guaranteeing payment of monthly or bimonthly utility bills rendered for water or sewer service.



28. "Sewerage Facilities" shall mean any facilities used in the collection, transportation, treatment, disposal, and reclamation of sewage and industrial wastes.
29. "Sewage Connection Charge" shall mean a charge imposed by the District for obtaining sewer service from the District by means of its sewage facility or facilities, or facilities in which the District shall have contracted for capacity or service. The charge, in no event, shall be less than or on conditions other than as specified by the District or required by applicable statutes, regulations, or contracts.
30. "Sewer Collection System" shall mean individually or collectively any sewer facility or facilities financed, constructed, and dedicated to the District by an applicant, owner or customer or which are the results of local initiative and financing in tracts and subdivisions, as well as commercial or industrial developments. Sewer collection systems shall include dry sewers installed by developers prior to construction of trunk sewers. The District shall determine what facilities are part of a collection system from time to time as necessary. The District's determination in this regard shall be final and conclusive.
31. "Sewer Service Charge" shall mean a monthly or bimonthly charge established by the District from time to time for sewer service.
32. "Supplemental Capacity" shall mean capacity resulting from construction of facilities including, but not limited to, collection, treatment, reclamation, and disposal, which are added to the Master Plan of facilities of the District. The facilities in the Plan of improvement districts are to be bond funded and funded from Supplemental Capacity Acquisition Fund (SCAF) Fees to the extent bond funding is not sufficient, paid at the time of construction or upon use or commitment of use, as provided by District for all other facilities in these Rules and Regulations as amended.
33. "Supplemental Capacity Acquisition Fund Fee" shall mean a fee established to pay costs of a MNWD 1985 Sewer Project as designated by the Board of Directors.
34. "Surcharge" shall mean a charge imposed by the District for the provision of a special service not normally provided by the District, such as situations involving unusual quantity or quality requirements.
35. "Trunk Sewers" shall mean sewer pipelines and appurtenances purchased or constructed by the District with bond proceeds, connection charges, or which are constructed by an applicant, owner, or customer, subject in whole or in part to reimbursement. The District shall determine what facilities are trunk sewers from time to time as necessary, and shall determine the terms and provisions of any

reimbursement agreements. The District's determination in regard to these matters shall be final and conclusive.

36. "Unpotable Water" shall mean that water which has not been treated for human consumption in conformance with the Drinking Water Standards referred to in paragraph 14 or this Section II.
37. "Water Connection Charge" shall mean a charge imposed by the District for obtaining water service from the District by means of its water facility or facilities in which District shall have contracted for capacity or service. The charge in no event shall be less than or on conditions other than as specified by the District or required by applicable statutes, regulations, or agreements of applicable federal or state statutes, regulations, or contracts.
38. "Water Distribution System" shall mean individually or collectively any water facility or facilities financed, constructed, and dedicated to the District by an applicant, owner, or customer, or which are the results of local initiative and financing in tracts and subdivisions, as well as commercial or industrial developments. Water distribution systems shall include all fire hydrants. The District shall determine what facilities are part of a distribution system from time to time as necessary. The District's determination in this regard shall be final and conclusive.

### **SECTION 3. - AREA SERVED**

- A. The Rules and Regulations set forth herein pertain to water and sewer service to land or improvements, or both, lying within the boundaries of the District unless otherwise stated. If water transmission mains or trunk sewers are nonexistent in the immediate area, the District will endeavor to and exert all reasonable efforts to construct such facilities which are set forth in the Plan with bond proceeds, if such funds are available.

It is the intent of the District to construct all facilities described in the Plan, provided assurances of intent and ability to accomplish the proposed development necessitating such facilities are provided.

Such assurances may include the holding of substantial properties and assurances of financial ability to accomplish the proposed development, and where such assurances are not available, other adequate alternative assurances may include utilization of an advance deposit of funds to assure the developer intends to accomplish the proposed development.

Any deposit may be refunded to the depositor upon completion of the specified portion of the development proposed and subject to the appropriate timing and ability of the particular improvement districts to sell necessary bonds, if any, to provide funds to accomplish the necessary construction. These requirements will be set forth in an agreement to be entered into between the District and the applicant, owner, or customer.

The obligation of the District to provide water and sewer service is subject to the existence of facilities to provide such service as well as the existence of an executed Service Agreement or MNWD 1985 Sewer Project Agreement, as provided for in Sections 5 and 6 of these Rules and Regulations. The facilities to provide such service, except for those facilities required to be dedicated to the District by the applicant, owner, or customer, are contemplated to the extent herein described to be provided by the respective improvement districts of the District. Execution of a Service Agreement or MNWD 1985 Sewer Project Agreement and payment of connection charges for a particular development, subject to a change in circumstances, such as supervening lawful restrictions imposed upon or accepted by the District, such as pursuant to the Coastal Act, or imposed in the renewal or obtaining of an NPDES Permit, Waste Discharge Requirements, or Permits for Use of Recycled Water, will vest a conditional right to obtain service to the extent described in the application for the service requested. The service requested will be provided on such basis as determined by the District.

In the event that the facilities of a particular improvement district at a given point in time cannot accommodate the application or applications for water or sewer service, or both, the Board in its discretion may consider the possibility of interim use of unused or surplus capacity or the possible permanent use of facilities or capacity in facilities of other improvement districts of the District. Unused capacity is that capacity existing within an improvement district which may be necessary for future development within the improvement district, but which at present or at the time the Board considers the possibility of this use within other improvement districts is uncommitted. Surplus capacity is that capacity which exists within an improvement district which in the determination of the Board will not be necessary for any future development foreseen within the particular improvement district. Any such use of facilities of one improvement district for the benefit of other areas of the District other than within the improvement district for which such facilities were constructed shall be permitted only pursuant to an appropriate agreement executed on behalf of the particular improvement district setting forth the extent of such use and any applicable conditions. The Board in its discretion may require the prior approval of such agreement by the California Regional Water Quality Control Board - San Diego Region, or the office of the State Treasurer, or both. In determining which facilities of

an improvement district may be used for the benefit of other areas within the District, the Board shall determine that interim unused or surplus capacity exists as to the present and future needs of the particular improvement district. Any such determination shall take into consideration, but not by way of limitation, the following:

1. Existing use by the improvement districts of its facilities in which it is believed unused or surplus capacity may exist.
2. Construction of dwellings, commercial, industrial, or institutional facilities which will require service to the extent such is occurring or which is anticipated to occur prior to construction of additional facilities to replace capacity being considered as unused or surplus relative to existing needs.
3. Approved tentative tract maps within the improvement districts.
4. Approved or pending general land use plans within the improvement districts.
5. The estimated period of time needed to construct and place in operation facilities to replace the capacity being considered to be made available outside of the improvement districts for other areas within the District.
6. The assurance that all necessary permits and approvals will be obtained when needed to permit construction by the District of facilities to replace capacity being considered as surplus to present needs and any possible conditions that it is anticipated might be attached to such permits.
7. The availability of funds to meet construction costs for additional capacity to replace capacity being considered as presently unused surplus relative to the present needs of the improvement districts.

In the event that such presently unused or surplus capacity is determined to exist, subject to such conditions as the Board may determine, any such presently unused or surplus capacity may be used for the benefit of other property within the District and its improvement districts. Such use shall be for actual present users on the basis of the sequence in which applications for service are received from areas within the District. In the event service is not commenced pursuant to any such application within a reasonable period of time as specified from time to time by the Board, such applications and any permits for service issued thereunder shall terminate. In the event of such termination, the applicant, owner, or customer may submit a new application on the basis of the then-existing Rules and Regulations of

the District and shall be considered in sequence as of the date of filing any such new application.

- B. In the event that, pursuant to Section 3-A, District determines that there is presently unused or surplus capacity and such capacity is not necessary for actual present uses within the District, it may be allocated for use relative to future proposed development of property within the District. Such allocation shall be as reasonable and equitable as possible, but shall be on such basis as the District shall determine, and shall be subject to any conditions or restrictions which may be accepted by or imposed upon the District by other agencies.

By making such allocation, the District does not guarantee that capacity will be available at such time as an application for service is made, but only indicates that at the time the allocation is made capacity is presently available. It is acknowledged by the District and Applicant that subsequent occurrences may limit the ability of the District to make such capacity available at a later date.

Subsequent to such allocation the District may issue a "will-serve" letter covering property to which an allocation is made. A "will-serve" letter is a letter issued by the District indicating that at the time such letter is issued, the District has capacity to provide service to the property and development described in the letter. It is not a guarantee that such capacity will exist at the time service is actually desired.

A "will-serve" letter may be issued subject to whatever terms and conditions may be required by the District. Prior to obtaining a "will-serve" letter, the person requesting the letter may be required to comply with whatever terms and conditions the District at the time of such request deems necessary.

The "will-serve" letter may also set forth conditions under which it may be withdrawn. Such conditions may include, but not by way of limitation, that if service is not commenced within the 18-month term of an original tentative tract map approved by the County of Orange all obligations of District shall cease. Any fees to be refunded by District shall be paid to the applicant upon recordation of a mutually acceptable document specifying the nonexistence of any obligation on the part of District to provide service until further compliance with all existing or future Rules and Regulations of District. Any such refunds shall be without the payment of any interest by District. At the time an applicant requests the County of Orange to approve a 12-month extension of a tentative tract map, he shall concurrently request the District to extend its "will-serve" letter. If the County does approve the 12-month extension of the tentative tract map, the District shall make an independent finding and determination of whether to extend the "will-serve" letter.

An applicant must formally request an extension of a "will-serve" letter, and absent such a request, the "will-serve" letter will expire despite the County's extension of the tentative tract map. The finding and determination shall be based upon the applicant's showing that he has proceeded with good faith and diligence to accomplish the development of the property desired to be served. The burden of such showing shall be the applicant's.

From time to time, the District may initiate construction of additional wastewater treatment capacity for the benefit of property within the District, which is hereby designated as "future capacity." A portion or portions of such future capacity may be reserved for developers and/or property owners within the District upon such terms and conditions as the Board of Directors may, from time to time, determine to be in the best interests of the District. In such instances, the developer and/or property owner may enter into an agreement with the District whereby the District will issue a "will-serve" letter to assist the developer or property owner to process tract maps with the County of Orange. Said "will-serve" letter shall recite when construction of facilities for future capacity is anticipated to commence, as well as the approximate date of completion of such a capacity.

- C. In the event that an area outside of the District requests Moulton Niguel Water District to consider the possible existence of any presently unused or surplus capacity in its facilities, the procedure hereinabove set forth, including the deposit of funds to pursue any such review, shall be applicable. In any such instance, the criteria and procedure for any such determination shall be as hereinabove set forth, or as an amendment to the Plan of Works of the District. Such determination shall be at the sole and absolute discretion of the Board. Any such possible consideration shall take into consideration the facts, circumstances, and needs of the entire area within Moulton Niguel Water District, as opposed to merely the needs or capacities in any one or more improvement districts of the District. It is the policy of this District as an initial priority as to the use of any of its facilities to meet the present and prospective needs of the entire area within the District. The foregoing is subject to the terms and conditions of any and all applicable state and federal statutes and existing agreements previously entered into by the District or any limitations or restrictions imposed upon or accepted by the District.

#### **SECTION 4. - OPERATION OF FACILITIES**

All of the District's water and sewerage facilities, including, but not limited to, water and sewer pipelines, reservoirs, fire hydrants, manholes, pumping stations, valves, angle stops, straight stops, automatic meter-reading equipment, water meters, radio transponders,

connections, treatment facilities, and other appurtenances and property, shall be under the management and control of the General Manager. No other persons, except authorized employees of District, shall have any right to enter upon, inspect, operate, adjust, change, alter, move, or relocate any portion of the foregoing or any of the District's property. In the event that such should occur, all customers are responsible for the actions of their contractors, landscapers, plumbers, etc. All charges and penalties herein provided shall be applicable and collected. The method of collection shall be at the discretion of the District. Also, such action shall be a violation of any and all applicable statutes, ordinances, and regulations.

## **SECTION 5. - SERVICE**

The District may refuse to provide service or may discontinue or disconnect service and/or may re-bill the account, subject to the limitations applicable to a California Water District, including, but not limited to, Section 35482 of the Water Code and Sections 60370 through 60373, inclusive, of the Government Code, when there is evidence or reasonable proof that:

1. The information provided to the District in relation to an application for water and/or sewer service is false, incomplete, inaccurate, or fraudulent; or
2. The applicant has applied for service under a fictitious name or under the name of another to avoid payment of any bill, or that the applicant has requested service in his/her legal name to assist another in avoiding payment of any bill, or for any other illegal purpose; or
3. The applicant and/or other adults residing with the applicant have received the benefit of service without paying for it and are attempting to change the name on the account to avoid payment of any bill.

In the event of a re-bill, the District shall provide the customer with the reason for such re-bill, except that this provision shall in no way be interpreted or construed to permit the District to seek to recover any charges or penalties for the furnishing of water to or for the residential use of a tenant from any subsequent tenant on account of nonpayment of charges by a previous tenant. The District may, however, require that service to subsequent tenants be furnished on the account of a landlord or property owner. If the District refuses to provide service, or discontinues service for any of the reasons stated in this rule, the District shall incur no liability whatsoever to the applicant or to any other person. The District may provide the applicant with the reason for such refusal or discontinuance. Any such action, except for an emergency situation, shall be effective ten (10) consecutive calendar days after notice of the Board's decision is either personally delivered to the applicant, owner, or customer, or placed in the United States mail, postage

prepaid, addressed to the applicant, owner, or customer in the manner hereinabove specified.

In the alternative to such action, the District may establish a surcharge on the continuation of water or sewer service, or both, by the District until such time as the applicant, owner, or customer has taken action to comply with all of the hereinabove described requirements for obtaining service from the District. The amount of any such surcharge shall be established by District in its reasonable discretion. Any request to reestablish service subsequent to such termination of water or sewer service, or both, shall be in the manner prescribed for initially obtaining service from the District, which may include the collection of a security deposit. However, in addition, the District shall require that a new agreement and financial security statement conditioned upon compliance with the District's Rules and Regulations be provided in an amount, manner, and for a period of time as determined by the Board.

In an emergency situation as determined by the Board or General Manager, service may be terminated on an interim basis by the Board or General Manager for a period up to but not in excess of thirty (30) consecutive calendar days from the date of such decision by the Board or General Manager.

The foregoing provisions of these Rules and Regulations are requirements of any service agreement and any application for service therefore shall be subject to such provisions. The Board, if it deems such to be in the best interests of District, may, on an interim basis or otherwise, waive or modify any of the foregoing.

The turning-off of water for nonpayment of the monthly water and sewer billing does not automatically constitute a termination of water and sewer service.

A. Application Procedure

1. An application for water and sewer service must be made in writing, signed by the applicant, owner, and customer, if they are not one and the same. The Manager in his discretion may provide an abbreviated form of application for permits for water and sewer service for residential purposes when no unusual facts are determined in his discretion to exist. Other than specified above, the form of application shall be furnished by District and shall specify, in addition to estimated water requirements, whether the application is for the discharge into facilities of District of reclaimable or non-reclaimable sewage.
2. The decision to require a new residential applicant to deposit a sum of money prior to establishing an account and furnishing service will be based solely upon the credit worthiness of the applicant as determined by the District.



Additionally, a deposit may be required of an established customer based solely upon the credit history with the District, including, but not limited to, customers who have had water service terminated due to nonpayment of water and/or sewer charges.

The application shall set forth the applicant's full name or company name, a metes and bounds description of the property to be served or a description thereof acceptable to the District, the applicant's relationship to the property as owner, tenant, lessee, etc., the purpose for which the property is to be used, estimated usage and any special conditions for service pursuant to these Rules and Regulations, including the estimated maximum service requirements set forth in the manner as specified by District.

3. An application for service which would involve discharge of industrial or other non-domestic sewage, in addition to the information required above, shall state the estimated gallons of wastes proposed to be discharged and also state the approximate time of discharging such wastes, together with information as to peak loads, character of wastes, and such other details as the General Manager may request. The applicant shall comply with all federal and state requirements including, but not by way of limitation, all requirements of the Environmental Protection Agency, including any commitments for reimbursements required by the Environmental Protection Agency in excess of the charges of the District. These requirements are set forth in the Federal Water Pollution Control Act and the Code of Federal Regulations, which by this reference are herein incorporated as though set forth in full. The District, in its discretion may require specific prior approval of any permit by any agency or official of the State of California or the Environmental Protection Agency, or any state or federal agency having jurisdiction over or an interest in the operation of the District's facilities.
4. Upon receipt of an application, the General Manager shall review the application and make such investigation relating thereto as he deems necessary. The General Manager may prescribe requirements in writing to the applicant as to the facilities necessary to be constructed, the manner of connection, the financial requirements, and the use of service, including the availability of adequate water and sewerage facilities and grease trap, waste treatment facility, or other pretreatment, if necessary, to insure initial and future continued compliance with the District's Rules and Regulations and any other applicable requirements.

## B. Service Agreements

Service agreements for water and sewer service and any connection of service made as provided in these Rules and Regulations pursuant to receipt of an application for such service shall be subject to the following conditions:

1. Applicant shall adhere to requirements prescribed by these Rules and Regulations and to any additional requirements prescribed by the General Manager or by the Board or both, to insure compliance with the District's Rules and Regulations as to obtaining water service and as to characteristics, quality, and quantity of reclaimable and non-reclaimable sewage which District is willing to receive into its facilities.
2. Applicant shall pay the specified Plan Check and Inspection Fee, Water Connection Charge, Sewer Connection Charge, SCAF Fee, Water Service-Meter Charge, and Main Sewer Charge or Secondary Water Main Charge (if applicable), and Interim Facility Connection Charge and other charges payable prior to the issuance of a Service Agreement and MNWD 1985 Sewer Project Agreement. Application for service to any property will be granted only if all connection charges, including any SCAF Fees, water bills, service charges, charges, delinquent bills, and penalties due and charged to or against said property by the District are paid, and provided the service application was signed by the then-owner of the property. In some instances it may be necessary to condition a Service Agreement or MNWD 1985 Sewer Project Agreement on completion of construction or modification or restrictive provisions of present, needed, or contemplated agreements, permits, or actions with or by other agencies. These include, but not by way of limitation, the United States Environmental Protection Agency, the State or Regional Coastal Commission, the State or Regional Water Quality Control Board, South Coast Air Quality Maintenance District, and the County of Orange or any successor of any of the foregoing named agencies or entities. The foregoing charges are as set forth in Exhibit "B" and the respective portions thereof which, by way of a supplement to these Rules and Regulations, set forth applicable rates and charges of District. Exhibit "B" hereto and the rates and charges provided for therein are by this reference incorporated herein and may be changed by District from time to time. In such instances a revised Exhibit "B" or a portion thereof will be substituted to these Rules and Regulations.
3. By reason of circumstances beyond the control of the District, for any reason herein stated, or in order to protect the facilities of the District, or for the

protection of the public health, safety, and welfare of the residents or property owners of the District, service may be terminated in the manner provided for in these Rules and Regulations.

4. District shall not be liable for any damage by water or otherwise resulting from defective plumbing, broken or faulty services or water mains, or resulting from any conditions of the water itself, or any substance that may be mixed with or be in the water as delivered to any customer. All applicants for service connections or water service shall be required to accept such conditions of pressure and service as are provided by the distribution system at the location of the proposed service connection and to hold the District harmless from all damage arising from low pressure or high pressure conditions or from interruptions of service.
5. District shall not be liable for any damage by sewage or inadequate capacity from defective plumbing, broken or faulty laterals, sewers, or collection systems resulting from any conditions beyond the control of the District or otherwise.
6. District assumes no responsibility for the maintenance and/or operation of the customer's water system beyond the customer control valve and/or the point of ownership by District.

The District does not and will not assume any liability for damages to private property or for personal injury as a result of interruptions in water service as provided for herein.

C. Size, Location, and Installation of Service Line or Lateral

1. Water Service Line

District reserves the right to determine the size of the water service line, the water service connection, and the water meter and shall also have the right to determine the kind and size of backflow prevention devices and any and all other appurtenances to the service. The water service line shall be installed to a curb line or property line of customer's property, abutting upon a public street, highway, alley, easement, lane, or road (other than a freeway) in which is installed a water main of the District. All water service lines shall be constructed to the requirements of the District's Engineer and the District's Standard Specifications in effect at the time of plan review by the District

Engineer. All construction within the District shall meet the applicable CAL-OHSA standards.

2. Lateral Sewer and Lateral Connection

District shall determine and specify in the permit the size, location, and manner of accomplishing the installation of the lateral sewer. If a lateral sewer is installed by the applicant, owner, or customer, the lateral sewer joints shall remain exposed until they have been inspected and approved by the District. The size, slope, alignment, materials of construction of the customer's building sewer, and the method to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench shall conform to the District's Standard Specifications and the applicable Plumbing Codes enacted and enforced by the County of Orange or its successor. All construction within the District shall meet the applicable CAL-OHSA standards.

D. Limitations on Service Connections

No Service Agreement shall be entered into by the District except on the following conditions:

1. Water Service Connections

- a. Each residence or building under separate ownership must be provided with a separate water service connection and water meter. Two or more buildings under one ownership and on the same lot or parcel of land must be supplied by individual or separate water meters; except in the case of an apartment, condominium or duplex, or in the case of a building located on the rear of an inside lot, one meter may be installed to serve more than one building, subject to approval of the General Manager.
- b. District reserves the right to limit the number of buildings or the area of land under one ownership to be supplied by one water service connection and water meter. Private water systems for residential developments are prohibited for developments in which the dwelling units are owned by individuals such as single unit dwellings, condominiums, and townhouses. Private water systems are allowed at the District's discretion for commercial and industrial developments. The developer shall consult with the District prior to designing his

private water system to ascertain whether such a system for the particular development is acceptable to the District.

- c. The District generally requires a loop system design for tract, multiple residential, and commercial developments and the developer should consult with the District to ascertain if any alternative proposals are acceptable to the District.
- d. Not more than one water meter for domestic or commercial supply shall be installed for one building, except under special conditions.
- e. A water service connection and water meter shall not be used to supply adjoining property of a different owner, or to supply property of the same owner across a street or alley.
- f. When property provided with a water service connection and water meter is subdivided, such connection and meter shall be considered as serving the lot or parcel of land which it directly or first enters.
- g. All water used on any premises where a meter is installed must pass through the meter. Customers shall be held responsible and charged for all water passing through their meters. No adjustment shall be made for bills claimed to be excessive unless it is clearly shown to the satisfaction of the General Manager that such excessive charge was due to the negligence of the District or its employees. The District's decision in such matter shall be final.
- h. Every water service line installation shall be equipped with a meter shut-off valve on the inlet side of the meter, such valve being intended exclusively for the use of the District in controlling the water supply through the water service line. If the shut-off valve or any control device placed thereon is damaged by customer's use to an extent requiring replacement, such replacement shall be at the customer's expense.
- i. The District reserves the right to determine if the existing service line meets the District's current specifications for both water and sewer. The District will inspect the size of the water main, the water meter, angle stop, meter box, meter vault, backflow protection, fire protection, and so forth.

## 2. Lateral Sewer

- a. A separate and independent lateral sewer shall be provided for every building, however, the District reserves the right to allow more than one residence or building to be connected to one lateral sewer and also to limit the number of buildings or the area of land under one ownership to be connected to one lateral sewer. Private sewer systems for residential developments are prohibited for developments in which the dwelling units are owned by individuals, such as single unit dwelling units, condominiums, and townhouses. Private sewer systems are allowed at the District's discretion for commercial and industrial developments. The developer shall consult with the District prior to designing his private sewer system to ascertain whether such a system for the particular development is acceptable to the District.
- b. When property provided with a lateral sewer is subdivided, such lateral sewer shall be considered as serving the lot or parcel of land which it directly or first enters.
- c. The District reserves the right to determine if the existing system will meet the District's current specification for sewer service. The District will inspect the sewer main for capacity, an approved grease trap, and so forth.

## E. Relocating Water Service Line or Lateral Sewer

Should a water service line or lateral sewer, installed pursuant to the request of the applicant, owner or customer, be of the wrong size or at a wrong location and not in accordance with approved plans or the District's Standard Specifications, the cost of all changes required to correct the situation shall be paid by the applicant, owner, or customer.

## F. Illegal Connections

No person shall make connection to facilities of the District without a permit or except as provided in the permit issued by the District. Specifically, but not by way of limitation, as to any connection to the District's sewerage facilities, no swimming pool drains, roof downspouts, exterior foundation drains, area way drains, or other sources of surface runoff or groundwater shall be connected to a building sewer or building drain which in turn is connected directly or indirectly to a District sewer facility.

G. Meter Testing

If a meter fails to register during any period or is known to register inaccurately, the customer shall be charged with an average daily consumption at the same season shown by the reading of the meter when in use and registering accurately. Any customer may demand that the meter through which water is being furnished be examined and tested by the District for the purpose of ascertaining whether or not it is registering correctly the amount of water which is being delivered through it. Such demand shall be in writing and shall be accompanied by a deposit equal to the charge for testing such meter as established from time to time by an approved meter testing laboratory. Upon receipt of such demand and deposit, the District will have the meter examined and tested and, if upon such test the meter shall be found to register over two percent (2%) more water than actually passes through it, the meter shall be properly adjusted or another meter substituted; therefore, the deposit shall be returned and the water bill for the current month adjusted proportionately. If the meter is found to register not more than two percent (2%) over, the deposit shall be retained by the District as the expense of making the test.

H. Fire Hydrants

Fire hydrants connected to the mains of the District are provided for the sole purpose of being used to furnish water to fight fires and shall be opened and used only by persons authorized by the District. In the event that the District authorizes the use of such hydrants for purposes other than extinguishing fires, such authorization shall be granted only through the procedures and provisions contained in Section 5 of these Rules and Regulations. Rates to be charged for water extracted from such hydrant shall be in accordance with "Temporary Construction Service" schedule contained in Exhibit "B" to the Rules and Regulations.

I. Cross-Connections

Cross-connections of any type which permit a backflow of water from a supply other than that of the District into the District's mains are prohibited. The District's regulations on cross-connection control are set forth in detail in Exhibit "G" to the Rules and Regulations. A connection constituting a potential backflow hazard is permissible only to the extent approved by the District and shall be protected by an approved backflow prevention device, in accordance with the regulations listed in Exhibit "G". Such a connection shall at all times be subject to inspection and regulation by the District in accordance with Exhibit "G" hereto, for the purpose of avoiding possibility of backflow. In no instance will any such cross-connection be

permitted which is not in strict compliance with the cross-connection regulations set forth in Exhibit "G" and set forth by the State of California, Department of Public Health.

J. Quality of Sewage

1. Reclaimable Sewage

No permit shall be issued for the discharge of any of the following substances into any District sewage facility and no person shall discharge from it or cause to be discharged into any District sewage facility any of the following-described substances:

- a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- b. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewerage works.
- c. Any waters or wastes containing toxic or poisonous solids, liquids, or gasses, in sufficient quantity, either singly or by interaction with other waste, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.
- d. Any noxious or malodorous gas or substance capable of creating a public nuisance.
- e. Any waters or wastes having a temperature higher than 85 degrees F.
- f. Any waters or wastes containing more than 0.5 parts per million of dissolved sulfides.
- g. Any waters or wastes having a pH lower than 6.5 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the District.



- h. Any waters or wastes containing more than two hundred parts per million, by weight, of fat, oil, or grease.
- i. Any garbage which is not shredded so that all particles are less than one-half inch in any dimension.
- j. Any suspended solids of such character and quantity that unusual attention or expense is required to handle such materials in trunk sewers or at the sewage treatment plant.
- k. Any brine waste from any regenerating water softener units in the District shall comply with requirements outlined in California Health and Safety Code Section 116775-116795, in accordance with applicable local building codes.
- l. Any wastes containing compounds which are not removable by District's facilities for reclaimable sewage consistent with the requirement established from time to time by the California Regional Water Quality Control Board - San Diego Region, or any other state or federal agency which may establish discharge requirements for the District.
- m. From any restaurant or food preparation establishment unless a District-approved grease trap is approved.

K. Quantity of Sewage

District hereby establishes the quantity of 7,500 cubic feet of domestic sewage or permissible industrial waste per month per acre of territory served as the maximum allowable effluent to be discharged into the District's sewerage facilities without the payment of surcharges. Each user discharging more than 7,500 cubic feet of sewage or industrial waste per month per acre shall be charged a surcharge of \$.06 per 1,000 cubic feet of any portion of 1,000 cubic feet in excess of the 7,500 cubic feet maximum. Measurements may be required of the user, or the user's effluent may be considered equivalent to the water (except irrigation water) purchased by the user.

L. Special Quality or Quantity Agreements

The Manager may require Special Quality or Quantity Agreements in those instances where a proposed discharge may have a deleterious effect or cause an additional

load upon any works, processes, or equipment of the District or the receiving waters, or if such discharge, either individually or in conjunction with other discharges, either presently or in the future, may either interfere with the accomplishment of the Plan, create a hazard or a public nuisance, or increase the cost of meeting applicable discharge requirements, or preclude the District from meeting its discharge requirements, or any other applicable state or federal requirements. In the alternative, the Manager may:

1. Reject the wastes and shut-off water supply ten (10) days after written notice and hearing by the Board of Directors;
2. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Require control over the quantities and rates of discharge notwithstanding the conditions of paragraph K; and/or
4. Require payment to cover the added cost of handling and treating the wastes not covered by existing sewer connection charge. If the Manager permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be reviewed and approved by the Manager.

M. Responsibility for Maintenance

The applicant, owner, or customer is responsible for maintenance of the lateral sewer. Any lateral sewer shall be cleared and cleaned by the applicant, owner, or customer at his own expense. Any main or trunk sewer will be repaired or reconstructed by the District at the cost of the District unless the situation necessitating such repair or reconstruction is the result of abnormal use or damage to such facilities, in which case such repair or reconstruction will be done at the expense of the person responsible for such abnormal use or damage.

N. Water Conservation

Consistent with its legal responsibilities to seek to utilize the water resources of the State of California for the fullest possible reasonable, beneficial use, thereby avoiding waste or unreasonable use of the natural resources of the State of California and the District, the following conditions precedent to any obligation of the District to provide water or sewer service are established effective January 1, 1977, as to any application for water or sewer service not complete as of said date.

Additionally, said requirements shall be applicable in any instance as to applications completed prior to such date where such are agreed to by the applicant.

1. No water shall be provided by the District for internal or external use to any residential, commercial, industrial, agricultural, recreational, governmental, or public building or structure of any kind which is constructed or altered and in which either internal or external irrigation or domestic water piping or water fixtures are to be installed, extended, or altered in any way, including, but not limited to, any plumbing, water piping, or water fixtures for which a construction permit is required to be obtained from the County of Orange or its successor, or for which District approval of plans and service applications are required, unless the new, extended, or altered plumbing, water piping, or other water using facilities conform to the requirements and standards of paragraph 2 of this section of the Rules and Regulations.
2. The required water conservation devices and standards of the District are those set forth on Exhibit "F" to these Rules and Regulations. Nothing herein provided shall be deemed to relieve any person from compliance with the plumbing code of the County of Orange or any other state or local plumbing or building requirements.
3. Pursuant to Sections 375, et.seq. and 1009 of the Water Code of the State of California, the District is authorized to establish a water conservation program. Under this program, certain water uses are restricted or prohibited.

For the purposes of the following subparagraphs, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory:

- (1) "District" is Moulton Niguel Water District.
- (2) "Person" is any individual, firm, partnership, association, company, or organization of any kind.
- (3) "Water" is water supplied by the District.

Upon declaration of the District's water supplier that a drought condition exists, the following water use restrictions shall apply to all use of water, other

than recycled water, for as long as that drought condition exists. The provisions of these water use restrictions shall apply to all persons using water in the District, regardless of whether any person using water shall have a contract for water service.

- a. No person shall cause or permit any water furnished to any property within the District to run or to escape from any hose, pipe, valve, faucet, sprinkler, or irrigation device into any gutter or otherwise to escape from the property if such running or escaping can reasonably be prevented.
- b. No person shall use any water furnished to any property within the District to wash sidewalks, driveways, parking areas, patios, or other paved areas, except to alleviate immediate fire or sanitation hazards.
- c. Washing of autos, trucks, trailers, boats, airplanes, and other types of mobile equipment shall be done only with a bucket and a hose with a shut-off nozzle for quick rinses. Commercial car washes are exempt. Further, such washings are exempt from these regulations where the health, safety, and welfare of the public is contingent upon frequent vehicle cleaning, such as garbage trucks and vehicles used to transport food and perishables.
- d. Water shall not be used to clean, fill, or maintain levels in decorative fountains unless a recycling system is used.
- e. No person shall permit leaks of water which he or she has the authority to eliminate.
- f. Restaurants within the District shall only serve water to customers upon request.
- g. No person shall cause or permit water under his or her control to be wasted.
- h. Property owners within the District who are installing new landscaping or re-landscaping existing properties are encouraged to utilize drought-tolerant plants to assist in decreasing demands on irrigation water.
- i. Property owners who have a swimming pool or a spa are encouraged to cover said facilities to minimize water loss due to evaporation.

4. Exemption Procedure

Any person may apply to the General Manager for an exemption to the terms of these regulations, which exemption may be granted at the discretion of the General Manager upon a determination that such exemption is consistent with the purposes of this Section N of these Rules and Regulations as to other applicants and is in the best interests of the District. This may include facts substantiating that other devices, systems, or procedures set forth herein cannot be reasonably accomplished.

Persons may be exempted from application of these restrictions to a certain type of use if the General Manager of the District or his designee issues a permit allowing such use and if such permit issuance is based on a finding that enforcement of the applicable restriction would either: (1) cause an unnecessary and undue hardship to the applicant or the public; or (2) would cause or threaten an emergency condition affecting the health, sanitation, fire protection, or safety of the applicant or the public. The General Manager of the District or his designees may require the use of such water conservation devices or practices as he deems appropriate as a condition of the exemption permit. He shall promulgate a list of approved devices.

5. Violations Enforcement

Prior to enforcement of any of the restrictions set forth in this section, any person who is suspected of violating the restrictions imposed by these Rules and Regulations shall be given a preliminary notice. The notice shall be delivered by Certified mail, and shall include a statement of the possible penalties for violation and a statement informing the customer of his right to a hearing on the merits of the violation. Such person shall have seven days from date of receipt to correct such violation, or terminate the use. If the violation is not corrected or the use terminated, the General Manager of the District or his designee shall give a second notice of the violation in the manner set forth above. If the violation continues after the second notice of violation, the General Manager or his designees may forthwith either (a) disconnect service; (b) install flow-restricting devices restricting water service; (c) assess a monetary billing surcharge of \$200 per occurrence for failure to correct the violation. Service disconnected or restricted pursuant to (a), (b), or (c) shall be restored only upon payment of the turn-on and other charges fixed by the Board of Directors as provided in the Rules and Regulations of the District. Any other sanctions which the District is presently authorized to

impose or which the District may at some future time be authorized to impose may be imposed to enforce this water conservation program.

6. Hearing Procedure

- a. Any customer receiving notice of a second or subsequent violation shall have a right to a hearing by the General Manager or his designees provided that a written request for hearing is filed within fifteen days from the date of the notice of violation and the customer deposits with the District a sum equal to any billed surcharge and pays all other outstanding water charges.
- b. The customer's timely written request for a hearing shall automatically stay installation of a flow-restricting device on the customer's premises until a decision is rendered.
- c. If it is determined that a monetary surcharge was wrongly assessed, the District will refund any money deposited to the customer.
- d. The decision of the General Manager or his designee shall be provided in a written notification to the customer. The Drought Appeal Board (comprised of the General Manager and his designees, members of the Board of Directors, or members of the community designated by the District) shall provide the customer an opportunity to present his position within forty-five (45) days following receipt of the customer's written request for reconsideration.

**SECTION 6. - SUPPLEMENTAL FACILITIES**

From time to time the District may by adoption of a resolution include in the Master Plan either water or sewer facilities not included in a Plan of Works, herein referred to as the "Plan," of one or more improvement districts or facilities otherwise provided for as part of the facilities of the District. The resolution shall designate the particular project by name, set forth the estimated cost, service capability, and by attached map or other means, designate the areas and/or ownership as well as the residential units or the equivalent thereof proposed to be served. Also, such service area may be described on maps or reports incorporated by reference into such resolution, or may be depicted on exhibits attached to such resolution. Additionally, the resolution may describe or incorporate as an exhibit a proposed project agreement for the financing thereof. Such agreement may set forth any service entitlements which may be conditional or unconditional as determined by the District in its sole discretion. The resolution may also establish an account for such project in the

SCAF of the District. The project agreement may provide for a service entitlement subject to or not subject to completion of construction of any facilities to be constructed or the obtaining of various permits therefore, absent commencement of construction at the point when the agreement is executed or thereafter. However, the project agreement must set forth provisions for the funds or source of funds, including, but not by way of limitation, the issuance and sale of bonds if bonds are to fund the facilities in whole or in part, and letters of credit to be increased to equate to a loss of interest earned if a letter of credit is used and funds are not deposited to offset increased costs in the project being constructed at a later date by reason of inflation. The purpose of this provisions is to reasonably assure the District that it will have funds available at the proper point in time to construct the proposed facilities. The project agreement shall set forth the amount of any SCAF Fees for participants or non-participants who elect to seek service by means of such facility subsequent to their construction and the execution of the project agreement.

## **SECTION 7. - CONSTRUCTION OF WATER DISTRIBUTION AND SEWER COLLECTION SYSTEM FACILITIES**

Any water distribution system or sewer collection system facilities, to the extent determined by District required to serve within developments of the property within District, shall be provided by the applicant, owner, or customer at his expense. The specific requirements therefore are set forth in one publication of the District entitled: "Standard Specifications for the Construction of Water and Sewer Facilities," dated March 1987, which document is herein incorporated and which may be changed by the District from time to time. This shall include all sites and rights-of-way acceptable to District and adequate protection as determined by the Board to protect the District against the possible future cost of relocating or reconstructing such facilities by reason of future public or private improvements, including grading and the alteration of drainage or discharge of surface, ground, or flood waters. Such facilities shall include all of the water and sewer facilities necessary within the property lines of any parcel for which an application is submitted to District for service.

Where lands outside of an area described in the application for service are susceptible to service from facilities common to those required for the property described in the application for service submitted to District, District may require the construction of water distribution and sewer collection systems, or other facilities, including, but not by way of limitation, reservoirs, fire hydrants, pumping facilities, and treatment capacity, either within the area, larger than the size determined by District to be required for providing adequate service to the property described in the application submitted to District for service. Such facilities shall be constructed by the District or by direct contract with the applicant, owner, or customer for reimbursement on a pro rata basis for the difference between the cost of the facilities that the developer is required to provide adequate service to the property described in the application for service submitted to District in the manner herein provided.

The terms, extent, and provisions of such reimbursement agreement shall be determined from time to time by District in its discretion. In no event shall interest be paid on any such amounts. The period of time in which reimbursement will be made will be determined by District depending upon the amount necessary to be advanced by an applicant, owner, or customer in addition to other normal charges, the probability of receipt of payment, and of the then-anticipated course of development of the particular portion of District in which the facilities are proposed to be constructed. The amount so advanced for facilities available to lands outside the area described in the application for service shall be taken into account when development occurs for which such facilities are constructed, and District reserves the right to impose and charge additional connection charges, initial charges, and costs if necessary to cause equitable reimbursement in any such instances.

Plans and specifications for facilities included within such plans for water distribution and sewer collection systems shall be approved by District in advance of construction.

If for any reason the District deems it necessary to delay or stop work on any water or sewer facilities to be installed or constructed, a stop order shall be issued by the General Manager and delivered to the representative of the applicant on the job. Work shall cease in an orderly manner with proper safety measures and protection for materials, equipment, property, and other phases of the job. Work shall not be resumed until issuance of another proceed order. Time of connection to the District's water or sewer facilities shall be determined by the General Manager or the Board of Directors as the case may be. Such decision shall not be the basis of or concern for direct, indirect, consequential, or other damage by reason of any such action, but may be appealed to the Board for review.

The Assistant General Manager or such persons designated by the Assistant General Manager or the General Manager shall accept water, sewer, and other facilities for the District after proper design, approval, construction, inspection, and compliance with all requirements of the District's Rules and Regulations and Specifications, including acquisition of sites and rights-of-way as hereinabove provided. Upon such acceptance, all such facilities and appurtenances become the property of the District. If the District requests, the applicant, owner, or customer shall execute a Bill of Sale or other satisfactory conveyance of the facilities to the District including, where proper, lien releases, the terms of which may include, but not by way of limitation, an agreement that the applicant, owner, or customer shall and does hold the District harmless from all liens, claims, or stop notices that may be filed in regard to the construction, and guarantees the workmanship and materials of the facilities for a period of one (1) year from their acceptance by the District. In proper instances, a longer guarantee period may be required.



District will assume responsibility for providing water and sewer service to individual lots within such development upon transfer to District of title to all facilities in the required water distribution and sewer collection system and any necessary easements therefore which shall be in a form acceptable to District and not subject to outstanding obligations to relocate such facilities or any deeds of trust except in instances where such is determined by the Board or the General Manager to be in the best interests of District.

## **SECTION 8. - CONNECTION CHARGES**

Connection charges shall be applicable to all property to be served. Where a final residential tract map was recorded prior to July 1, 1973, an exemption may be considered by the Board upon recommendation of the General Manager, provided an application for service and fees were received by such date and improvement plans for all facilities to provide service thereto were approved prior to that date and have not been subsequently revised. Connection charges shall be as established from time to time by the Board and set forth in Exhibit "B" to these Rules and Regulations. As previously stated, Exhibit "B" by reference is incorporated as part of these Rules and Regulations. Such property to be served shall be legally described in the application for service as a separate parcel.

If subsequent to the issuance of the initial permit there is a change in the use of the property, or if the use of the property results in use of the property or improvements thereon in excess of the land utilization specified in the application or permit and such determination places the use of the property or improvements thereon in excess of the land utilization specified in the application or permit, and such determination places the property by the applicant, owner, or customer in a different class or at a higher rate as far as fee capacity charges and other charges of District as they exist at this time or as they exist at the time of any such determination by District, then an additional amount shall be paid to District as far as water connection charges and sewer connection charges. These additional charges shall be computed on the basis of the resulting increased land utilization and the then-applicable charges of District. Such computation shall be made on an average annual basis as far as use of the facilities. Determination by District in this regard shall be made by the General Manager. Such additional amount shall be payable on the effective date of such decision and shall be delinquent thirty (30) consecutive calendar days thereafter.

Any delinquent amount shall be the responsibility of all persons, entities, or concerns who are the applicant, owner, or customer, or any successor thereof who signed the application for service. Any such amount may be recovered directly from any of the foregoing by means of proceedings initiated in the proper Municipal or Superior Court of the State of California. In addition to recovering such amount by means of judicial determination or proceeding, District may, to the extent now or subsequently permitted by law, cause such amounts to be collected by the County Tax Collector, together with any general or special

taxes or similar charges on the property to which this service has been provided and as described in the appropriate application for service.

In either event, the applicant, owner, or customer and all persons signing the application shall be liable, in addition to such amounts, individually and collectively for all costs incurred in collecting such additional amounts to District, as determined in the manner herein provided, including a reasonable amount for attorneys' fees. Also, District may, in its discretion, terminate sewer or sewer and water service in the manner provided for in these Rules and Regulations if such amounts are not paid on the dates and in the manner herein provided.

## **SECTION 9. - WATER METER AND LATERAL SEWER CHARGES**

### A. Water Meter Charge

#### 1. New Meter Only

Applicants, owners and customers are responsible for all costs associated with the installation of new water service lines and new water meters to provide water service to the customer. If meters and related component packages will be furnished by District to an applicant, owner or customer, at such person/entity's option, a meter charge to cover such costs, in addition to all other usual and regular charges of District, including the water connection charge, must be paid by applicant, owner, or customer before the water meter will be furnished. Current meter charges are set forth in Exhibit B hereto. Upon District acceptance of the installation and such facilities, operation, maintenance, and replacement of the water service line and meter become the responsibility of the District and are the property of the District.

2. Whenever an installation is required by an applicant that is not covered by the schedule of charges, which are established from time to time by the Board and published as Exhibit "B" to these Rules and Regulations, such work will be done with charges based upon an estimate of costs made by District.

#### 3. Temporary Service Connection

A temporary service connection may be installed for use over a period of time not exceeding six (6) months. For each such connection, an application shall be filed in accordance with the provisions of Section V of these Rules and Regulations. Rates to be charged for water used from such connection shall

be in accordance with "Temporary Construction Service" schedule contained in Exhibit "B".

B. Lateral Sewer Charge

1. Inspection Charge

Whenever a lateral connection is required by a customer for sewer service, where this lateral has not previously been constructed as described in these Rules and Regulations, the customer shall be required to pay an inspection charge as set forth in Exhibit "B" hereto. Service will be granted only where adequate facilities have been installed adjacent to the applicant's property line.

2. Re-inspection Charge

Inspections for approval, for release, and for use of the water and sewer facilities are performed by the District. There will be a supplemental charge as set forth in Exhibit "B" for each additional inspection required due to failure of the applicant, owner, or customer to have the facilities ready for the requested inspection.

**SECTION 10. - SECURITY DEPOSIT**

As a rule, District may require of an applicant, owner, or customer a security deposit if deemed necessary by reason of estimated future water billings, or if there is an instance or instances of monthly delinquency. Should service be disconnected three times in a year, or it is necessary for a meter to be removed as a means of disconnection due to previous vandalism to District property, a deposit will be required to reconnect service. Such amount shall be not less than the estimated cost of water and sewer service for two-times the highest bill in the prior twelve (12) months or such other amount as determined by the General Manager or Board. Deposits may be returned after one (1) year at the request of the applicant, owner, or customer, providing that all bills rendered during the succeeding twelve (12) month period have been paid within fifteen (15) days of presentation. Otherwise, the deposit will be returned on termination of service and payment of the final utility bill.

**SECTION 11. - SERVICE CHARGES**

A. Establishment of Rates

Rates to be charged and collected and terms, provisions, and conditions to be effective respecting such rates for water and sewer service supplied by District to customers within District shall be as fixed and established by the Board from time to time and published in a separate supplement hereto, which charges shall have no effect on any existing or subsequent reimbursement agreements. This provision is in addition to and not by way of derogation of any other remedies or procedures available to District pursuant to any law or regulation or by any of the provisions of these Rules and Regulations.

B. Change of Service Charge

The Board reserves the right to change the schedule of water and sewer service charges and other charges at any time, or from time to time.

C. Service Charge Billing

Water and sewer service charges will be rendered as part of the District Water Service Bill at intervals of one month or multiples thereof.

D. Metering

For purposes of computing charges, each meter upon the customer's premises will be considered separately, and readings of two or more meters will not be combined as equivalent to measurement through one meter.

E. Time and Manner of Payment of Bills

1. All bills and charges for water and sewer service hereunder shall be due and payable upon presentation and shall become delinquent thirty (30) days thereafter. Such bills and charges shall be deemed to have been presented upon having been deposited in the United States mail, postage paid, addressed to the applicant, owner, or customer reflected in the records of District. Additionally, the next month's bill will reflect current charges as well as any past due charges.
2. If payment is not made within thirty (30) days after presentation, the water service may be discontinued without further notice and water shall not again be supplied until all delinquent bills, plus a reconnect fee to be determined by the District, have been paid to cover turn-on and turn-off costs. Payment shall be made in person, by mail, or by credit card.

3. Discontinuance of service by reason of a delinquent bill shall not automatically constitute a revocation of permit. However, such delinquency may be considered as sufficient reason for revocation of permit in accordance with the provision of Section 5 of these Rules and Regulations.
4. Should a check for service be returned from the bank for any reason, the customer of record will be notified and a fee, determined by the District, will be charged against the account(s) to which the check has been credited.
5. Customers with two returned checks within a twelve-month period, will be notified that future charges will not be allowed to be paid by check. Payments by cash, money order or credit card will be required. This cash-only basis will be enforced until the customer establishes a twelve-month period of on-time payments.
6. Customers that present an invalid check to avoid disconnection (after a tag or seal), will be subject to immediate disconnection of service.
7. A charge in an amount to be determined by the District shall be imposed for any damage to facilities (i.e., equipment, lock, ears to the meter, etc.).

## **SECTION 12. - INSPECTION**

The General Manager or his authorized representative shall have the right to enter upon the customer's premises during reasonable hours for the purpose of inspecting the customer's water or sewer system and to insure compliance with these Rules and Regulations, including the provision that all cross-connections be properly protected.

## **SECTION 13. - SEVERABILITY**

If any section, subsection, sentence, clause, or phrase of these Rules and Regulations is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining portions of these Rules and Regulations. The Board declares that it would have passed said Rules and Regulations by section, subsection, sentence, clause, or phrase thereof.

## **SECTION 14. - PENALTIES**

Any person, firm, corporation, association, or agency found to be violating any provision of these Rules and Regulations shall be served by District with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof.

The offender shall, within the period of time stated in such notice, permanently cease all violations. This provision is in addition to, and not by way of derogation, of any other remedies or procedures available to District by law, regulation, or pursuant to any of the provisions of these Rules and Regulations.

EXHIBIT "B" TO THE RULES AND REGULATIONS  
OF THE MOULTON NIGUEL WATER DISTRICT  
FOR WATER AND SEWER SERVICE

**SCHEDULE OF RATES AND CHARGES**

**SECTION 101 - WATER SERVICE**

A. GENERAL

The rates and charges herein provided for and established by the District may be amended from time to time as determined by the District.

B. WATER AND SEWER CONNECTION CHARGES

The total domestic and commercial connection charges itemized in the following paragraphs are allocated to the improvement district in which the property to which the charges are made is located.

1. Residential Developments

The water and sewer connection charge for residential developments to be connected to the District's facilities shall be computed on the basis of a charge per dwelling unit per gross acre as described on the development plan proposed to be served. In mobile home parks, each trailer or mobile home accommodation shall be considered as a single dwelling unit. Gross acres shall include all streets, easements, greenbelts, parks, or similar areas within a parcel map or tentative or final subdivision map in which the property to receive the requested service is located.

The connection charge for all improvement districts, with the exception of Improvement Districts 1 and 1A, is \$1200 per dwelling unit (du) for the first five du's per acre, \$1000 per dwelling unit for the next five du's per acre, \$800 per dwelling unit for the next five du's per acre, and \$600 per dwelling unit for all du's over 15 du's per acre. The connection charge for Improvement Districts 1 and 1A is \$1400 per dwelling unit for the first five du's per acre, \$1200 per dwelling unit for the next five du's per acre, \$1000 per dwelling unit for the next five du's per acre, and \$800 per dwelling unit for all du's over 15 du's per acre.

Fees for the residential development are required to be paid prior to the District's final approval of the improvement plans. At the option of the property owner or developer, fees may be paid in advance. The advance payment may be based upon a parcel, tentative, or final subdivision map. Fees paid in advance will not be refundable or transferable unless special conditions are agreed to by the District.

If the number of dwelling units in a tract for which the fees are prepaid decreases, there will be no refund. If the number of dwelling units increases, an additional fee will be assessed for the additional dwelling units based upon the fee schedule then in effect.

## 2. Commercial or Industrial Developments

The water and sewer connection charge for commercial or industrial developments to be connected to the District's facilities shall be computed on the basis of a charge per gross acre as defined in paragraph "A" above, or alternatively, on the basis of a charge per gross square feet of the building area. The gross square footage shall include all stairwells, elevators, hallways, and any integral or detached appurtenant structure. For the purpose of the regulations, schools, churches, parks, playgrounds, public or private recreational facilities, clubs, institutions (such as hospitals, colleges, and prisons), hotels, motels, heliports, libraries, public utilities, and other public buildings shall be considered to be commercial establishments. Commercial or industrial buildings constructed in any development which have not paid a water and sewer connection charge on a gross acreage basis shall have the connection charge computed on the basis of the gross square footage of the building.

The connection charge for all improvement districts with the exception of Improvement Districts 1 and 1A is \$6,000 per gross acre, or alternatively, \$340 per one thousand square feet of building area, with a minimum charge per building of \$1,000. The connection charge for Improvement Districts 1 and 1A is \$6,200 per gross acre, or alternatively, \$400 per one thousand square feet of building area, with a minimum charge per building of \$1,200. A surcharge to be determined by the Board of Directors will be added to compensate for high volume water or sewer loadings or unusual conditions.



3. Connection Charge Summary

Set forth in tabular form are the total of the connection charges due under paragraph "B".

**TOTAL CONNECTION CHARGES**

Residential

<u>I.D. 1 and 1A</u>	<u>All Other I.D.'s</u>
\$1,400/du for first 5 du/acre	\$1,200/du for first 5 du/acre
\$1,200/du for second 5 du/acre	\$1,000/du for second 5 du/acre
\$1,000/du for third 5 du/acre	\$800/du for third 5 du/acre
\$800/du for all additional du's over 15 du/acre	\$600/du for all additional du's over 15 du/acre

Commercial & Industrial

\$6,200/acre or \$400/1000 sq. ft. of building with a minimum charge of \$1,200/bldg., whichever is less	\$6,000/acre or \$340/1000 sq. ft. of building with a minimum charge of \$1,000/bldg., whichever is less
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4. Interpretation of Capacity Charges

If the factual situations presented in an application by an applicant, owner, or customer do not precisely fall within the rules herein promulgated, the General Manager shall interpret them in a reasonable manner. In making such interpretations, the General Manager shall be guided by the policy of the District hereinabove set forth. In the event that an applicant, owner, or customer does not concur in the determination of the General Manager, he may request that such be considered by the Board.

5. Connection Charge Refunds

Connection charges may be refunded if use does not occur as herein specified or at the sole and absolute discretion of the Board of Directors upon

the request of the developer, except for charges paid in advance pursuant to Section 101, Paragraph B-1 of this Exhibit. This refund may be refunded less an amount for administrative costs equal to five percent (5%) of the connection charge, up to a maximum of \$1,000, unless actual costs are in excess thereof, in which case actual costs will be deducted.

The refund requires the voiding of the District's "will serve" letter. Prior to payment of the refund by the District, the applicant will be required to provide evidence that notice was submitted to the County of Orange or its successor and the Real Estate Commissioner of the State of California that the Real Estate Report provision relative to water and sewer service is no longer valid, and to submit to the District a copy of the Real Estate Commission's acknowledgment to the change. Any desire for future service for the subject property will require the initiation of new submittal and request for service.

C. WATER METER CHARGE AND MISCELLANEOUS CHARGES

1. New Water Meter Charge - Provision of Meter by District

Applicants, owners and customers are responsible for all costs associated with the installation of new water service lines and new water meters to provide water service to the customer. Upon acceptance of the installation, operation, maintenance, and replacement of the water service line and meter become the responsibility of the District and are the property of the District. As an option, the District provides meter packages, along with individual meter components, that meet the District's specifications for purchase from the District for new meter installations. The charges for the meter package, and individual meter components, shall be as set forth in the following table:

## Water Meter and Component Charges

	<sup>3</sup> / <sub>4</sub> " Domestic Meter	1" Domestic Meter	1 1/2" Domestic Meter	2" Domestic Meter	1 1/2" Irrigation Meter	2" Irrigation Meter
<b>Complete Package</b>	\$193.18	\$304.53	\$1,448.13	\$1,712.72	\$1,095.51	\$1,330.57
<b>Individual Components</b>						
Gaskets (2)	\$0.23	\$0.28	\$0.98	\$1.67	\$0.98	\$1.67
Nuts & Bolts (4)	N/A	N/A	NUTS \$1.62 ea	NUTS \$2.59 ea	NUTS \$1.62 ea	NUTS \$2.59 ea
			BOLTS \$2.87 ea	BOLTS \$2.91 ea	BOLTS \$2.87 ea	BOLTS \$2.91 ea
			\$4.49	\$5.50	\$4.49	\$5.50
			<b>\$4.49 X 4 = \$17.96</b>	<b>\$5.50 X 4 = \$22.00</b>	<b>\$4.49 X 4 = \$17.96</b>	<b>\$5.50 X 4 = \$22.00</b>
Concrete Box	\$14.31	\$14.31	\$79.39	\$79.39	\$79.39	\$79.39
Polymer Lid	\$27.28	\$27.28	\$51.72	\$51.72	\$51.72	\$51.72
Box & Lid	\$41.59	\$41.59	\$131.11	\$131.11	\$131.11	\$131.11
Diamond Plate Cast Iron Lid	\$89.02	\$89.02	\$83.00	\$83.00	\$83.00	\$83.00
Touchread/Pit Lid (TR/PL)	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00
Ball Valve	\$20.50	\$98.91	\$166.00	\$254.00	\$166.00	\$254.00
Meter Only	\$115.86	\$148.75	\$1,117.08	\$1,288.94	\$764.46	\$906.79

### 2. Tag Fee

The Tag Fee, determined by the District, will be charged whenever the District provides a "disconnect notice" to customers.

3. Work Performed by District Forces

Whenever a repair or construction is required by an applicant that is not covered by the above-referenced table of charges, such work will be done with charges based upon an estimate of costs made by the District.

Whenever water service lines, meters, fire hydrants, or other appurtenances are requested or required to be relocated for an applicant for any reason whatsoever, the charges shall be made on the basis of an estimate of costs by the District.

Whenever the District is required on an emergency basis to repair or construct any District facility for an applicant, or due to an applicant's damage to said facility, the District shall attempt to advise the applicant in advance of the necessity for the repair. If the applicant is not available, the District will proceed with such work as required to correct any emergency situation and the charges will be based upon the costs incurred by the District.

D. SERVICE CHARGES AND WATER CHARGES

Rates to be charged and collected, and terms, provisions, and conditions to be effective respecting such rates for water and sewer service and water delivered by the District to consumers for use within the boundaries of the District are hereby fixed and established as follows:

1. Schedule 1 - General Metered Service - Residential

- a. Water Service Charge: A monthly charge shall be collected from each customer having a service connection to the water system.

**Monthly Service Charge**

<u>Meter Size</u>	<u>As of 7/1/11 Basic Water Charge</u>
5/8", 3/4", 1"	\$ 10.36
1 1/2"	34.53
2"	55.25
3"	120.87
4"	207.20
6"	431.67
8"	621.60
10"	1,001.47

Partial Billing Period Charges - A water service charge for partial billings (first bill and closing bill only) will be made according to the following schedule:

<u>Initial Bill</u>	<u>Closing Bill</u>
Number of days multiplied by daily rate	0-4 days - no charge 5+ days - number of days multiplied by daily rate

- b. Water Use Charge: The following rates are to be collected for all water used by general metered services.

Monthly Quantity Charge - All quantities of water delivered by the District shall be charged on the basis of billing units in accordance with the following rate schedule. One Billing Unit (BU) is 100 cubic feet of water, which equals 748 gallons.

### **Residential & Multi-Family Water Rates**

<u>*Consumption Tiers</u>	<u>As of 7/1/11 Water Rate Per Billing Unit</u>
Conservation	\$ 1.38
Efficient	1.54
Inefficient	2.75
Excessive	5.51
Wasteful	11.02

#### **\*Residential and Multi-Family:**

**Conservation (Tier 1):** Based on the number of people in household, within indoor water budget.

**Efficient (Tier 2):** Based on the total irrigated landscaped area for property, within outdoor water budget.

**Inefficient (Tier 3):** Based on the amount of water exceeding the sum of Tiers 1 and 2 up to 125% of the sum of Tiers 1 and 2.

**Excessive (Tier 4):** Based on the amount of water exceeding the sum of Tiers 1, 2 and 3 up to 150% of the sum of Tiers 1 and 2.

**Wasteful (Tier 5):** Based on exceeding your total water budget by up to 150%.

2. Schedule 2 – Multiple, Apartment and Commercial Service

- a. Water Service Charge: A bimonthly charge shall be collected from each customer having a service connection to the water system. The basic service charge is determined by the meter size.

**Bimonthly Service Charge**

<u>Meter Size</u>	<u>As of 7/1/11 Basic Water Charge</u>
5/8", 3/4", 1"	\$ 20.72
1 1/2"	69.06
2"	110.50
3"	241.74
4"	414.40
6"	863.34
8"	1,243.20
10"	2,002.94

- b. Water Use Charge: The rates to be collected for all water used by apartment, multiple units, public, commercial or industrial metered services are as follows:

**COMMERCIAL WATER RATES**

*Consumption Tiers	Description	Beginning 07/01/11 (per BU)
Conservation	Base (first 20 B.U.)	\$1.38
Efficient	Water Budget	\$1.54
Inefficient		\$2.75
Excessive		\$5.51
Wasteful		\$11.02

## COMMERCIAL/IRRIGATION WATER RATES

*Consumption Tiers	Description	Beginning 07/01/11 (per BU)
Conservation	Base (first 20 B.U.)	\$1.54
Efficient	Water Budget	\$1.54
Inefficient		\$2.75
Excessive		\$5.51
Wasteful		\$11.02

### \* Commercial/Irrigation/Recycled Water:

**Conservation (Tier 1):** Based on the first 20 BUs.

**Efficient (Tier 2):** Based on the remainder of water budget.

**Inefficient (Tier 3):** Based on the amount of water exceeding the sum of Tiers 1 and 2 up to 110% of the sum of Tiers 1 and 2.

**Excessive (Tier 4):** Based on the amount of water exceeding the sum of Tiers 1, 2 and 3 up to 120% of the sum of Tiers 1 and 2.

**Wasteful (Tier 5):** Based on exceeding your total water budget by up to 150%.

### ALLOCATION FOR WATER BUDGET CONSUMPTION CHARGES

Allocation includes fixed component for indoor usage and variable component for landscape irrigation.

Account Type	Base Allocation Numbers of Residents	Landscape Area (LA)	Base Allocation Indoor	Base Allocation Outdoor	Total Allocation
Residential Detached	4	Actual acreage	# Residents x 65 gpd	ET x PF/0.8 x 0.62 x LA	(Indoor + Outdoor) x # days in bill service period
Residential Attached*	3	300	# Residents x 65 gpd	ET x PF/0.8 x 0.62 x LA	(Indoor + Outdoor) x # days in bill service period
Apartments*	2	N/A	# Residents x 65 gpd	N/A	(Indoor) x # days in bill service period

<b>Commercial</b>	N/A	Actual acreage	Site specific: based on 3 years rolling monthly average (based on actual account usage, averaged for the same month(s) back 3 years)	$ET \times PF/0.8 \times 0.62 \times LA$	(20 BUs + Site specific + Outdoor) x # days in bill service period
<b>Irrigation, Recycled</b>	N/A	Actual acreage	N/A	$ET \times PF/0.8 \times 0.62 \times LA$	(20 BUs + Outdoor) x # days in bill service period
<b>Institutional** Irrigation/Recycled</b>	NA	Actual acreage	N/A	$ET \times PF/1.0 \times 0.62 \times LA$	(20 BUs + Outdoor) x # days in bill service period

\*For master-metered apartments and condominiums, the base allocation is multiplied by the number of dwelling units.

\*\*Institutional= acreage owned by public agency where significant public use (i.e. turf, playing field, park areas; but excluding (i.e.) slopes, median strips)

gpd = gallons per day

BU = billing unit = 748 gallons

LA = landscape acreage. Assumes that 100% of the landscape is cool-season turf-grass

ET (evapotranspiration) = from MNWD weather stations located in microclimate zones

PF (plant factor)/0.8 = amount of irrigation water for cool-season turf needs at various times of the year

PF/1.0 = amount of irrigation water for cool-season turf needs at various times of the year

0.62 = conversion factor from inches to cubic feet

## **VARIANCE FROM ALLOCATIONS**

Water allocations are based on the number of residents, or in the case of commercial indoor allocation on historical average use, landscape square footage and actual daily weather and evapotranspiration (ET) data for the 110 microclimates within the District rate area.

Variances will be determined on a case-by-case basis. Residential customer variances are available for larger than normal irrigated landscaped areas, additional residents, special medical needs, livestock, pool filling and for other purposes such as licensed care facilities. Commercial customer variances are available for additional employees, adjustments to irrigated acreage, business expansion or new technology, and in other circumstances.



**VARIANCE PROCEDURES**  
**FOR WATER- BUDGET-BASED RATE STRUCTURE**

**I. Residential Customers**

**1. ALLOCATIONS**

- A. Single family homes will be given a default of 4 persons per household, condominiums will be given 3 persons per household, and apartments will have a 2 person default, based on local census data. Customers can request up to 2 additional occupants without documentation. If requesting more than two additional occupants, the District reserves the right to request proof of residency and the customer must fill out a variance request form.
- B. Each occupant will be allocated 65 gallons per person per day.
- C. Irrigated acreage will be determined by the District's Geographic Information System, County Assessor parcel data, a site survey conducted by the District or by customer input.
- D. Customers are allowed to fill their pools once every 3 years for regular maintenance. The additional water used above their allocation will be billed at the Tier 2 rate.

**2. VARIANCES**

A. General Information:

- 1) An approved variance will increase the base allocation - Conservation Tier 1 or Efficiency Tier 2- and will be determined on a case by case basis.
- 2) It is the responsibility of the customer to contact the District and request adjustments to the base allocation through a variance.
- 3) Relevant factors that could support a variance are additional occupants (if adjusting by more than 2 additional occupants), medical needs, licensed elder or child care facility, livestock, and increased irrigated landscape area. Other circumstances may also support a variance.

B. Requirements:

- 1) A variance request form must be submitted to the Customer Service Department. Variance forms can be picked up at the main office or downloaded from the District's website.
- 2) Additional documentation may be requested at the discretion of the District. (School Records, Drivers Licenses, Business Licenses, Lease Agreements,

etc.) The documentation will be for review only, and the District will not retain any copies of such additional documentation.

- 3) Once a variance request form has been received, a site survey may be conducted by District staff to verify the customer's irrigated square footage. The site survey will be at no charge to the customer.
- 4) Written responses to variance form requests will be provided by the Customer Service Department.
- 5) In the event a variance request is denied, the request form may be resubmitted and reviewed by an appeal board composed of: Chairman of the Rate Review Committee, MNWD Board of Director and the General Manager. Decisions by the appeal board are final.

### **3. ADJUSTMENT OF CHARGES**

#### **A. Approved Variances**

- 1) If a variance is approved, a retroactive adjustment to the customer's account can be made for a maximum of 60 days.
- 2) Adjustments will normally be made in the form of a credit on the customer's bill.
- 3) Customers may be required to submit supporting documentation for continuance of a variance at staff's discretion. Customers are encouraged to update allocation variables anytime.

#### **B. Repairs and Maintenance**

- 1) Customers may request a bill adjustment if they accrue any inefficient use charges within. Tiers 4 or 5 - due to leaks (indoor and outdoor), stuck valves, broken pipes, etc. The District will require an original sales receipt or invoice as proof that the repairs have been completed.
- 2) Adjustments will normally be made in the form of a credit on the customer's bill.
- 3) Customers are allowed to fill their pools once every 3 years for regular maintenance. The additional water used above their allocation will be billed at the Tier 2 rate.

## II. Commercial Customers

### 1. ALLOCATIONS

- A. Commercial customers will be given an allocation based on a 3-year rolling average of each commercial customer's monthly use.
- B. New commercial customers who do not have a consumption history with the District will be billed at Tiers 1 and 2 for the first year.
- C. After the first year, new commercial customers will be billed as existing commercial customers and their allocation will be based on the first year's average use and will continue thereafter.
- D. Commercial customers are allowed to fill their pools once a year for regular maintenance. The additional water used above their allocation will be billed at the Tier 2 rate.

### 2. VARIANCES

#### A. General Information:

- 1) An approved variance will increase the base allocation - Conservation Tier 1 or Efficiency Tier 2 and will be determined on a case by case basis.
- 2) It is the responsibility of the customer to contact the District and request adjustments to the base allocation through a variance.
- 3) Relevant factors that could support a variance are additional employees, increased irrigated landscape area, expansion of production capacity, and new technology. Other circumstances may also support a variance.

#### B. Requirements:

- 1) A variance request form must be submitted to the Customer Service Department.  
Variance forms can be picked up at the main office or downloaded from the District's website.
- 2) Additional documentation may be requested at the discretion of the District. The documentation will be for review only, and the District will not retain any copies of such additional documentation.
- 3) Once a variance request form has been received, a site survey may be conducted by District staff to verify the customer's request. The site survey will be at no charge to the customer.
- 4) Written responses to variance form requests will be provided by the Customer Service Department.

- 5) In the event a variance request is denied, the request form may be resubmitted and reviewed by an appeal board composed of: Chairman of the Rate Review Committee, MNWD Board of Director and the General Manager. Decisions by the appeal board are final.

### 3. ADJUSTMENT OF CHARGES

#### A. Approved Variances

- 1) If a variance is approved, a retroactive adjustment to the customer's account can be made for a maximum of 60 days.
- 2) Adjustments will normally be made in the form of a credit on the customer's bill.
- 3) Customers may be required to submit supporting documentation for continuance of a variance at staff's discretion. Customers are encouraged to update allocation variables anytime.

#### B. Business Improvements, Repairs and Maintenance

- 1) Customers may request a bill adjustment if they accrue any inefficient use charges within Tiers 4 or 5 - due to leaks (indoor and outdoor), stuck valves, broken pipes, etc. The District will require an original sales receipt or invoice as proof that the repairs have been completed.
- 2) Requests for bill adjustments concerning expansion of production capacity, additional employees, new technology, adjustment to irrigated acreage, etc. may require verification by the District.
- 3) Adjustments will normally be made in the form of a credit on the customer's bill.
- 4) Commercial customers are allowed to fill their pools once a year for regular maintenance. The additional water used above their allocation will be billed at the Tier 2 rate.

### III. Irrigation/Landscape Customers

#### 1. ALLOCATIONS

- A. Irrigation customers will be given an allocation based on the actual irrigated acreage of each meter connection.

**Formula:** Landscaped Area (Square Footage) x ET (Evapotranspiration) x .8 (Plant Factor) x .62 (Conversion Factor) = Gallons.

Gallons ÷ 748 = Billing Units

- B. Irrigated acreage will be determined by the District's Geographic Information System, a site survey conducted by the District, measurements provided by the Landscape Certification Program, or by customer input.

## **2. VARIANCES**

### **A. General Information:**

- 1) An approved variance will increase the base allocation - Conservation Tier 1 and Efficiency Tier 2 - and will be determined on a case by case basis.
- 2) It is the responsibility of the customer to contact the District to adjust the square footage for each meter connection. Other circumstances may also support a variance.

### **B. Requirements:**

- 1) A variance request form must be submitted to the Customer Service Department.  
Variance forms can be picked up at the main office or downloaded from the District's website.
- 2) Additional documentation may be requested at the discretion of the District. The documentation will be for review only, and the District will not retain any copies of such additional documentation.
- 3) Once a variance request form has been received, a site survey may be conducted by District staff to verify the customer's irrigated square footage. The site survey will be at no charge to the customer.
- 4) Written responses to variance form requests will be provided by the Customer Service Department.
- 5) In the event a variance request is denied, the request form may be resubmitted and reviewed by an appeal board composed of: Chairman of the Rate Review Committee, MNWD Board of Director and the General Manager. Decisions by the appeal board are final.

## **3. ADJUSTMENT OF CHARGES**

### **A. Approved Variances**

- 1) If a variance is approved, a retroactive adjustment to the customer's account can be made for a maximum of 60 days.

- 2) Adjustments will normally be made in the form of a credit on the customer's bill.
- 3) Customers may be required to submit supporting documentation for continuance of a variance at staff's discretion. Customers are encouraged to update allocation variables anytime.

#### B. Improvements and Repairs

- 1) Customers may request a bill adjustment if they accrue any inefficient use charges within Tiers 4 or 5 - due to leaks, stuck valves, broken pipes, etc. The District will require an original sales receipt or invoice as proof that the repairs have been completed.
- 2) Requests for bill adjustments concerning changes to the irrigated acreage may require verification by the District.
- 3) Adjustments will normally be made in the form of a credit on the customer's bill.

### **FUTURE WHOLESALE WATER INCREASES**

In addition to the water rates and charges under Sections I and II, the District may, and reserves the right to, pass through additional increases in wholesale water charges imposed by the District's wholesale water supplier, Municipal Water District of Orange County (MWDOC), or from other public agencies, during the period from July 1, 2011 through June 2016. These adjustments may be made to the District's customer bills, at the District's option, whenever MWDOC (or another public agency, as applicable) increases the standard wholesale cost of water beyond the current wholesale cost assumed by the District for the potable water budget consumption charges. The increases would only be made to the extent such increases are not already reflected in the schedule of charges then in effect. The adjustments would be passed through with at least 30-days' notice to customers, and documentation of the increased amount of the wholesale water costs and the basis for adjusting the potable water budget consumption charges would include such adjustments.

#### 4. Schedule 3 - Temporary Construction Service

##### a. Water Service Charge

A monthly service charge will be collected from each customer having a temporary construction service connection of the water system. The minimum rate is applicable to any service within the billing period.

Meter Deposit

A deposit of \$750 will be required for each temporary construction meter.

<u>Service Charge</u>	<u>Minimum Rate</u>
For each service connection	\$78.45 (Monthly)

b. Quantity Charge

Hydrant Water Rates (Potable)	\$2.29
Hydrant Water Rates (Recycled)	\$ 1.83 (Monthly)

In the event of water shortage and the unavailability of domestic water for construction use, a priority will be established for a continuing supply of construction water to consumers who utilize effluent water for construction.

- c. Water delivered for use outside the District will be charged for at the Moulton Niguel service charge plus the quantity rate charges by the Agency where such water is utilized if such Agency quantity rate is higher than the Moulton Niguel quantity rate.

5. Schedule 4 - Irrigation, Agricultural, and Recycled Service

a. Water Service Charges

The following rates will be charged for all water used by each customer having an irrigation, agricultural, or recycled service connection to the water system. For a complete listing of service charges refer to Schedule 2a.

### Monthly Bills

Meter Size	Beginning 07/01/11
5/8", 3/4", 1"	\$10.36
1 1/2"	\$34.53
2"	\$55.25
3"	\$120.87
4"	\$207.20
6"	\$431.67
8"	\$621.60
10"	\$1,001.47

### Bi-Monthly Bills

Meter Size	Beginning 07/01/11
5/8", 3/4", 1"	\$20.72
1 1/2"	\$69.06
2"	\$110.50
3"	\$241.74
4"	\$414.40
6"	\$863.34
8"	\$1,243.20
10"	\$2,002.94

### RECYCLED WATER RATES

*Consumption Tiers	Description	Beginning 07/01/11 (per BU)
Conservation	Base (first 20 B.U.)	\$1.23
Efficient	Water Budget	\$1.23
Inefficient		\$2.20
Excessive		\$4.41
Wasteful		\$8.81



**RECYCLED w/STORAGE WATER RATES**

*Consumption Tiers	Description	Beginning 07/01/11 (per BU)
Conservation	Base (first 20 B.U.)	\$1.11
Efficient	Water Budget	\$1.11
Inefficient		\$1.98
Excessive		\$3.97
Wasteful		\$7.93

**\* Commercial/Irrigation/Recycled Water:**

**Conservation (Tier 1):** Based on the first 20 BUs.

**Efficient (Tier 2):** Based on the remainder of water budget.

**Inefficient (Tier 3):** Based on the amount of water exceeding the sum of Tiers 1 and 2 up to 110% of the sum of Tiers 1 and 2.

**Excessive (Tier 4):** Based on the amount of water exceeding the sum of Tiers 1, 2 and 3 up to 120% of the sum of Tiers 1 and 2.

**Wasteful (Tier 5):** Based on your exceeding your total water budget by up to 150%.

6. Schedule 5 - Private Protection Service

a. Water Service Charge

The charge for private fire line service is as follows:

Service Charge	Rate
<u>Size of Service, In Inches</u>	
For residential fire, each inch of diameter of service connection, monthly	\$ 6.28
For commercial fire, each inch of diameter of service connection, bimonthly	\$12.56

b. Quantity Charge

The commodity rate for water supplied for fire line use is \$2.29 per BU.

7. Schedule 6 - Domestic Service within the Overall District but Outside an Improvement District

a. Water delivered by gravity from the Tri-Cities line will be charged at the Metropolitan Water District rate to Moulton Niguel Water plus 25 percent, or, alternatively, at the wholesale rate of alternative supplier, whichever provides the greatest equability to the taxpayers within the service area without being subsidized with funds from the improvement district operations.

b. Water delivered by the District from a pressure zone which has utilized District pump stations will be charged at a rate based upon an actual analysis of the supply cost plus pumping costs, operation, maintenance, and administration overhead.

The above rates exclude service through emergency interties, which are subject to separate agreements.

8. Schedule 7 – Fire Flow Tests

a. A customer may request the District to perform a Fire Flow Test at a predetermined fire hydrant. The customer is required to provide a map identifying the exact hydrants for the testing of static and residual pressure. The Fire Flow Test will provide flow information, gallons per minute (gpm), and static and residual pressure.

b. It is the responsibility of the customer to verify the site is prepared for a flow test. The District reserves the right to refuse to perform a Fire Flow Test at any hydrant due to traffic conditions, mud, construction debris, local ordinances, and so forth.

c. The cost to perform a Fire Flow Test is \$200.

9. Schedule 8 - Miscellaneous Charges

Service Establishment Fee	\$ 15.00
Returned Check Charge	25.00
Reconnect Charge (business hours)	35.00
Reconnect Charge (after hours)	50.00
Backflow Notice (third notice)	25.00
Delinquent Closing Bill Late Fee	15.00
Late Notice Tag Fee	15.00
Site Visit (water off too soon, etc.)	15.00
Lock	15.00
Meter Removal/Reset Fee	100.00

**SECTIONS 201 AND 202 - SEWER SERVICE**

A. GENERAL AND POLICY STATEMENT

The rates and charges herein provided for and established by the District may be amended from time to time and are intended to achieve the following:

1. Each customer shall pay in accordance with the demands imposed upon the system.
2. Industrial, commercial, and institutional waste dischargers shall contribute revenue equal to their share of expense allocated on a relative use basis.
3. The revenue program is intended to establish local self-sufficiency and to assure permanent benefits from grants received from the State of California under the Clean Water Grants Program, and from the Environmental Protection Agency under the Federal Water Pollution Control Act and similar prior programs.
4. Considerations involved in the establishment of these rates and charges at this time include, but are not limited to, the following:
  - a. Revenue should meet expenses.
  - b. The functional value of the wastewater system should not be allowed to deteriorate.

- c. Cost allocation should be on the basis of relative use of the system, both in terms of volume of sewage and strength of sewage.
- d. Industrial, commercial, and institutional establishments should pay their fair share of allocated costs.
- e. It is not intended that cost to industrial, commercial, and institutional establishments should be reduced by economies of scale, nor should such cost be determined on the basis of incremental cost allocation.

Ad valorem taxation will not be used as the only source of revenue.

- (1) Direct user charges applied to industrial, commercial, and institutional users are generally necessary to achieve equity among all property owners and customers of the District. Substantial users not subject to the levy of taxes shall be subject to a direct user surcharge to achieve equity in charges to direct users subject to ad valorem taxation.
  - (2) Prudent utility management necessitates establishment of a Capital Reserve and Contingency Fund to facilitate continued investment in wastewater treatment and reclamation facilities.
- f. The basis of the District revenue program is as follows:
- (1) The total annual revenue should equal or exceed operating and capital expense.
  - (2) Revenue for capital expenditures, excluding interest, should equal or exceed the annual depreciation of the total capital plant.
  - (3) Industrial, commercial, and institutional customers pay according to their estimated proportional use of the facilities.

## B. SEWER CONNECTION CHARGES

The sewer connection charges are set forth in Section 101, Paragraph B.

C. LATERAL SEWER INSPECTION AND MISCELLANEOUS CHARGES

1. Work Performed by District Forces

Whenever a repair or construction is required by an applicant, such work will be done with charges based upon an estimate of costs made by the District.

Whenever sewer facilities are requested or required to be relocated for an applicant for any reason whatsoever, the charge shall be made on the basis of an estimate of costs by the District.

Whenever the District is required on an emergency basis to repair or construct any District facility for an applicant, or due to an applicant's damage to said facility, the District shall attempt to advise the applicant in advance of the necessity for the repair. If the applicant is not available, the District will proceed with such work as required to correct any emergency situation and the charge will be based upon the costs incurred by the District.

D. SEWER SERVICE CHARGES

1. Residential Sewer Service

a. Wastewater Service Charge

Service Charge

Single Family

Units Per Dwelling Unit, Singly Metered

Each Unit

Per Month

\$ 8.25

Partial Billing Period Charges

A minimum charge for partial billing (first bill and closing bill only) will be on the following schedule:

Initial Bill

Number of days multiplied by daily rate

Closing Bill

0-4 days - no charge

5+ days - number of days multiplied by daily rate

b. Wastewater Use Volume Charge

All quantities of wastewater delivered to the District shall be charged on the basis of each Billing Unit of water delivered up to a maximum of 25 BU's per month for residential use.

Volume Charge

\$0.65 per BU – not to exceed \$16.90

c. Laguna Sur/Monarch Point LAFCO No. 96-05 Reorganization Area (South Coast Water District (SCWD) Service Charges)

- 1) To comply with the terms of the LAFCO 96-05 Reorganization agreement Moulton Niguel Water District (MNWD) collects on behalf of South Coast Water District (SCWD) Sewer Service and Consumption charges based on current SCWD rate schedules as submitted to the MNWD Board of Directors at the annual public hearing.
- 2) The sewer rates and charges are due and payable on an annual basis (fiscal year) and shall be collected on the property tax bill for the property being served as authorized by Health and Safety Code Section 5473 and District Resolution No. 98-24.
- (3) The provisions of Resolution No. 98-22 shall apply to all owners of properties within the Reorganization Area, and no exception shall be provided for properties otherwise deemed exempt from the payment of taxes or assessments by provisions of the State Constitution or statute, including properties owned by certain other public agencies or tax exempt organizations, except as expressly provided herein.

In recognition that the owners of certain legal parcels of real property in the Reorganization Area may not have requested to be connected to SCWD's wastewater collection, treatment, and disposal facilities, or may otherwise meet certain specific criteria for exemption as set forth below, it is the intent that the owners of said parcels be exempt, totally or in part, from the payment of charges as further prescribed below.

Any property owner in the Reorganization Area may appeal the levy of sewer service charges, and if the charges have been paid to the County of Orange Tax Collector, together with property taxes, the owner may submit a claim for rebate to the District, on the forms prescribed and provided by the District, within one hundred twenty (120) days after the annual property tax bill is mailed. All applications for rebate of the annual fees will be determined by the General Manager of the District, who may grant a partial or full rebate or adjustment of the charge based on receiving satisfactory proof that the facilities have been otherwise provided as required by law (in order to prevent any nuisance or danger to public health and safety) and/or that there is an actual inequity between the amount of the charge and the sewer services provided by SCWD. Such inequities may include, but are not limited to:

- A. The parcel of property is not connected to SCWD's sewer collection system;
- B. The use of the parcel is different from the use indicated by the charge;
- C. The parcel is owned by the Government of the United States, the State of California, or any political subdivision thereof, or any entity of local government; and
- D. Nuisance conditions do not exist and have not existed on the property, which would be otherwise abated by the provision of services by SCWD.

**LAGUNA SUR/MONARCH POINT SERVICE AREA (LAFCO  
REORGANIZATION R096-05)**

District Ordinance No. 13-01:

The total annual usage rate amount for a property is calculated based on the rates listed in the tables below multiplied by the water usage for a property during the prior year, where one billing unit equals 748 gallons of water. The

charges and rates on all tables below will take effect on **July 1 of each year**. All rates and charges are collected on the property tax roll.

**TABLE 1: ANNUAL SEWER SERVICE CHARGE – RESIDENTIAL**

<b>S E R V I C E</b>		
Single Family Detached	<b>\$418.44</b>	<b>\$446.46</b>

(\* and continuing unless otherwise revised in the future)

**TABLE 2: SEWER USAGE RATES – RESIDENTIAL SINGLE FAMILY DETACHED**

<b>2013-14 Per Unit of Water</b>	<b>2014-15* Per Unit of Water</b>
<b>\$1.07</b>	<b>\$1.20</b>

(\* and continuing unless otherwise revised in the future)

**TABLE 3: ANNUAL SEWER SERVICE CHARGES – HOMEOWNERS’ ASSOCIATION/ CONDOMINIUMS**

<b>SERVICE</b>	<b>2013-14</b>	<b>2014-15*</b>
Duplex, 2 units	<b>\$277.69</b>	<b>\$296.53</b>
Triplex, 3 units	<b>\$290.21</b>	<b>\$309.89</b>
Fourplex, 4 units	<b>\$294.23</b>	<b>\$314.19</b>
5 or more units	<b>\$217.18</b>	<b>\$231.91</b>
Association Guardhouse	<b>\$418.44</b>	<b>\$446.46</b>
Association Recreation Area (no food service)	<b>\$418.44</b>	<b>\$446.46</b>



(\* and continuing unless otherwise revised in the future)

**Table 4: ANNUAL SEWER USAGE RATES – HOMEOWNERS’ ASSOCIATION**

<b>SERVICE</b>	<b>2013-14 Per Unit of Water</b>	<b>2014-15* Per Unit of Water</b>
Master Metered Condominium Units	<b>\$1.07</b>	<b>\$1.20</b>
Association Guardhouse	<b>\$6.13</b>	<b>\$6.62</b>
Association Recreation Area (no food service)	<b>\$6.13</b>	<b>\$6.62</b>

(\* and continuing unless otherwise revised in the future)

2. Commercial and Industrial

a. Recyclable Sewage

<u>Service Charge</u>	Each Unit Monthly <u>Service Charge</u>
Apartments/Multi-Family/Commercial One Meter, Multiple Units	\$ 16.50

Volume Charge

Volume charge will be based on non-irrigation metered water so that the stronger and heavier users of the sewage systems are paying their proportionate share, as follows:

Class 1	\$ 0.65per BU
Class 2	0.88per BU
Class 3	1.12 per BU
Class 4	1.35 per BU

b. Non-Recyclable Sewage

Non-recyclable sewage cannot be discharged into the District sewage system.

c. User Equity Charge

A user equity charge shall be levied to any customer failing to pay the proportion of costs allotted to the service that customer receives based upon the combined total of capital costs, depreciation, and operating charges required to provide service by the District. The user equity charge shall be allocated to achieve the best possible equity inclusive of an allocation to the overall district or water improvement district if appropriate. The user equity charge will be based upon water consumption as follows:

For each billing unit there will be an additional volume charge as determined by the Board of Directors to be necessary to achieve an equitable charge of the total cost allotted to this service to the customer. This charge shall not exceed \$24.50 per billing period and shall be added to the charge set forth in Section D. 1 and 2 above.

3. Recycled Water Service

The rates to be charged and collected for recycled water and recycled water service supplied for landscape or golf course irrigation use within or without the District shall be as indicated below for recycled water delivered by the District or in accordance with any special agreement entered into by the District:

All billing units	\$ 1.36
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EXHIBIT "C" TO THE RULES AND REGULATIONS  
OF THE MOULTON NIGUEL WATER DISTRICT  
FOR WATER AND SEWER SERVICE

**PROCEDURE FOR ACQUISITION OF RIGHT-OF-WAY  
FOR WATER AND SEWER FACILITIES FOR SUBDIVISION,  
PLANNED DEVELOPMENTS, AND SIMILAR PROJECTS.**

**SECTION 1**

Initially, such project shall be approved as a tentative tract map or as a planned unit development for a parcel or parcels of previously subdivided property.

**SECTION 2**

The water and sewer system shall be designed by the engineer for the developer and approved by the District Engineer. Thereafter, the engineer for the developer shall prepare the water and sewer improvement plan as well as legal descriptions, sketches, and a project or area map depicting the general area and the right-of-way necessary to be conveyed to the District.

**SECTION 3**

During the preparation of the Improvement Plans, the District will approve such plans for the purpose of right-of-way acquisition. At this point the engineer for the developer shall prepare legal description, sketches, and an area map depicting the right-of-way to be conveyed to the District.

**SECTION 4**

Upon completion of the foregoing, the District engineer will approve the legal sketches and the area of project maps depicting the project and the right-of-way acquisition, as well as the general area.

**SECTION 5**

The documents described in Section 4 will be delivered to the engineer for the developer for subsequent delivery to the developer for approval, including processing of applicable documents for conveyance of right-of-way to District for the purpose of obtaining a current title report in a form acceptable to District at the cost of developer, which title report shall be of current date and in favor of the benefit of the District.

## **SECTION 6**

The plans and documents hereinabove described shall be approved by developer and the title company to be used by the developer in regard to the project. (Presumably the preparation of all legal descriptions involved would have been coordinated previously by the engineer for the developer with the District Engineer and the title company to be used by the developer as far as the project.) If at this time any changes occur in regard to legal descriptions, sketches, or the area depicting the right-of-way to be conveyed to the District, such shall be approved by the District Engineer.

## **SECTION 7**

The developer shall then submit to the District Engineer a current title report in the form of a lot book report, the beneficiary of which shall be designated as Moulton Niguel Water District, reflecting all liens. Concurrently, the developer shall submit to the District Engineer executed grants of easements or grant deeds of sites, prepared on the form of Moulton Niguel Water District, as well as subordination agreements pertaining to the conveyance of any easements and partial reconveyances where a fee interest in a site is to be conveyed to the District.

## **SECTION 8**

The District shall then approve the legal descriptions attached to the documents proposing to convey the necessary easements or interest in real property to the District. Also, the District Engineer shall certify that the documents cover all needed rights-of-way or sites necessary for the facilities required to be dedicated to the District. These documents shall then be delivered by the District Engineer to Legal Counsel for approval as to form. Following approval by Legal Counsel, the easements or interest in real property shall be accepted by the General Manager or a Director of Engineering, Assistant General Manager, the Legal Counsel, or Secretary for the District. (In a given instance there may be adequate security or guarantee given by an individual or concern in lieu of obtaining the necessary subordination agreements or partial reconveyances. This procedure shall not be utilized without express approval of the Board of Directors.)

## **SECTION 9**

After approval by Legal Counsel and the acceptance on behalf of the District, the documents shall be delivered to the County Recorder for recordation. Concurrently, a policy of title insurance shall be requested. Where legal descriptions have been prepared in a manner which relates to a final tract map to be recorded, such documents shall be delivered

to the particular title company on the condition that the easements shall be recorded free and clear of outstanding deeds of trust concurrent with or immediately following the recordation of the final tract map. Upon recordation, all documents shall be returned to the Secretary.

## **SECTION 10**

Upon receipt of the documents from the County Recorder, the General Manager, the District Engineer, and the developer will be advised of the fact that all necessary right-of-way has been acquired by receiving a confirmed copy of the documents.

EXHIBIT "D" TO THE RULES AND REGULATIONS  
OF THE MOULTON NIGUEL WATER DISTRICT

**CURRENT INSPECTION PROCEDURES -  
DEDICATED WATER SYSTEMS**

1. Developer or contractor contacts Moulton Niguel Water District after plans are approved to arrange for inspection.
2. Moulton Niguel Water District Inspector observes trenching and installation of water systems.
3. Check and record location of valves and service connections.
4. Pressure test system, including services and hydrants. Pipe is center-loaded, no compaction okay is needed at this point.
5. Developer or contractor contact District to take water sample for bacteria test. Chlorinating normally takes place during pressure test. District notifies developer or contractor of results of the bacteria test with a form letter.
6. After the bacteria test is acceptable to the District, tie-ins to existing facilities can be made. This must be done in the presence of a District Inspector by giving 48-hours' notice.
7. Valves raised to finish grade after streets are paved and valve boxes are cleaned.
8. Developer or contractor contact Moulton Niguel Water District to arrange for final inspection.
9. Fire hydrant pads are installed by the developer or contractor and inspected by the District.
10. Fire hydrants are painted by the developer or contractor and inspected by the District.
11. Developer, contractor, or homeowner arrange for meter purchase by calling the District ((949) 831-2500).
12. Meters are installed by developer and inspected by and upon completion, the District writes to the County authorizing release of bonds.

EXHIBIT "E" TO THE RULES AND REGULATIONS  
OF THE MOULTON NIGUEL WATER DISTRICT

**CURRENT INSPECTION PROCEDURES -  
DEDICATED SEWER SYSTEMS**

1. Developer or contractor contact Moulton Niguel Water District after plans are approved for inspection.
2. Moulton Niguel Water District inspector checks field staking against signed and approved plans.
3. Moulton Niguel Water District Inspector observes trenching, installation of complete system, and backfill methods. Wye locations are recorded on plans.
4. Check compaction results with county or private laboratory.
5. Pressure test sewer system and install bulkheads after successful test. District will notify developer and contractor.
6. District sends preliminary notice to developer indicating that house laterals may be connected. THIS IS NOT AN OCCUPANCY RELEASE. District also requests that the developer notify the District 48 hours prior to final cleaning and flushing of house laterals.
7. Manholes brought to grade after streets are paved.
8. Ball, clean, and mirror system.
9. Developer or contractor contacts the District to arrange for final inspection.
10. District will notify developer and contractor in writing that the system is acceptable and recommend that bonds be released after flushing of laterals and final clean-up of system.
11. Developer coordinates with the District to obtain occupancy permits. Prior to issuance of occupancy permits, the developer will be required to flush the laterals in the presence of the District. If determined by the District, the developer shall re-clean the sewer as required. Upon completion, the District will make a final inspection and authorize removal of bulkheads.

12. After the sewer and water systems are satisfactory to the District, a letter will be issued to the County E.M.A. authorizing occupancy.
13. After occupancy permits are issued for all connections, the District will write to the County E.M.A. authorizing release of the bonds.



EXHIBIT "F" TO THE RULES AND REGULATIONS  
OF THE MOULTON NIGUEL WATER DISTRICT  
FOR WATER AND SEWER SERVICE

**WATER SAVING FIXTURE SPECIFICATIONS**

Any new or remodeled plumbing, water piping, or other water using fixtures shall be of the "water sense" type or category identified under the most current California plumbing code shall comply with the specifications therefore.

WATER CLOSETS, TANK TYPE

All water closets must flush with 1.6 gallons of water or less.

URINALS

All urinals must flush with 1.0 gallon of water or less.

SHOWERHEADS

All showerheads shall be flow control types designed to limit the maximum flow to 2.5 gallons per minute.

LAVATORY AND SINK FAUCETS

All faucets shall be flow control types designed to limit maximum flow to 2.2 gallons per minute per valve or 4 gallons per minute on single control faucets.

NOTE: Fixtures and devices, which utilize restrictive devices, shall be of a type where such devices cannot be removed by the user.

PRE-RINSE SPRAY NOZZLES

Pre-rinse spray nozzles must use 1.6 gallons per minute or less, commercial use only.

HIGH-EFFICIENCY CLOTHES WASHER

Approved high-efficiency clothes washer must have a water factor of 6.0 or less.

EXHIBIT "G" TO THE RULES AND REGULATIONS  
OF THE MOULTON NIGUEL WATER DISTRICT

**CROSS-CONNECTION CONTROL  
PROGRAM REGULATIONS**

**100 PURPOSE AND POLICY**

The purpose of these regulations is (1) to protect the public water supply against actual or potential cross-connection by isolating within the premises contamination that may occur 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; (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 water department and any other source of water supply or to maintain any sanitary fixture or other appurtenances or fixtures which by reason of 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.

**101 DEFINITIONS**

- A. Air-Gap Separation. The term "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.
- B. Approved Backflow Prevention Device. The term "approved backflow prevention device" shall mean devices which have passed laboratory and field evaluation tests performed by a recognized testing organization which has demonstrated its competency to perform such tests to the California Department of Health Services.

- C. Approved Water Supply. The term "approved water supply" means any water supply whose potability is regulated by a state or local health agency.
- D. Auxiliary Supply. The term "auxiliary supply" means any water supply on or available to the premises other than the approved water supply.
- E. AWWA Standard. The term "AWWA standard" means an official standard developed and approved by the American Water Works Association (AWWA).
- F. Backflow. The term "backflow" shall mean 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. Back-siphonage is one cause of backflow. Back pressure is the other cause.
- G. Contamination. The term "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.
- H. Cross-Connection. The term "cross-connection" as used in this ordinance means any unprotected actual or potential connection between a potable water system used to supply water for drinking purposes and any source or system containing unapproved water or a substance that is not or cannot be approved as safe, wholesome, and potable. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, or other devices through which backflow could occur, shall be considered to be cross-connections.
- I. Double Check Valve Assembly. The term "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.
- J. Health Agency. The term "health agency" means the California Department of Health Services, or the local health agency with respect to a small water system.
- K. Local Health Agency. The term "local health agency" means the county or city health authority.

- L. Person. The term "person" means an individual, corporation, company, association, partnership, municipality, public utility, or other public body or institution.
- M. Premise. The term "premise" means any and all areas on a customer's property which are served or have the potential to be served by the public water system.
- N. Public Water System. The term "public water system" means a system for the provision of piped water to the public for human consumption which has five or more service connections or regularly serves an average of 25 individuals daily at least 60 days out of the year.
- O. Recycled Water. The term "recycled water" means wastewater which, as a result of treatment, is suitable for uses other than potable uses.
- P. Reduced Pressure Principle Backflow Prevention Device. The term "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.
- Q. Service Connection. The term "service connection" refers to the point of connection of a user's piping to the water supplier's facilities.
- R. Water Supplier. The term "water supplier" means the person who owns or operates the approved water supply system.
- S. Water User. The term "water user" means any person obtaining water from an approved water supply system.

## **102 CROSS-CONNECTION PROTECTION REQUIREMENTS**

### **A. 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/her expense for continued service 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, any and all water supply lines 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 of this ordinance.

B. 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-connections 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-connections exist.

C. 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 protection 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. 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  
TYPE OF BACKFLOW PROTECTION REQUIRED**

<u>Degree of Hazard</u>	<u>Minimum Type of Backflow Prevention</u>
(a) Sewage and Hazardous Substances	
(1) Premises where the public water system is used to supplement the recycled water supply.	AG
(2) Premises where there are wastewater 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. An RP may be provided in lieu of an AG if approved by the health agency and the District.	AG
(3) Premises where recycled water is used and there is no interconnection with the potable water system. An 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. An RP may be provided in lieu of an AG if approved by the health agency and the District.	AG
(5) Premises where there are irrigation systems into which fertilizers, herbicides, or pesticides are, or can be, injected.	RP
(b) Auxiliary Water Supplies	
(1) Premises where there is an unapproved auxiliary water supply which is interconnected with the public water system. An RP or DC	AG

may be provided in lieu of an AG if approved by the health agency and the District.

(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 an RP if approved by the health agency and the 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 interconnected). DC

(2) Premises where the fire system is supplied from the public water system and interconnected with an unapproved auxiliary water supply. An RP may be provided in lieu of an AG if approved by the health agency and the 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. DC

(d) Dockside Water Points and Marine Facilities DC

(1) Pier hydrants for supplying water to a vessel for any purpose. RP

(2) Premises where there are marine facilities. RP

(e) 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-connections do not exist. RP

(f) Premises where there is a repeated history of cross-connections being established or re-established. RP

(1) Two or more services supplying water from different street mains to the same building, structure, or premises through which an interstate 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 devices at such service connections shall be required.

### **103 BACKFLOW PREVENTION DEVICES**

#### **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 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.
  - a. 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.
  - b. 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 as close to the service connection as is practical. The device shall be installed a minimum of twelve (12) inches above grade and not more than thirty-six (36) inches above grade measured from the bottom of the device, and with a minimum of twelve (12) inches 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.

- a. 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, and in a manner where it is readily accessible for testing and maintenance. The device shall be installed a minimum of twelve (12) inches above grade and not more than thirty-six (36) inches above grade measured from the bottom of the device, and with a minimum of twelve (12) inches of side clearance.

C. 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.

D. Backflow Prevention Device Removal

1. Approval must be obtained from the District before a backflow prevention device is removed, relocated, or replaced.
  - 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 is 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 repair of the device.
- 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 be commensurate with the degree of hazard involved.

#### **104 USER SUPERVISOR**

At each premises where it is necessary in the opinion of the District, a user supervisor shall be designated by and at the expense of the water user. This user 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 on the premises, the District shall be promptly notified by the user supervisor so that appropriate measures may be taken to overcome the contamination. The water user shall inform the District of the user supervisor's identity on, as a minimum, an annual basis and whenever a change occurs.

#### **105 ADMINISTRATIVE PROCEDURES**

##### **A. Water System Survey**

- 1. 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.

2. The District may require an on-premise inspection to evaluate cross-connection hazards. Any customer who cannot or will not allow an on-premise inspection of its piping system shall be required to install the backflow prevention device the District considers necessary.
3. The District may, at its discretion, require a re-inspection for cross-connection hazards of any premise to which it serves water. Any customer who cannot or will not allow an on-premise inspection of its piping system shall be required to install the backflow prevention device the District considers necessary.

B. Customer Notification - Device Installation

1. The District will notify the water user of the survey findings, listing corrective action to be taken if required. A period of 60 days will be given to complete all corrective action required, including installation of backflow prevention devices.
2. A second notice will be sent to each water user who does not take the required corrective action prescribed in the first notice within the 60-day 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 two-week period, the District may terminate water service to the affected water user until the required corrective actions are taken.

C. Customer Notification - Testing and Maintenance

1. The District will notify each affected water user when it is time for the backflow prevention device installed on its service connection to be tested. This written notice shall give the water user 30 days to have the device tested and supply the water user with the necessary form to be completed and resubmitted to the District.
2. A second notice shall be sent to each water user that does not have its 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-week period to have its 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.

## 106 WATER SERVICE TERMINATION

### A. General

When the District encounters water uses 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.

### B. 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 health hazard to the public water system.

### C. Water Service Termination Procedures

1. 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.

2. For conditions 4, 5, 6, 7, or 8, the District will take the following steps:
  - a. Make reasonable effort to advise water user of intent to terminate water service;
  - b. Terminate water supply and lock service valve. The water service will remain inactive until correction of violations has been approved by the District.

**107 REQUIREMENTS FOR THE CERTIFICATION AS A BACKFLOW PREVENTION DEVICE TESTER**

Each applicant for certification as a tester of backflow prevention devices shall file an approved application with the District Secretary, together with a fee as may be established by the District's Board of Directors.

Competency in all phases of backflow prevention device testing and repair must be demonstrated by means of education and/or experience in order to obtain certification.

The following are minimum requirements:

- a. Applicants shall have had at least two (2) years' experience in plumbing or pipe fitting or equivalent qualifications.
- b. Applicants shall hold a valid certification from the American Water Works Association (AWWA) California-Nevada Section, from a county certification program, or have equivalent training in the opinion of the District and the Health Department.
- c. Each applicant for certification as a test of backflow prevention devices shall furnish evidence to show that he has available the necessary tools and equipment to properly test such devices. He shall be responsible for the competency and accuracy of all tests and reports prepared by him.

The certificate issued to any tester is valid for a period of one (1) year and may be revoked, suspended, or not renewed by the District for improper testing, repairs, and/or reporting.

## 108 SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of these Regulations, or any part thereof, is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of these Regulations or any part thereof.

Revision to Section 5N of Moulton Niguel Water District's Rules and Regulations

### N. Water Conservation

Moulton Niguel Water District ("District") has adopted this Water Conservation Program ("Program") for the reasonable and beneficial use of the water resources of the State of California to the fullest extent possible, and for the avoidance of waste or unreasonable use of the natural resources of the State and the District. The following conditions are precedent to any obligation of the District to provide water or sewer service.

No water shall be provided by the District for internal or external use to any residential, commercial, industrial, agricultural, recreational, governmental, or public building or structure of any kind which is constructed or altered and in which either internal or external irrigation or domestic water piping or water fixtures are to be installed, extended, or altered in any way, including, but not limited to, any plumbing, water piping, or water fixtures for which a construction permit must be obtained, or for which District approval of plans and service applications are required, unless the new, extended, or altered water using facilities conform to the requirements and standards of the Rules and Regulations.

The required water conservation devices and standards of the District are those set forth on Exhibit "F" to these Rules and Regulations. Nothing provided in this Program shall be deemed to relieve any person from compliance with the local or State plumbing code or any other State or local plumbing or building requirements.

The following terms shall have the meanings defined below.

1. "Person" is any individual, firm, partnership, association, company, or organization of any kind, or any other user of water supplied by the District.
2. "Potable Water" means water which is suitable for drinking.

3. "Recycled Water" means the reclamation and reuse of non-potable water for beneficial use.
4. "Water" means potable water, recycled water or any other water supplied by the District.
5. "Water waste" is the use of any water in indoor or outdoor areas resulting in runoff, breaks, or leaks in the water delivery system, which has no beneficial use.

### **Effective Date, Application**

This Program is effective immediately upon adoption by the District Board of Directors ("Board") or as otherwise established by State law for the District.

The provisions of this Program apply to any person in the use of any water provided by District.

The prohibited uses of water under this Program do not apply to the use of water necessary for public health and safety or for essential governmental services such as police, fire, and other similar emergency services.

The provisions of this Program do not apply to the use of recycled water.

### **SECTION I. MANDATORY WATER CONSERVATION RULES – PROHIBITION AGAINST WASTE**

In order to comply with requirements of State legislation for "Best Management Practices" pertaining to urban water conservation guidelines, the following mandatory water conservation rules have been established to reduce water consumption and preserve the District's water supply. The requirements below shall apply to all customers at all times, regardless of whether any declared water shortage condition is in effect under Section II.

1. **Limits on Watering Hours:** Watering or irrigation of lawn, landscape or other vegetated area with potable water is prohibited between the hours of 10:00 a.m. and 5:00 p.m. on any day, except by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive self-closing water shut-off nozzle or device, or for very short periods of time for the express purpose of adjusting or repairing an irrigation system.
2. **Limit on Water Duration:** Watering or irrigation of lawn, landscape or other vegetated area with potable water using a landscape irrigation system or watering

device that is not continuously attended is limited to no more than 15 minutes watering per day per station. This subsection does not apply to landscape irrigation systems that exclusively use very low-flow irrigation systems where no emitter produces more than two gallons of water per hour.

3. **No Excessive Water Flow or Runoff:** Watering or irrigation of any lawn, landscape or other vegetated area in a manner that causes or allows potable excessive water flow or runoff onto an adjoining sidewalk, driveway, street, alley, gutter or ditch is prohibited.
4. **No Washing Down Hard or Paved Surfaces:** Washing down hard or paved surfaces, including but not limited to sidewalks, walkways, driveways, parking areas, tennis courts, patios or alleys, is prohibited except when necessary to alleviate safety or sanitary hazards, and then only by use of a hand-held bucket or similar container, a hand-held hose equipped with a positive water shut-off device or a low-volume, high-pressure cleaning machine equipped to recycle any water used.
5. **Obligation to Fix Leaks, Breaks or Malfunctions:** Excessive use, loss or escape of potable water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected and in no event more than five days of receiving notice from the District, is prohibited.
6. **Re-circulating Water Required for Water Fountains and Decorative Water Features:** Operating a water fountain or other decorative water feature that does not use re-circulated water is prohibited.
7. **Limits on Washing Vehicles:** Using potable water to wash or clean a vehicle, including but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or not, is prohibited, except by use of a hand-held bucket or similar container or a hand-held hose equipped with a positive water shut-off nozzle or a low volume power washer with a positive water shut-off nozzle. This subsection does not apply to commercial car washes.
8. **Drinking Water Served Upon Request Only:** Eating or drinking establishments, including but not limited to a restaurant, hotel, café, cafeteria, bar, club or other public place where food or drinks are sold, served, or offered for sale, are prohibited from providing drinking water to any person unless expressly requested.
9. **Commercial Lodging Establishments Must Provide Option to Not Launder Linen Daily:** Hotels, motels and other commercial lodging establishments must



provide customers the option of not having towels and linen laundered daily. Commercial lodging establishments must prominently display notice of this option in each bathroom using clear and easily understood language.

10. **No Installation of Single Pass Cooling Systems:** Installation of single pass cooling systems is prohibited in buildings requesting new potable water service.
11. **No Installation of Non-re-circulating Water Systems in Commercial Car Wash and Laundry Systems:** Installation of non-re-circulating potable water systems is prohibited in new commercial conveyor car wash and new commercial laundry systems.
12. **Restaurants Required to Use Water Conserving Dish Wash Spray Valves:** Food preparation establishments, such as restaurants or cafes, are prohibited from using non-water conserving dish wash spray valves.

The foregoing rules are subject to the enforcement provisions under Section II for Water Supply Response Level 1 Water Watch Condition.

## **II. MANDATORY CONSERVATION WATER SUPPLY RESPONSE RULES**

Should the conservation measures above be inadequate to protect the District's potable water supply, the District Board reserves the right to implement further mandatory conservation measures as outlined in the following Water Supply Response Rules.

These rules are necessary to respond to any significant reductions to the District's water supply as a result of drought, natural disasters, and planned or unplanned potable water outages. Upon declaration of the District's water supplier, or upon the District's own determination, that a drought or water shortage condition exists, or upon failure or shutdown of regional importation or local distribution systems or facility(ies) (i.e. main break, reservoir, pipeline) the following water use restrictions shall apply to all use of potable water for as long as drought or potable water shortage conditions exist. The provisions of these potable water use restrictions shall apply to all persons using potable water within the District, regardless of whether any person using potable water shall have a contract for water service.

**Nothing in these rules is intended to affect or limit the ability of the District to declare and respond to an emergency, including an emergency that affects the ability of the District to supply water.**

Provisions in the District’s Urban Water Shortage Contingency Plan (District Resolution No. 92-2) identify potable water demand reductions of up to 50%. These rules further develop the guidelines set forth in the four stages of the Urban Water Shortage Contingency Plan. While the State recognizes the District’s extensive Recycled Water Program as being equivalent to a 20% reduction in potable demand in the Urban Water Shortage Contingency Plan, the District’s water supplier does not give conservation credit for recycled water, and these rules reflect this fact.

<b>Water Supply Response Level</b>	<b>Use Restrictions</b>	<b>Conservation Savings</b>	<b>MNWD Urban Water Shortage Contingency Plan</b>
1 – Water Watch	Mandatory	Up to 10%	Level 1
2 – Water Alert	Mandatory	Up to 20%	Level 2
3 – Water Critical	Mandatory	Up to 40%	Level 3
4 – Water Emergency	Mandatory	Above 40%	Level 4

### **Water Supply Response Level 1 – Water Watch Condition**

A Water Supply Response Level 1 condition is also referred to as a “Water Watch” condition. A Level 1 condition applies when drought or other supply reductions occur resulting in a reasonable probability that there will be supply shortages and that additional consumer demand reduction of up to 10% is required to ensure that sufficient supplies will be available to meet anticipated demands. The General Manager shall declare the existence of a Water Supply Response Level 1 and take action to implement the Level 1 conservation measures identified in this Program.

During a Level 1 Water Watch condition, the District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement the following mandatory water conservation measures:

1. All persons using District water shall comply with Rules 1 through 12 of Section I Mandatory Water Conservation Rules – Prohibition Against Waste.
2. All District staff will be alerted to the Level 1 conditions, supplied with educational material, and directed to actively intervene and educate the public when excessive use is observed.
3. All non-essential potable water use shall cease.

4. No person shall allow lawns, groundcover, shrubbery, other landscape material, or open ground to be watered at any time while it is raining. Automatic irrigation controllers may be turned off manually or connected to a rain shutoff device.
5. No person shall permit potable water to leak which he or she has the authority to eliminate.
6. Property owners within the District who are installing new landscaping or re-landscaping existing properties are encouraged to utilize drought-tolerant plants to assist in decreasing demands on irrigation water.
7. District staff shall limit non-essential potable water use. All District facilities shall eliminate one day of irrigation per week. Recycled water is excluded.
8. Property owners who have a swimming pool or a spa are encouraged to cover said facilities to minimize water loss due to evaporation.
9. Repair all potable water leaks within five days of notification by the District unless other arrangements are made with the General Manager.
10. Construction water for grading must utilize recycled or non-potable water from a designated location to be determined by the District.

## **Water Supply Response Level 2 – Water Alert Condition**

A Water Supply Response Level 2 condition is also referred to as a “Water Alert” condition. A Level 2 condition applies when consumer demand reduction of up to 20% is required to have sufficient supplies available to meet anticipated demands. The District Board shall adopt a resolution declaring the existence of a Water Supply Response Level 2 condition and implementing the mandatory Level 2 conservation measures identified in this Program.

All persons using District water shall comply with Level 1 “Water Watch” conservation practices during a Level 2 “Water Alert”, and shall also comply with the following additional mandatory conservation measures:

1. Limit residential and commercial landscape irrigation to no more than three assigned days per week on the schedule below or as otherwise established by the General Manager and posted by the District. During the months of November through March, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the District. This measure shall

not apply to commercial growers or nurseries to sustain plants, trees, shrubs, crops or other vegetation intended for commercial sale.

### **Residential Irrigation**

#### **Aliso Viejo & Mission Viejo**

Monday & Thursday &  
Saturday or Sunday

#### **Dana Point, Laguna Hills & Laguna Niguel**

Tuesday & Friday &  
Saturday or Sunday

### **Commercial Irrigation**

Monday, Wednesday, & Friday

2. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by Section 1 above, by using a bucket, hand-held hose with positive shutoff nozzle, or low-volume non-spray irrigation.
3. At the discretion of the General Manager, hire, divert, or employ additional staff and volunteers to monitor potable water usage, provide assistance to potable water users to reduce potable water consumption, and to monitor the enforcement of the requirements, restrictions, and priorities adopted by the District Board in response to the potable water shortage condition.
4. Cleaning of structures shall use a high pressure/low volume power washer. It is prohibited to use a hose while cleaning structures.
5. The District will prohibit the use of temporary fire hydrant meter(s), or otherwise using potable water through a temporary District water service including jumpers. The use of potable water from fire hydrants shall be limited to fire fighting and related activities, or other activities necessary to maintain the health, safety, and welfare of the public.
6. No potable water will be allowed for golf course greens. Golf courses are required to convert to recycled water within 30 days.
7. Repair all leaks within 72 hours of notification by the District, unless other arrangements are made with the General Manager.
8. The District may implement other prohibited potable water uses as determined by the District, after notice to the customers.

## **Water Supply Response Level 3 – Water Critical Condition**

A Water Supply Response Level 3 condition is also referred to as a “Water Critical” condition. A Level 3 condition applies when it is required to reduce consumer demand of up to 40% in order to have sufficient supplies available to meet anticipated demands. The District Board shall declare the existence of a Level 3 condition and implement the Level 3 conservation measures identified in this Program.

All persons using District water shall comply with Level 1 “Water Watch” and Level 2 “Water Alert” and shall also comply with the following additional mandatory conservation measures:

1. Limit residential and commercial landscape irrigation to no more than two assigned days per week on a schedule established by the General Manager and posted by the District. During the months of November through March, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the District.
2. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by Section 1 above, by using a bucket, hand-held hose with positive shutoff nozzle, or low-volume non-spray irrigation.
3. Permit required to fill or refill ornamental lakes or ponds, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a water supply response level under these rules.
4. Stop washing vehicles except at commercial carwashes that re-circulate potable water or by high pressure/low volume wash systems.
5. Emptying and refilling of swimming pools and spas, excluding normal maintenance of water levels due to evaporation, is prohibited, except as otherwise required by Federal law "Virginia Graeme Baker Pool and Spa Safety Act of 2007".
6. Repair all leaks within 48 hours of notification by the District unless other arrangements are made with the General Manager.
7. Commercial growers or nurseries may be subject to additional restrictions if the District deems it necessary.

8. The District may implement other prohibited potable water uses as determined by the District, after notice to the customers.
9. No new potable water service shall be provided, no new temporary meters or permanent meters shall be provided, and no statements of immediate ability to serve or provide potable water service (such as will-serve letters) shall be issued, except under the following circumstances:
  - i. A valid, unexpired building permit has been issued for the project; or
  - ii. The project is necessary to protect the public's health, safety, and welfare; or
  - iii. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new potable water meter(s) to the satisfaction of the District.

This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted for a period of one year or less.

10. The District will suspend consideration of annexations to its service area.
11. The District may establish water allocation for property served by the District using a method that does not penalize persons for the implementation of conservation methods or the installation of water saving devices. If the District establishes water allocation it shall provide notice of the allocation in the regular billing statement or by any other mailing to the address to which the District customarily mails the billing statement for ongoing water service. The notice of allocation may also include notice that water usage in excess of the allocation will be subject to a penalty in a specified amount for each billing unit of water used in excess of the allocation. The penalty for excess water shall be cumulative to any other remedy or penalty that may be imposed for violation of these rules.

#### **Water Supply Response Level 4 – Water Emergency Condition**

A Water Supply Response Level 4 condition is also referred to as a "Water Emergency" condition. A Level 4 condition applies when the District's water supplier declares a water shortage emergency pursuant to California Water Code Section 350 and notifies its member agencies that demand reduction of more than 40% is required in order for the District to have maximum water supplies available to meet anticipated demands, or when the District

makes a determination that such demand reduction is required. The District Board shall declare a Water Emergency on the grounds provided in California Water Code Section 350.

Upon declaration of a Water Emergency, all persons using water shall comply with conservation measures required during Level 1 – “Water Watch”, Level 2 – “Water Alert,” and Level 3 – “Water Critical” conditions and shall also comply with the following additional mandatory conservation measures:

1. Limit residential and commercial landscape irrigation to no more than one assigned day per week on a schedule established by the General Manager and posted by the District.

This restriction shall not apply to the following categories of use unless the District has determined that recycled water is available and may be lawfully applied to the use:

- a. Maintenance of trees and shrubs that are watered using a bucket, hand-held hose with a positive shutoff nozzle, or low-volume non-spray irrigation.
  - b. Existing landscaping for fire prevention, if property owner provides proof of such need from the fire authority.
  - c. Maintenance of plant materials identified to be rare or essential to the well-being of rare animals.
  - d. Watering of livestock, e.g. horses, goats, chickens, etc.
  - e. Public works projects and actively irrigated environmental mitigation projects.
2. Repair all leaks within 24 hours of notification by the District unless other arrangements are made with the General Manager.
  3. No statements of immediate ability to serve or provide potable water service, or will-serve letters, will be issued.
  4. The District, in its sole discretion, may discontinue service to customers who willfully violate the measures of this section.
  5. The District may implement other prohibited water uses as determined by the District, after notice to the customers.

## Procedures for Determination and Notification of Water Supply Response Level

### Level 1

The existence of a Level 1 condition may be declared by the General Manager upon a written determination of the existence of the facts and circumstances supporting the determination. A copy of the written determination shall be filed with the District Secretary and provided to the District Board. The General Manager may publish a notice of existence of a Level 1 condition in one or more newspapers, including a newspaper of general circulation within the District service area. Notices may also be posted on the District's Web site at [www.mnwd.com](http://www.mnwd.com).

### Levels 2 and 3

The existence of a Level 2 or Level 3 condition may be declared by resolution of the District Board adopted at a public meeting held in accordance with State law. The mandatory conservation measures applicable to a Level 2 or Level 3 conditions shall take effect on the 10th day after the date the response level is declared. Within five days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices and shall post a notice on the District's Web site at [www.mnwd.com](http://www.mnwd.com).

If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for water service. Water allocation shall be effective on the fifth day following the date of mailing or at such later date as specified in the notice.

### Level 4

The existence of a Level 4 condition may be declared by the District Board in accordance with the procedures specified in Water Code Sections 351 and 352, or as otherwise required by law. The mandatory conservation measures applicable to a Level 4 condition shall take effect on the 10th day after the date the response level is declared. Within five days following the declaration of the Response Level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices. Notices may also be posted on the District's Web site at [www.mnwd.com](http://www.mnwd.com).

The District Board may declare an end to any Water Supply Response Level by the adoption of a resolution at any public meeting held in accordance with State Law.



## Hardship Variance

If, due to unique circumstances or the application of other legal requirements, a specific requirement of this Program would result in undue hardship to a person using potable water or to property upon which water is used that is disproportionate to the impacts to District water users generally, then the person may apply for a variance to the requirements as provided in this section.

The variance may be granted or conditionally granted, only upon a written finding of the existence of facts demonstrating an undue hardship to a person using potable water or to property upon which water is used, that is disproportionate to the impacts to District users generally due to specific and unique circumstances of the user or user's property.

### 1. Application

Application for a variance shall be a form prescribed by the District and shall be accompanied by a non-refundable processing fee in an amount set by resolution of the District Board.

### 2. Supporting Documentation

The application shall be accompanied by photographs, maps, drawings and other information, including a written statement of the applicant.

### 3. Required Findings For Variance

An application for a variance shall be denied unless the approving authority finds, based on the information provided in the application, supporting documents, or such additional information as may be requested, and on water use information for the property as shown by District records, all of the following:

- a. The variance does not constitute a grant of special privilege inconsistent with the limitations upon other District customers.
- b. Because of special circumstances applicable to the property or its use, the strict application of these rules would have a disproportionate impact on the property or use that exceeds the impacts to customers generally.

- c. Such variance will not be of substantial detriment to adjacent properties, will not materially affect the ability of District to effectuate the purpose of these rules and will not be detrimental to the public interest.
- d. The condition or situation of the subject property or the intended use of the property for which the variance is sought is not common, recurrent, or general in nature.
- e. All other conservation measures possible have been implemented.

#### 4. Approval Authority

The General Manager shall exercise approval authority and act upon any completed application no later than ten days after submittal and may approve, conditionally approve, or deny the variance. The applicant requesting the variance shall be promptly notified in writing of any action taken. Unless specified otherwise at the time a variance is approved, the variance applies to the subject property during the term of the mandatory Water Supply Response Level.

#### 5. Appeals

An applicant may appeal a decision or condition of the General Manager on a variance application to the District Board within 10 days of the decision upon written request for a hearing. The request shall state the grounds for appeal. At a public meeting, the District Board shall act as the approval authority and review the appeal *de novo* by following the variance procedure above. The District Board, in its discretion, may affirm, reverse or modify the determination, and the decision of the District Board is final.

### **Violations and Penalties**

#### **All Levels**

1. Any person, who uses, causes to be used, or permits the use of potable water in violation of these rules is subject to the fines and enforcement provisions as provided herein.
2. Each day that a violation of these rules occurs is a separate violation; provided that an act or failure to act on any day that causes a violation of more than one rule shall constitute only one daily violation.

3. Any time after a first violation, additional violations are subject to enforcement through installation of a flow-restricting device in the meter, which costs of installation or removal shall be paid for by the person who uses, causes to be used, or permits the use of water in violation of these rules.
4. Each violation of these rules may be prosecuted as a misdemeanor punishable by imprisonment in the County jail for not more than 30 days or by fine not exceeding \$1,000, or by both as provided in Water Code Section 377.
5. All remedies provided for herein shall be cumulative and not exclusive.

### **Levels 1 and 2**

1. For the first violation, the District shall issue a written notice of the fact of such violation to the customer's address of record.
2. For a second violation within 12 months from the first notice of violation, the District shall issue a written notice of the fact of such violation delivered via certified mail and first class mail to the customer's address of record.
3. For a third violation within 12 months from the first notice of violation, the customer shall be administratively fined \$100 which may be collected on the customer's water bill.
4. For the fourth and any subsequent violation within 12 months from the first notice of violation, of the customer shall be administratively fined \$200 which may be collected on the customer's water bill.

### **Levels 3 and 4**

1. For the first violation, the District shall issue a written notice of the fact of such violation delivered via certified mail and first class mail to the customer's address of record.
2. For a second violation, the customer shall be administratively fined \$200 which may be collected on the customer's water bill.
3. For a third violation, the customer shall be administratively fined \$500 which may be collected on the customer's water bill.

4. For a fourth violation involving potable water for construction and/or irrigation use, the customer shall be administratively fined \$1,000 which may be collected on the customer's water bill.
5. Willful violations of the rules applicable during a Level 4 condition may be enforced by discontinuing service to the property at which the violation occurs as provided by Water Code Section 356.

## **Hearing Procedure**

Any customer receiving (1) notice of a second or subsequent violation under Levels 1 or 2, (2) notice of a first or subsequent violation under Levels 3 or 4, or (3) notice of misdemeanor enforcement, shall have a right to a hearing by the General Manager or his designees provided that a written request for hearing is filed within 15 days from the later of the certified date of delivery or the date of first class mailing, of the notice of violation and the customer deposits with the District a sum equal to any fine and pays all other outstanding water charges.

1. The customer's timely written request for a hearing shall automatically stay installation of a flow-restricting device until a decision is rendered.
2. If it is determined that a fine was wrongly assessed, the District will refund any money deposited to the customer.
3. The decision of the General Manager or his designee shall be provided in a written notification delivered via certified mail and first class mail to the customer's address of record and is subject to the appeal process set forth below.
4. A customer may appeal a hearing determination to the District Board upon submission of written request for a hearing within 10 days after the certified date of delivery, or the date of first class mailing, of the notification of decision. The request shall state the grounds for appeal. At a public meeting, the District Board shall review the appeal. The District Board, in its discretion, may affirm, reverse or modify the determination, and the decision of the District Board is final. Any determination of misdemeanor enforcement will be automatically reviewed by the District Board and the District Board, in its discretion, may affirm, reverse or modify that determination, and the decision of the District Board is final.

## **Termination**

The decision to discontinue one or more rules under this Water Conservation Program in response to improved water supply outlook will be made by the District Board based upon the recommendation of the General Manager.

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