

BY-LAWS

**MACBEE SPECIAL UTILITY DISTRICT**

By-Laws of **MACBEE SPECIAL UTILITY DISTRICT**, having been presented to the Board of Directors of said District and duly adopted as follows:

**ARTICLE I.**

The President shall preside and vote at all Directors meetings. The President shall perform all other duties that usually pertain to the office or are delegated by the Board of Directors.

**ARTICLE II.**

The Vice-President shall, in case of the absence or disability of the President, perform the duties of the President.

**ARTICLE III.**

The Secretary-Treasurer shall have custody of all monies, records and securities of the District. The Secretary-Treasurer shall keep minutes of all meetings of the District. All monies of the District shall be deposited by the Secretary-Treasurer in such depository as shall be selected by the Directors. Checks must be signed by the Secretary-Treasurer or assistant or deputy secretary, and General Manager or a designee of that office. The Secretary-Treasurer

shall have custody of the seal of the District and affix it as directed by resolution passed by the Board of Directors. The Board of Directors may appoint an employee as Assistant or Deputy Secretary to assist the Secretary-Treasurer in all official duties pertaining to that office.

The position of the Secretary-Treasurer and other Board positions and/or employees entrusted with receipt and disbursement of funds shall be placed under a fidelity bond in an amount which shall be set from time to time, but not less than once each year, by the Board of Directors. The fidelity bond coverage amount shall approximate the total annual debt service requirements for all USDA Rural Development, Rural Utilities Service (RUS) and Texas Water Development Board loans, issuance of bonds and be evidenced by a position fidelity schedule bond as acceptable to its lenders or its successor agencies and assigns.

#### **ARTICLE IV.**

**Section 1.** The Board of Directors shall consist of Nine (9) Directors, a majority of whom shall constitute a quorum. The Directors shall be elected at large by the population of the District at a public election provided for in the Texas Election Law. The Directors shall be divided into three (3) classes, each class to be as near as equal in number as possible. The terms of the Directors of the first class expire at the first annual district election after their election, the terms of the Directors of the second class shall expire at the second annual district election after their election and the terms of the Directors of the third class shall expire at the third annual district election after their election. At each annual election after such classification the number of Directors equal to the number of the class whose term expires at the time of such election be

elected to hold office until the third succeeding annual election. Directors, as such, shall not receive any stated salary for their services, except as provided for by state law.

Upon the death or resignation of a Director, a successor shall be appointed by a majority of the existing Directors to serve until the next regular election at which time the general district population shall elect a successor for the remaining balance of the previously vacated term.

**Section 2.** Officers and Directors may be removed from office in the following manner except as otherwise provided in Article V: Any Customer, Officer, or Director may present charges against a Director or Officer by filing such charges in writing with the Secretary-Treasurer of the District. If presented by a customer, the charges must be accompanied by a petition signed by at least ten (10) percent of the Customers of the District. Such removal shall be voted on at the next regular or special meeting of the district and shall be effective if approved by a vote of 2/3 majority of those voting if a quorum is present. The Director(s) or Officer(s) against whom such charges have been presented shall be informed in writing, of such charges at least twenty days prior to the meeting, and shall have the opportunity at such meeting to be heard in person or by counsel and to present witnesses; and the person or persons presenting such charges shall have the same opportunity. If the removal of a Director(s) is approved, such action shall also vacate any other office(s) held by the removed Director(s) in the District. A vacancy in the Board thus created shall immediately be filled by the Board of Directors from among their number so constituted after the vacancy in the Board has been filled.

**Section 3.** The President of the Board or Vice-President, shall preside at any

meeting convened to consider removal of an Officer or Director as provided under Section 2, unless the President is the subject of charges, in which event the Vice-President shall preside. In the event both the President and the Vice-President are the subject of any charges, those Directors who are not the subject of any charges shall appoint one of their number to preside over the meeting. Any meeting convened to consider the removal of an Officer or Director shall be conducted in accord with the procedures prescribed by the Board. The fact that the President, Vice-President, or any other Officer or Director has been made the subject of charges does not otherwise prevent such individual from continuing to act in the capacity as an Officer or Director of the District. Any Director that has been removed under the provisions of this Article shall not be precluded from subsequent election to a position on the Board of Directors.

**Section 4.** The Board of Directors shall adopt and maintain a conflict of interest policy designed to promote the business of the District and serve the interests of the Customers. Such policy, at a minimum, shall be in conformance with the provisions of Chapter 49 of the Texas Water Code pertaining to duties and responsibilities of the Board of Directors.

## **ARTICLE V.**

**Section 1.** Meetings of the Board of Directors shall be held at such time and place as the Board may determine at the previous meeting, and shall include posting of the meeting as required by the Texas Open Meetings Act. The Board of Directors shall ensure that all meeting comply with the requirements of the Open Meetings Act, Chapter 551, Texas Government Code, including any subsequent amendment thereto. In the event of any conflict

between the provisions of these Bylaws and the requirements of the Open Meetings Act, the provisions of the Open Meetings Act shall prevail.

**Section 2.** Any Director failing to attend two (2) consecutive meetings may be given written notice by the balance of the Board of Directors that failure by said Director to attend a third consecutive meeting, without justifiable cause acceptable to the balance of the Board of Directors, shall give rise to removal of said Director from the Board. A successor shall be appointed by a majority vote of the Directors remaining to serve until the next regular election, at which time the district voters shall elect a successor for the balance of the term.

**Section 3.** The Board of Directors shall provide access for the public to the meetings of the Board of Directors by setting aside a time for hearing of suggestions, proposals, or grievances; however, there shall be no deliberations or actions by the Board unless such has first been noticed in accordance with the Texas Open Meetings Act. The Board of Directors shall establish reasonable rules for access to such meetings.

**Section 4.** The Board of Directors may, upon lawful notice to the public, meet in executive session when permitted, in the manner and for such limited purposes as provided for in the Texas Open Meetings Act, as amended, and for no other reason. All proceedings of any meeting as which a quorum of Directors is present to discuss the business of the District shall be recorded in the manner required by the Texas Open Meetings Act.

**Section 5.** In conducting their duties as members of the Board, Directors: (1) shall be entitled to rely, in good faith and with ordinary care, on information, opinions, reports, or

statements, including financial statements and other financial data, concerning the District or the District's affairs that have been prepared or presented by one or more Officers or employees of the District; or by legal counsel, public accountants, or other persons retained by the District for the development of professional advice and information falling within such person's professional or expert competence; (2) may believe in good faith and with ordinary care, that the assets of the District are at least that of their book value; and (3) in determining whether the District has made adequate provision for the discharge of its liabilities and obligations; and may rely in good faith and with ordinary care on the financial statements of, or other information concerning, any person or entity obligated to pay, satisfy or discharge some or all of the District's liabilities or obligations; and may rely in good faith on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by one or more Officers or employees of the District; legal counsel public accountants, or other persons provided the Director reasonably believes such matters to fall with such persons professional or expert competence. Nevertheless, Directors must disclose any knowledge they may have concerning a matter in question that makes reliance otherwise provided herein to be unwarranted.

#### **ARTICLE VI.**

A special meeting of the District voters or Directors may be called by the President, or by demand by a majority of the board members or one-third (1/3) of the District voters. Such special meetings shall be held upon giving notice as required by the Texas open meetings Act.

Prior to convening any special meeting of the District voters, the President shall request in writing that the Secretary-Treasurer give at least ten (10) day prior notice to the District voters, and that such special meeting is otherwise noticed, as required under Article 1396-2.11, Texas Revised Civil Statute, and as provided under Article V of these Bylaws. Such notice shall specify the time, place and purpose of the meeting, as shall be published in a district wide circulated newspaper.

Emergency meetings of the Directors may be held on rare occasions and only when clearly authorized by the Texas open Meetings Act. Notice of such Bylaws and the Texas Open meetings Act, at least two hours before the meeting is convened. It shall be responsibility of the President, or a designee of that office, to ensure that proper notice is posted and Directors are properly notified. In no event shall any emergency meeting of the Directors be convened where the business of such meeting could be considered at a regular or special meeting of the Directors receiving at least seventy-two (72) hours notice as provided under Article V of these Bylaws.

## **ARTICLE VII**

The District shall conduct its business on a prudent and profitable basis. All profits arising from the operation of such business shall be annually paid out to the persons who have, during the past year, transacted business with the District, in direct proportion to the amount of business transacted, provided also, that the Directors of the District may allocate to

sinking fund(s) and reserve accounts such amount of funds as they deem necessary for maintenance, operation, capital improvements, expansions and replacements of all facility components, as provided by Section 67.008 (d) of the Texas Water Code. Funds allocated by the Board to a sinking fund for replacement, amortization of debts, and the payment of interest that are not required to be spent in the year in which deposited shall be invested in accordance with the provisions of Section 67.014 (b) of the Texas Water Code.

### **ARTICLE VIII**

The Directors of the District shall establish and maintain so long as the District is indebted to the Government, in an institution insured by the State or Federal Government, or invested in readily marketable securities backed by the full faith and credit of the United States of America, a reserve account separate and apart from other fund accounts of the District.

Securities so purchased shall be deemed at all times to be part of the reserve fund account. There shall be deposited in such fund the sum as required by a total of all loan resolutions executed by the District. Such deposits shall be made monthly and shall continue until the total amount deposited equals the sum as required by the executed loan resolutions, provided however that after any withdrawals, such deposits shall be resumed until the amount accumulated in the fund is restored to the sum as required by the executed loan resolutions.

Withdrawals may be made from this fund only upon prior written approval from USDA Rural Development, RUS or TWDB or other lending institution that the District is



indebted. Approval shall be made only for emergency repairs, obsolescence of equipment, improvements to facility, and for making up any deficiencies in revenue for loan payments.

## ARTICLE IX.

**Section 1.** The District shall have Customers as defined by the Texas Water Code. All customers of the District must hold a Deposit or obtain their service through a Deposit. A person or entity that holds an interest in property solely as security for the performance of an obligation or that only builds on or develops the property for sale to others is not required to hold a deposit as a condition to receive service on a limited basis. Every person (which includes any legal entity) owning or having a legal right to the control, possession or occupancy of property served or which may reasonably be served by the District, shall have the right to become a Customer of the District upon payment of the Deposit fee hereinafter provided and upon compliance with the District's conditions of water and/or sewer service as provided for in its published charges, rates and conditions of service. Service shall not be denied because of the applicant's race, color, religion, sex, age, marital status, familial status, handicap, income from Public Assistance, disability or national origin. It is the intent of the District to provide service on a nondiscriminatory basis.

**Section 2.** The Deposit fee shall be as determined by the Board of Directors. Payment of the Deposit fee shall entitle an applicant to further qualify for one (1) connection to the system to continue to qualify for service to an existing connection to the system by meeting

the conditions for water and/or sewer as provided in the District's published rates, charges, and conditions of service.

**Section 3.** The Deposit fee may be revised by the Board of Directors as the Board may determine to be appropriate. In determining the amount of the Deposit fee, however, the Board shall ensure that the fee is sufficient to establish the potential Customer as being legitimately interested in securing water and/or sewer service from the District for such potential Customers own needs. Furthermore, the Board shall determine and administer such fee in a manner or in an amount which does not unreasonably deny service to financially deprived potential Customers. In no event, however, shall the Deposit fee exceed an amount equal to the sum of twelve (12) charges of the District's minimum monthly water and/or sewer rate. Deposit fees will be refundable.

#### **ARTICLE X.**

Where necessary for determining those Customers entitled to notice of, or where necessary to make a determination of Customers for any other proper purpose, ownership of Deposits shall be deemed to be vested in those persons who are the record owners of Deposits as evidenced on the 15th day of the month preceding the month of the date upon which the action requiring such determination is to be taken. Nothing herein shall preclude the holder of a Deposit from mortgaging, or, upon notification of the District, preclude the holder of such mortgages from exercising legal rights pursuant to such mortgages upon proper notice to the District.

#### **ARTICLE XI.**

The Board may employ a manager to handle the business of the District under the direction of the Board. The Board shall set the salary for the manager.

#### **ARTICLE XII.**

All customers shall be billed, disconnected, or reconnected, and otherwise shall receive service in accordance with the written policies of the District, including the tariff of the District. In the event a customer should surrender the deposit fee to the Secretary-Treasurer of the District, the water and/or sewer service shall be discontinued and the obligation to pay for water and/or sewer service shall terminate except as for the minimum charge for the current month and the charge for water and/or sewer used during the current month, and except as for any prior unpaid amounts due the District. Any remaining balance from the deposit fee will be refunded to the former customer. In the event the deposit is terminated, cancelled, withdrawn, or surrendered, whether voluntarily or involuntarily, the former customer's rights and interest in the District will not be forfeited.

#### **ARTICLE XIII.**

The fiscal year of the District shall be January 1st to December 31st.

**ARTICLE XIV.**

For so long as the District is indebted for a loan or loans made to it by the United States of America through the USDA Rural Development, RUS, or the Texas Water Development Board the District shall insure with a reputable insurance company such of its properties and in such amounts as is required by the laws of the State of Texas.

**ARTICLE XV.**

The District shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its Board of Directors meetings and committees.

**ARTICLE XVI.**

These By-Laws may be altered, amended, or repealed by a vote of a majority of the Board of Directors present, at any regular board of directors meeting, or at any special meeting of the board of directors called for that purpose.

**ARTICLE XVII.**

The seal of the District shall consist of a circle within which shall be inscribed **MacBee Special Utility District.**

**XVIII.**

The above By-Laws and regulations were unanimously adopted by the Board of

Form FmHA-TX 442-7  
Revised (3/99)

Directors of the MacBee Special Utility District, at a meeting in the Corporate office, 402 E.  
South Commerce Street in Wills Point on the 10<sup>th</sup> day of March A.D. 2003.

William R. Summit  
President

Attest:

Ronnie Clitty  
Secretary-Treasurer

