

Ordinance No. 211-04
Doña Ana County, New Mexico

DOÑA ANA COUNTY WATER ORDINANCE

**AN ORDINANCE AMENDING COUNTY ORDINANCE NO. 202-02
ESTABLISHING THE POLICIES AND REGULATIONS
FOR WATER SYSTEMS OWNED, ESTABLISHED
OR AUTHORIZED BY DOÑA ANA COUNTY**

TABLE OF CONTENTS

<u>TITLE OF SECTION</u>	<u>PAGE NO.</u>
Section 1. Short Title	3
Section 2. Authorization	3
Section 3. Jurisdiction	3
Section 4. Definitions	4
Section 5. Service Area	9
Section 6. Mandatory Connection	10
Section 7. Grandfather Clause	11
Section 8. County Rules and Regulations	11
Section 9. Service to Comply with Technical Provisions	12
Section 10. Resale of Water	12
Section 11. Rates and Charges	12
Section 12. Non-Payment of Fees, Charges and/or Rates	13
Section 13. Billing and Collection	13
Section 14. Operation and Maintenance	13
Section 15. Administration	13
Section 16. Enforcement and Penalties	13
Section 17. County Police Power	14
Section 18. Notices	14
Section 19. Severability	14
Section 20. Conflict Provision	14
Section 21. Non-Waiver	15
Section 22. Amendment Clause	15
Section 23. Repealer	15

Ordinance No. 211-04
Doña Ana County, New Mexico

DOÑA ANA COUNTY WATER ORDINANCE

**AN ORDINANCE ESTABLISHING THE POLICIES AND REGULATIONS
FOR WATER SYSTEMS OWNED, ESTABLISHED
OR AUTHORIZED BY DOÑA ANA COUNTY**

WHEREAS, the County of Doña Ana has the power and authority to provide for the health, safety, prosperity, comfort and convenience of its inhabitants; and

WHEREAS, there is an increasingly pressing need in the County for the establishment of water utility services for County inhabitants to provide clean drinking water and water for other uses, to protect the groundwater resources in the County, to promote orderly development and to provide for the health, safety, comfort and convenience of the inhabitants thereof; and

WHEREAS, the Board of County Commissioners has determined that adequate regional and community water and wastewater systems are necessary for the development of residential, commercial and industrial properties in Doña Ana County; and

WHEREAS, the formation of a County Water Utility, as directed in Resolutions 95-38 and 96-36, for the construction, expansion and/or improvement of a water system will benefit the inhabitants of the County; and

WHEREAS, Doña Ana County, having adopted and enacted a Revenue Bond Ordinance authorizing the issuance of revenue bonds to a maximum of six (6) million dollars and with financial assistance and cooperation with Federal and State agencies, has constructed the Santa Teresa - Border Area Water System and continues to construct water systems in the unincorporated areas of the County; and

WHEREAS, the viability of the County water system and the health and welfare of

County residents require stated policies and regulations regarding connections, uses of water, conservation of water, rates and charges and other conditions of service.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Doña Ana County, New Mexico that the following policies, terms and conditions governing the establishment and operation of the County Water System shall have the force of law. Further, the County Manager and Staff are hereby authorized to take whatever actions they deem necessary to affect and carry out the policies, terms and conditions of this Ordinance.

Section 1. Short Title.

This Ordinance shall be known and may be cited as the "Doña Ana County Amended Water Ordinance."

Section 2. Authorization.

This Ordinance is adopted and enacted in accordance with the authority granted by §§ 3-27-1 et seq., 4-36-10, 4-37-1, 72-4-3 and 3-53-1.1 NMSA 1978, and County Resolutions 95-38, 96-36 and 97-27. The County is the Designated Management Agency as defined by the United States Environmental Protection Agency and the New Mexico Environment Department.

Section 3. Jurisdiction.

This Ordinance applies to all County designated service areas within the unincorporated area of the County to be served by the County's water utility, as designated and established by this Ordinance and by subsequent resolutions or ordinances.

Section 4. Definitions.

The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act or the Act:

The Safe Drinking Water Act.

Applicant:

A person that applies for County water service.

Backflow:

Is caused by vacuum conditions in the County water system when normal flow is reversed allowing possible polluted water or liquids to enter the County water supply system.

Backflow Prevention Device:

A device approved by the Utilities Director which prevents possible back flow from system customers.

Board:

The Doña Ana County Board of County Commissioners.

County:

Doña Ana County.

County Manager:

The person designated by the County as its manager or acting manager to supervise the administration of the County's duties including the operation of the publicly-owned water system, and who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative or designee.

County Right-of-Way:

Version: 1/12/2004

Water Ordinance

Property owned by or maintained by the County, including but not limited to, streets, highways, alleys, planes, sidewalks, plazas, parks, easements, curbs, and drainage ways, which constitute County right-of-way.

County System:

A water system owned, established or authorized by the County and constructed within a community or region in the unincorporated area of the County. County system includes water distribution and transmission lines, booster stations, and any other facilities of production and storage but, according to the circumstances of a particular community or area, may or may not include a well facility.

Cross-Connection:

Any physical connection or arrangement between two (2) otherwise separate piping system, one of which contains potable water and the other of unknown or questionable safety, whereby water may flow from one system to the other, the direction of the flow depending on the pressure differential between the two (2) systems.

Customer:

Any owner or user of a building or facility or other property that receives water from the County system and/or is responsible for payment of water services.

Designated Operator:

The entity which operates, maintains and manages the water system and which may be the County, another municipality or a private entity which by contract or other similar agreement performs those duties.

Discontinuance of Service:

An intentional cessation of service by the County which was not requested by a customer.

A registered professional engineer currently licensed by the State of New Mexico as a Civil or Environmental engineer.

Environmental Protection Agency (EPA):

The United States Environmental Protection Agency or, where appropriate, the may also be used as a designation for the administrator or other duly authorized official of that agency.

Estimated Bill:

A bill for utility service which is not based on an actual reading of the customer's meter, or other measuring device, for the period billed.

Facilities:

Facilities are and include, but are not limited to, plants, works, systems, improvements and equipment of the County such as pipes, mains, conduits, wells, hydrants, tanks, water storage, underground lines and meters.

Multi-Use Service:

Service provided to apartment complexes, townhomes, mobile home parks, and other multi-complexes that are served with one meter with or without individual meters for separate units

Municipal System:

The water system owned, established, or authorized by a municipality and to which, for the purposes of this ordinance, a county system may be connected for the supply of water.

New Mexico Environment Department (NMED):

The State of New Mexico Environment Department or, where appropriate, the term may also be used as a designation for the director or other duly authorized official of that department.

Person:

Any individual, estate, trust, utility, receiver, association, cooperative, club, public or private corporation, company, firm, partnership, joint venture, syndicate, federal, state, or local governmental body or any other entity.

Point of Delivery:

The point of delivery shall be the point where the facilities of the County connect to the facilities furnished by the customer.

Pollutant:

Any dredged spoil, solid waste, incinerator residue, wastewater, garbage, wastewater sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Pollution:

The manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

Pressure:

The range of twenty (20) to one hundred twenty-five (125) pounds which can ordinarily be made available in the area contiguous to existing lines.

Pressure Regulating Device:

A device that maintains a constant water pressure at its immediate downstream side which is less than the inlet pressure to the device, unless the pressure on the inlet side is lower than the pressure setting for the downstream side.

Rate Schedule:

A description of the charges, conditions of services and other similar information

associated with the provision of water service to a given class or type of customer.

Rendering of a Bill:

The mailing or personal delivery of a bill by the County.

Resolution:

Rule, regulation or other decision adopted and enacted by the Board, under the authority of this Ordinance for the purpose of carrying-out the policies, terms and conditions of the Ordinance.

Service Area:

Service Area means the area of land within the unincorporated area of the County that the County from time to time designates as the service area to be provided water service by the County's Water Utility.

Service Line:

The pipe connection from a distribution water main to the water meter.

Service Region:

The region delineated by exterior boundaries as shown on the service area maps for which planning and development may affect a County designated service area.

Special Service:

A service provided to a customer by the County, which may not be included in a rate schedule.

User:

Customer or other person who connects to the County's water system or otherwise uses County-supplied water.

Utilities Director:

The person designated by the County to administer this Ordinance and the

resolutions adopted, enacted and promulgated there under.

Utility:

A utility service including water, wastewater, electric, and/or gas services.

Water Pressure:

The gauge pressure of water within a pipe measured in pounds per square inch above atmospheric pressure and abbreviated herein as "pounds."

Water Service:

The general term for furnishing the user with water.

Section 5. Service Area: Service Area Dispute Mediation

A. The County Water System will serve the unincorporated areas of the County except those areas where a lawfully established water system exists and is presently operating in its lawful service area.

B. From time to time the County will designate as County water service areas those geographical areas where the County has in place water system infrastructure capable of serving existing and new development or has the ability to expand its water system to provide service to new development in the area, pursuant to this Ordinance and its Rules and Regulations, within a reasonable time.

C. The County hereby identifies and designates the following as County water service areas:

Exhibit 1, Southern Region: Santa Teresa – Border Area

D. The water service area map is attached hereto as Exhibit 1, which is incorporated herein and made a part hereof. These designated service areas and/or maps may be changed by the County by subsequent ordinance or resolution, as the need

incorporated herein and made a part hereof. These designated service areas and/or maps may be changed by the County by subsequent ordinance or resolution, as the need requires, consistent with expansions of or other modifications of the County's water system as a result of new construction, operations, contracts, public or private development or plans therefor.

E. If a lawfully-established water system ("Competing System") believes that the County, in designating a geographical area as an area to which the County will provide service, is or will be intruding upon that Competing System's lawful service area, it may seek to attempt to resolve the service area dispute with the County by non-binding mediation prior to filing any litigation against the County over the dispute. The filing of a mediation request and the mediation procedures shall be in accordance with the New Mexico Public Works Mediation Act (§§ 13-4C-1 through 13-4C-11 NMSA).

Nothing in this section requires the Competing System to seek mediation as a precondition to filing any litigation. The County shall offer the non-binding mediation process to the Competing System prior to the County's filing of litigation against the Competing System over a service-area dispute.

Though the mediation is non-binding, both the County and the Competing system shall mediate in good faith in an attempt to resolve the dispute.

Section 6. Mandatory Connection.

Consistent with §§ 3-53-1.1 NMSA 1978, it shall be mandatory for new development and all new structures constructed in the County's designated service area or existing structures without an existing water supply to take water service from and connect to the County Water System. Upon completion, acquisition or authorization of a new County

described in Section 7, infra: "Grandfather Clause." Further, where an existing structure in the County's designated service area is being served by an existing well on the property, it shall be mandatory for the property owner to connect to the system in the event that the existing well fails and needs to be re-drilled. The owner of the existing well may use the existing well for outside water needs, but must use the County water system connection for the indoor needs of the structure. The two systems (existing well and County connection) must be physically separated from each other and have no means of cross-connection.

In addition to other enforcement remedies provided for in this Ordinance, a property owner who fails to connect and take service shall be, nonetheless, charged and billed for service based on the fixed charge set-forth in Rate Schedule 3.

Section 7. Grandfather Clause.

Any person in the designated water service area who presently is providing water to his residence, building or other structure by an existing and operating well, constructed and in place prior to the effective date of County Ordinance 202-02, is exempted from the obligation to connect to the County's water system; however, should the well fail requiring it to be redrilled, the person will be subject to the mandatory connection provisions of this Ordinance (see Section 6), as well as the other provisions of this Ordinance.

Section 8. County Rules and Regulations.

The Board of County Commissioners shall have the authority to set or to modify by subsequent resolution, rule, regulation, or ordinance such standards, specifications and policies, additional service areas, rates, expansion, line extension, line sizes and water rights acquisition and other charges, conditions of service and/or other matters, as may be

deemed necessary, or deemed to be in the County's best interests, for the establishment, construction, expansion and maintenance and operation of the County Wastewater Systems. Attached hereto and titled "Doña Ana County Water Rules and Regulations" is the present set of such Rules and Regulations, is incorporated herein, made a part of this Ordinance and shall be effective with the effective date of this Ordinance.

Section 9. Service to Comply with Technical Provisions.

Any service furnished as a result of this Ordinance shall be in accordance with and in compliance with all applicable technical provisions of county, state and federal laws, rules and regulations, as well as this Ordinance.

Section 10. Resale of Water.

No user of the County Water Utility shall be allowed to resell or redeliver for profit any water supplied from the County system, without the proper written approval of the County.

Section 11. Rates and Charges.

A. The rates and charges for the use of the County water system and services furnished are fixed as set forth in the Rate Schedules, attached hereto. The rates and charges shall be sufficient to provide for the cost of service, capital improvement and debt service of the County system. In addition, the Board may assess, by subsequent ordinance or resolution, a surcharge to said utility rates to provide for repairs, replacement and/or expansions to any County system.

B. All customers of the County System shall pay all user rates, fees, and other charges as set by the Board in the manner established by the County.

C. Fees, charges and user rates may be different depending on type of use, i.e. residential, commercial, industrial or institutional, and/or by region served.

D. The rates and charges fixed herein may be changed or modified by the Board by subsequent ordinance or resolution, as the need requires or as deemed in the County's best interests.

Section 12. Non-Payment of Fees, Charges and/or Rates.

A. In the event of non-payment by a customer, the County may exercise any one or combination of the following provisions:

- (1) bring suit to collect payment;
- (2) disconnect the water utility service;
- (3) file a utility lien on the serviced property; and
- (4) enforce the lien as provided for by "§§ 3-36-1 to 3-36-7 NMSA 1978."

B. In any legal action instituted by the County provided for above, the County, if it prevails, shall be entitled to recover reasonable attorney fees and costs of the lawsuit.

Section 13. Billing and Collection.

Utility billing and collection under the authority of this Ordinance will be performed by the County or designated agent.

Section 14. Operation and Maintenance

Utility operations and maintenance under the authority of this Ordinance will be performed by the County or designated agent.

Section 15. Administration.

This Ordinance shall be administered by the Utility Director subject to the supervision and direction of the County Manager and Board approvals and enforced by the County Utilities Director and his or her Department with the assistance of Codes Enforcement and/or the Sheriff's Department. Applications for service or questions

concerning service should be directed to the Utilities Department.

Section 16. Enforcement and Penalties.

Pursuant to § 4-37-3 NMSA, a violation of this Ordinance or of any resolution adopted and enacted under its authority is punishable by a fine of not more than \$300 or imprisonment for not more than 90 days or both, per violation. In addition, the County may in its sole discretion pursue other legal and equitable remedies allowed by law, including injunctive relief, in cases of unauthorized use of the County's water system services by any person. In the alternative, where applicable, the County may resort to its enforcement authority under Section 12 of this Ordinance.

Section 17. County Police Power.

The Board expressly reserves the option, right and duty to adopt from time to time in addition to the provisions herein contained, such resolutions and other ordinances as the Board may deem reasonably necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties.

Section 18. Notices

All notices required to be delivered to the County pursuant to this Ordinance shall be sent, certified mail, to the following:

County Manager and
Doña Ana County
180 West Amador Avenue
Las Cruces, NM 88001-1202

County Utilities Director
Dona Ana County
180 West Amador Avenue
Las Cruces, NM 88001-1202

Section 19. Severability

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance that can be given effect without the invalid provision or application and, to this end, the

provisions of the Ordinance are severable.

Section 20: Conflict Provision.

In the event the terms and/or the conditions of this Ordinance conflict with those found in any other County or local Ordinance or State or Federal Statute or regulation, the more stringent terms and/or conditions shall apply.

Section 21. Non-Waiver.

Any waiver by the County of a violation by a person of any term or condition of this Ordinance shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent County from enforcing any succeeding violation either of the same term or condition or another. All remedies afforded in this Ordinance shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law.

Section 22. Amendment Clause.

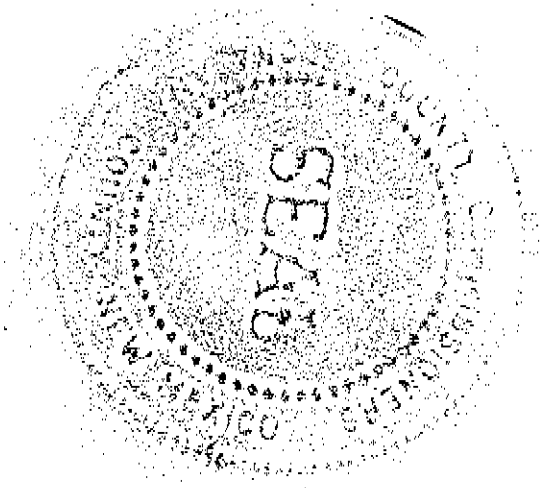
This Ordinance may be amended, as needed.

Section 23. Repealer.

This amended water ordinance supersedes the County Water Ordinance No. 202-02. The County Water Ordinance No. 202-02 is hereby repealed.

PASSED, ADOPTED AND APPROVED this 13th day of January,


2004, by the Doña Ana Board of County Commissioners.

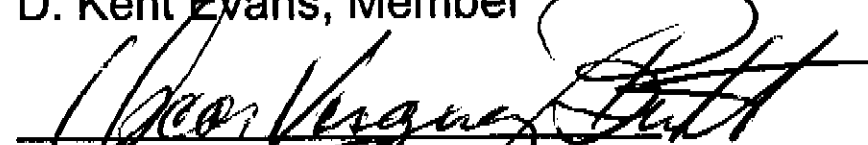


**BOARD OF COUNTY COMMISSIONERS
OF DOÑA ANA COUNTY**

Not Available for Signature **Aye**
Paul B. Curry, Chairman

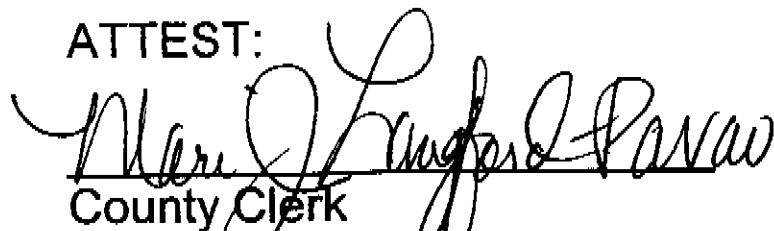
Not Available for Signature **Aye**
Gilbert T. Apodaca, Vice Chairman

 **Aye**
D. Kent Evans, Member

 **Aye**
Oscar Vásquez Butler, Member

 **Aye**
Arturo C. Terrazas, Member

ATTEST:


County Clerk

Doña Ana County, New Mexico

DOÑA ANA COUNTY WATER
RULES AND REGULATIONS

TABLE OF CONTENTS

<u>RULE NO.</u>	<u>TITLE OF RULE</u>	<u>PAGE NO.</u>
1	Preamble to Rules and Regulations	2
2	Customer Classification	2
3	Responsibility for Water Service Equipment	4
4	Liability of County for Damage	5
5	County's Right to Ingress/Egress from Customer's Property	5
6	Acceptable Standards	6
7	Application for Service	6
8	Temporary and Special Service	7
9	Service Connection	8
10	Location of Meter	10
11	Unauthorized Connections	10
12	Interruption of Service	11
13	Discontinuance and Denying Restoration of Service	11
14	Manner of Serving Notice to Customer	15
15	Customer Complaint Procedures	15
16	Rates and Charges	15
17	Security Deposits, Guarantees of Payments	16
18	Rendering and Payment of Bills	17
19	Estimated Bills	18
20	Disputed Bills	19
21	Settlement Agreements	19
22	Metering	21
23	Limitation and Restrictions of Use	22
24	Line Extension Policy	23
25	Infrastructure Transfer Policy	26
26	Water Rights Acquisition	27
27	Fire Hydrants	29
28	Fire Protection	29
29	Restriction of Domestic Water Wells	30

Rule 1. Preamble to Rules and Regulations

The following rules and regulations apply in the unincorporated areas of the County wherever the County is furnishing water service to its inhabitants with its County water utility.

These rules and regulations are enacted by the County pursuant to its authority granted by §§ 4-36-10 NMSA 1978, 4-37-1 NMSA 1978, and 3-26-1 et seq. NMSA 1978, and by County Resolutions 95-38, 96-36 and 97-27.

These rules and regulations are intended to promote safe and adequate service to the public and to provide standards for uniform and reasonable practices. The rules and regulations herein established shall remain in effect until amended or superseded by subsequent ordinance or resolution.

Dona Ana County does not assume any responsibility to serve or extend its water facilities to serve additional customers located outside the service area boundaries as defined by the County.

Rule 2. Customer Classification

Water service for residential, commercial, industrial, institutional and other purposes will be furnished under conditions as stated in these Rules and Regulations. Service to a customer will be provided at the rates set forth in the applicable rate schedules.

A. Residential Service

1. Residential service shall include water service to a single house or to a multiple dwelling unit or condominium if separate piping is installed for each dwelling unit so that water service to each unit can be metered and billed separately and provided meters are grouped and numbered as specified in Rule No. 9.

2. Where premises are used for both residential and commercial purposes, the water service will be billed under the applicable commercial rate schedule. When separate piping is installed to permit separately metering the water service to each class of service, billing will be rendered in accordance with the applicable rate schedule.

3. Any establishment acknowledged or advertised as a business, professional or commercial enterprise will be classified as non-residential.

4. Each service will be metered and billed separately or as otherwise agreed.

B. Commercial Service

1. Commercial service shall include water service to all types of establishments including multi-family residential not included in the "residential" classification, mobile home parks served by common service line(s), retail, offices, hotels, motels, shopping centers, laundromats, none of which use water in the manufacturing process.

2. Only one premises or business will be served through one (1) service line, except a group of buildings under one (1) management and control and provided that each building or service requirement is an integral part of and necessary to the operation of the establishment and provided meters are grouped and numbered as specified in Rule No. 9.

3. Each service will be metered and billed separately or as otherwise agreed.

C. Industrial Service

1. Industrial service shall include water service to a manufacturing or process facility, which is engaged in producing a product.

2. Each service will be metered and billed separately or as otherwise agreed.

D. Institutional Service

1. Institutional service shall include water service to government buildings, hospitals, schools and other facilities that provide public and quasi-public services.

2. Only one premises or business will be served through one (1) service line, except a group of buildings under one (1) management and control and provided that each building or service requirement is an integral part of and necessary to the operation of the establishment and provided meters are grouped and numbered as specified in Rule No. 9.

3. Each service will be metered and billed separately or as otherwise agreed.

Rule 3. Responsibility for Water Service Equipment

A. Responsibility of the County.

1. The County will own, operate and maintain the complete water system up to the point of delivery.

B. Responsibility of the Customer.

1. The customer shall install, own and maintain all facilities from the point of delivery and up to and with in the connected facility or unit.

2. The customer or property owner must exercise due care for the protection

of the property of the County on the customer's premises.

3. The customer agrees, in accepting service that only a County employee shall be allowed to make an internal or external adjustment of the County meter or any other piece of apparatus that is the property of the County.

4. Facilities or equipment necessary for special requirements shall be installed and maintained by the customer.

Rule 4. Liability of County for Damage

A. The County shall not be liable for damage to any customer of a County-owned water system due to stoppage, obstruction, breaks, failure of supply, interruption of service or any other cause outside the direct control of the County.

B. A statement to the effect provided for in paragraph A, above, is included in the Terms and Conditions described on the Application for Water Service and User Agreement.

Rule 5. County's Right to Ingress/Egress from Customer's Property

A representative of the County shall have the right to ingress and egress to and from the customer's premises at reasonable times for the purpose of inspecting, maintaining, testing, reading, changing, installing, or removing its meters. If such representative, after showing proper credentials and identification, is refused admittance or hindered or prevented from performing the above duties, the water service may be discontinued until free access is given in accordance with Rule No. 13 and/or the customer shall be subject those actions described in the County Water Ordinance, Section 16, Enforcement and Penalties.

Rule 6. Acceptable Standards

The County will adhere to the applicable minimum design and construction standards and technical provisions as established under state law, Federal law and/or County ordinances or Standards for Water Facilities.

Rule 7. Application for Service

A. Applications for water service shall be made at the county offices or designated location. Applications shall be in a form prescribed by the County, *Application for Water Service and User Agreement*, and shall include specific Terms and Conditions for which water service will be provided. All applicable Administrative Charges and One-Time Charges, as described in Rate Schedules 1 and 2, shall be paid or payment arrangements made prior to approval by the County. The County shall have a reasonable time to provide water service, once the application has been accepted.

B. The cost to physically connect to the water service line is the responsibility of the customer. The conditions of piping and character of installation on the premises shall be subject to inspection and approval by the county, and if such piping and/or installation is found to be faulty, the County may refuse to provide service until, and after, such faulty installation has been corrected to the satisfaction of the County. The County does not assume the responsibility for such inspections and shall not be held liable for failure of such piping or installations.

C. The County reserves the right to limit each customer to a maximum daily average use.

D. To enable the County to provide adequate service facilities, the customer may be required to provide quantity information on new construction or alterations sufficiently in advance of the date upon which the customer expects water service to commence.

E. The County shall supply service within a reasonable time after the application or agreement is approved, and after any necessary permits have been obtained. It is the responsibility of the customer to comply with all applicable codes and to obtain the necessary permits from governmental authorities. If, due to circumstances beyond the

control of the County, service cannot be furnished within a reasonable length of time, the customer shall be advised promptly regarding the delay.

F. New or additional service will be limited to the available unreserved capacity in production, transmission and distribution facilities, and commensurate with the County's available water rights.

Rule 8. Temporary and Special Services

A. Where service connections are available, temporary service will be furnished under the County's established rules, regulations, and rates for the type of service required; provided, however, that the customer shall pay, in addition to the cost of service rendered under its applicable rate, the cost of installing and removing, or of connecting and disconnecting the necessary facilities required to provide such service.

B. The rate to be charged for temporary water service will be in accordance with the County's existing applicable Rate Schedules. Water service for specialized use shall be considered as a special case when not covered by a specific filed rate schedule.

C. Where water service is supplied directly to a mobile/manufactured home or other temporary or portable structure, the County shall require that the Application for Service and User Agreement be in the name of the owner of the property on whose land the mobile/manufactured home or other portable structure is located. In such case, the monthly bill may be billed to the tenant as may be requested by the property owner, but the property owner will be held responsible for any unpaid charges.

D. Where water service is supplied to an individual mobile/manufactured homes and other portable structures, the customer shall pay for the installation and removal cost of providing this service.

E. The County reserves the right to furnish or not to furnish water service for any type of temporary or special service and further, to define the conditions under which the water will be provided. Continuous service under normal conditions to existing customers shall take priority over customers receiving temporary service.

Rule 9. Service Connection

A. The service connection shall be constructed in accordance with the technical provisions as identified in the County Water Ordinance, Section 9. The cost of the construction is the responsibility of the customer and is subject to inspection by the County.

B. Operating pressures within the range of twenty (20) to one hundred twenty-five (125) pounds per square inch can ordinarily be made available in areas contiguous to existing lines and at the pressures indicated for normal operations. Where applications for service are received involving service to elevations either above or below the established elevation, special engineering and economic studies may be required that could result in other than normal equipment requirements to provide such service. All circumstances will be taken into account in determining the feasibility of rendering water service and where feasible, extensions will be made subject to the provisions outlined in Rule No. 24, Line Extension Policy.

C. One water service line for each dwelling shall be installed on the premises except when a building contains more than one unit requiring separate meters, provided all meters are grouped adjacent to each other and are individually numbered and identified according to the units served.

D. The customer shall install a service line in accordance with the Uniform Plumbing Code, Mechanical Code or other State or County requirements.

E. A cross-connection with any other source of water is prohibited to be made to a customer's piping which is connected to the County's lines.

F. When the operating water pressure is determined by the customer to be less than required, the customer shall install a booster pump and pressure storage tank on the customer's yard line. The design for any such installation, including an approved backflow preventer, shall be prepared and submitted by an engineer to the County for approval, such approval must be received prior to construction.

G. When the operating water pressure is determined by the customer to be greater than required, the customer shall install an adjustable pressure-regulating device in the customer's yard line approved by the county.

H. Piping and plumbing installations made by the customer or under responsibility of the customer shall conform with the Uniform Plumbing Code, Mechanical Code or other State or County requirements.

I. In the case of multiple dwelling units or condominiums, service can be rendered by a single connection or by individual meters for each dwelling unit provided the meters are grouped and numbered in accordance with Paragraph 9.C.

J. A backflow prevention device may be required as determined by the Utilities Director to be installed on the customer side of the service connection. The requirement for a backflow device shall be decided by the Utilities Director on a case-by-case basis and shall conform to the Uniform Plumbing Code, Mechanical Code or other state and County requirements. If required by the Utility Director the device shall be tested for proper operation annually and the results submitted to the County within 10 days of the required date of testing. Any malfunction found in the device will be corrected within three (3) working days of the test.

Rule 10. Location of Meter

The County will specify the meter location and point of delivery to any premises, at the curb, property line or alley, and the customer shall contact the County for exact information locating the point of delivery before any piping of customer's system has been started.

Rule 11. Unauthorized Connection

A. Water service provided by the County to any customer shall be used only in connection with such customer's residence, dwelling, or building to which the County has authorized a water service connection and for which a customer account exists. The customer connection must comply with technical provisions identified in the County Water Ordinance, Section 9, be properly permitted and be successfully inspected by the County Utility and other local inspection authority.

B. Additional facilities shall not be connected to the existing service nor shall service be piped from one residence, dwelling, or building to another residence, dwelling or building without first obtaining a written permit, authorization and/or statement of requirements from the County, and without first complying with any such requirements.

C. Should a connection be completed in violation of the previous paragraphs, 11.A. and 11.B., the connection will be considered unauthorized and the following actions shall be taken by the County Utility:

(1) applicable charges, as described in Water Rate Schedules 1 and 2, shall be doubled,

(2) the connection will be subject to inspection and if construction is not acceptable, the connection shall be removed and reinstalled in accordance with the Technical Provisions identified in the County Water Ordinance, and

(3) the property owner will be subject to those actions as described in the County Water Ordinance Section 12, Non-payment of fees, Charges and/or Rates, and/or Section 16, Enforcement and Penalties.

Rule 12. Interruption of Service

A. The County will strive to furnish adequate, efficient and reasonable service. The customer should report interruption or any problems of service promptly to the County. The County will endeavor to restore or repair service within a reasonable time.

B. The County will use reasonable diligence to furnish a regular and uninterrupted water service; however, interruptions or problems may occur or service may be curtailed or fail as a result of circumstances beyond the control of the County, included but not limited to those caused by public enemies, accidents, strikes, legal processes, or damages, repairs or changes in the County's transmission or distribution facilities. The County will endeavor to give reasonable notice in advance of any planned effort.

D. Customers whose service requirements exceed those normally provided should advise the County and contract for additional facilities as may be required.

Rule 13. Discontinuance and Denying Restoration of Service

A. Customers who intend to move from premises or discontinue the use of water services or in any way terminate their liability shall give the County or its designated agent reasonable notice of such intentions. The customer will be liable for water service charges for the premises until such notice is given and the County has conducted the final meter reading. Upon receipt of such notice, the County will read the meter within a reasonable period of time or approximately five (5) working days. The owner of the premises will be subject to the minimum fixed charge up to the time of the final meter reading.

B. The County reserves the right to interrupt service for a reasonable period for maintenance and repairs to its property or equipment.

C. The County may discontinue water service to a customer without prior notice:

1. In the event of a condition determined by the County to be hazardous.
2. In the event of customer use of equipment in such manner as to adversely affect the County's equipment or the County's service to others.

3. In the event of customer's tampering with, damaging, or destroying the equipment furnished and owned by the County.

4. In the event of unauthorized use of service.

D. The County may discontinue water service to a customer with prior notice:

1. Nonpayment of a delinquent account.
2. Failure to comply with the terms and conditions of a settlement agreement.
3. Refusal to grant access at reasonable times to equipment installed upon the premises of the customer for the purpose of inspection, maintenance or replacement.

4. Failure to comply with conditions specified by the County and/or the Application for Service and User Agreement required to obtain County water services.

5. Violation of and/or non-compliance with the County's rules on file with the office of the County Clerk and approved by the governing body.

6. Failure of the customer to fulfill contractual obligations for utility service and/or facilities other than settlement agreements.

E. The Notice of Discontinuance required by this rule shall include the following:

1. A statement of the reason(s) why the County has issued notice to discontinue water service.

2. The title(s), address, telephone number(s) and working hours of the personnel at the County responsible for carrying out the rights herein prescribed.

3. Notice that the customer may obtain a review by County personnel to address the reasons for the discontinuance of service.

4. Notice that a complaint may be filed with the Utility Director if the customer disagrees with the County's determination of the facts on which the proposed discontinuance is based. If the customer requests a review by the County, discontinuance of service shall be stayed during the review.

5. The amount owed and the date by which the customer must either pay the amount due or make other arrangements with the County concerning payment of the charges, including arrangements for a settlement agreement. The service period over which said amount was incurred; the date, and the amount of the last payment shall be available upon request.

6. Notice that the County will not discontinue service to any residence where, upon adequate proof, the County determines a seriously ill person or person whose life may be endangered by discontinuance of service resides.

7. Notice of a Reconnection Charge in accordance with the Water Rate Schedule 4, Special Charges.

F. The County shall not discontinue service for:

1. The failure of a customer to pay for special services.
2. The failure of a customer to pay for service received at a separate water service point, residence or location. However, in the event of discontinuance or termination of service at a separate water service point, residence or location, the County may transfer any unpaid balance due to any other service account of the customer.

3. Nonpayment of the disputed amount of a bill.

4. Delinquency in payment for service to a previous occupant of the same premises unless a court has found the new customer is legally liable for the debt of the previous occupant.

5. Failure of a customer to pay the bill of another customer as guarantor thereof.

G. Any customer whose service is involuntarily disconnected may be required to pay a Reconnection Charge in addition to all charges before being reconnected to the County's utility systems.

H. The County employee sent to discontinue utility service shall be empowered to receive full payment, by check or money order, of delinquent bills and, upon receipt of the full payment in a form acceptable to the County. Said employee shall be empowered to cancel the discontinuance order.

I. When a customer has indicated to the County an inability to pay utility charges, has not been chronically delinquent, and can provide some evidence and/or documentation of hardship such as medical or other extenuating circumstances, the County shall attempt to arrange an installment plan for the payment of past due utility charges. While an installment plan is being negotiated, the County shall not discontinue service to such customer. In the event that either negotiation of the installment plan is discontinued or progress in its negotiation is stalled, the County may proceed with discontinuance of service.

J. Utility service to a customer may be discontinued only during the hours from 8:00 a.m. to 3:00 p.m. on Monday through Thursday and may not be discontinued less than twenty-four (24) hours prior to a holiday or weekend unless the County's designated

business office is open for receipt of payment of past due charges and County personnel are available to restore such service upon payment during said holiday or weekend.

Rule 14. Manner of Serving Notice to Customer

Notice by the County to the customer may be given verbally, in person or by telephone, or in writing. A mailed written notice will be deemed received three (3) business days after mailing to the customer's billing address. Hand delivered written notice shall be deemed effective immediately upon delivery to the service address.

Rule 15. Customer Complaint Procedures

A. Inquiries or complaints concerning the application or interpretation of rates, charges and regulations may be made to the County Utility Department or designated agent by telephone, in person, and/or in writing. The inquiry or complaint shall be documented as received in the County's Customer Inquiry Log. County staff or the designated agent will make every attempt to investigate, respond, and resolve the issue in a timely manner.

B. In the event that the customer is not satisfied with the action of such County representative, the customer may direct a written complaint to the Utilities Director. Such written complaints shall be fully investigated and the Utilities Director shall provide a written decision in effort to resolve or satisfy the inquiry or complaint of the customer. Any customer who does not file a written complaint with the Utilities Director within thirty (30) days of the decision or action of the County representative, which is the subject of the complaint, shall waive any right to contest such decision or action.

C. Any customer who is dissatisfied with the Utilities Director's written decision may, within thirty (30) days of the date of said written decision, file an appeal to the Board which shall hold a public hearing to review the Utilities Director's decision. The Board may uphold, reverse or modify the Utilities Director's decision.

Rule 16. Rates and Charges

The Rates and Charges to be paid to the County for water service will be the rates and charges legally in effect, approved by and on file with the office of the County Clerk. Complete schedules of all rates and charges legally in effect will be kept at all times at the County Utility Department where they will be available for public inspection. Attached hereto are Rate Schedules 1 through 5, which shall be in effect with the effective date of this ordinance.

Rule 17. Security Deposits, Guarantees of Payments

A. The County may require a security deposit or other guarantee of payment as condition of new or continued service to a residential customer, specifically in the case of service:

1. to a residential customer, who has not previously had utility service with the County,
2. to a chronically delinquent residential customer of the County,
3. to a residential customer who is being reconnected following discontinuance of service by the County, and
4. to a residential customer who, without authority, has interfered with or connected to the County Water System.

B. Commercial and Industrial customers shall be required to make a deposit.

C. Institutional customers may be required to make a deposit if determined necessary by the County.

D. The County reserves the right to require an increase in the amount of previous deposit pursuant to Rate Schedule 1, if a customer is chronically delinquent.

E. Customers who have not been delinquent for the twelve (12) month period

from the date of deposit or guarantee will receive a credit to their account. If the customer fails to qualify for a refund of the deposit on the first anniversary date of the deposit, that account may be reviewed on each subsequent anniversary date of the deposit. The amount of the deposit shall be credited if the customer has not been delinquent during the preceding twelve (12) months.

F. Each customer posting a security deposit shall receive in writing at the time of tender of deposit, a receipt as evidence thereof. The receipt shall contain the following minimum information:

1. Name of customer.
2. Date of payment.
3. Amount of payment.
4. Statement of the terms and conditions governing the payment, retention, interest and return of deposits.

G. The County shall maintain records of deposits and issue receipts of deposits in accordance with applicable requirements of state law and regulations.

Rule 18. Rendering and Payment of Bills

A. Bills will be rendered by the County or designated agent to the customer under the applicable Rate Schedule.

B. When billing for multiple services at a residence, the use and charge attributable to each service shall be clearly set forth on the bill. Utility service to multiple locations billed to a single residential customer shall be separately stated for each location.

C. All bills for water service are due when rendered, and are payable within thirty (30) days from date of bill, and if not so paid the bill shall be considered delinquent.

D. A customer shall be given at least fifteen (15) calendar days from the date the

bill is deemed delinquent before the County may discontinue utility service, pursuant to the requirements of Rule 13 and a Late Charge assessed according to Rate Schedule 4.

E. If the last day for payment of a bill falls on a Saturday, Sunday, legal holiday, or any other day when the offices of the County regularly used for the payment of customer bills are not open to the general public, the final payment date shall be extended through the end of the next business day.

F. The word "month" or "regular billing period" as used herein and in the rate schedules are hereby defined as a thirty (30) day period or the elapsed time between two (2) successive meter readings approximately thirty (30) days apart.

G. For calculating variable charges and in the event of the stoppage of, or the failure by any meter to register the full amount of water consumed, or of the inaccessibility of the meter, the customer will be billed for such period on an estimated consumption based upon use of water in a similar period of like use.

Rule 19. Estimated Bills

A. The County shall not render a bill based on estimated water use to a customer unless:

1. the utility is unable to obtain access to the customer's premises through no fault of its own for the purpose of reading the meter;
2. a meter is defective or has been evidently tampered with or bypassed;
3. weather conditions prohibit meter readings or where other force majeure conditions exist.

If the County is unable to obtain an actual meter reading for these reasons, the County shall attempt to contact the customer and obtain access to the premises.

B. If the County underestimates a customer's water use and subsequently seeks to correct the bill, the customer shall be given an opportunity to participate in an installment plan with regard to the underestimated amount.

C. Meters will be read at regular intervals, however, if a meter reading is missed, the County may bill the customer on an estimated consumption and the difference adjusted when the meter is again read. The basis for this estimate shall be the normal consumption for corresponding periods in the preceding year and/or normal consumption of preceding months.

Rule 20. Disputed Bills

A. The County agrees to promptly investigate any question as to accuracy of bills for service rendered. If the bill is in error, the County shall submit a corrected bill, which reflects an increase to the customer as promptly as circumstances permit or give credit on a subsequent bill rendered to the customer in the amount of any over charge. The County will use its best efforts to explain the error to the customer.

B. An equitable adjustment of the charges may be made in the event of an unforeseen or extraordinary circumstance not occasioned by the customer.

Rule 21. Settlement Agreements

A. Settlement Agreements shall be in writing and at the discretion of the County. When the County and a customer settle a dispute or when a customer does not dispute liability for an outstanding bill or bills but demonstrates an inability to pay the outstanding bill or bills when due, the County and the customer shall enter into a settlement agreement to pay the amount of the bill. The County is not required to enter into a settlement agreement with a chronically delinquent customer. However, if a chronically delinquent customer can demonstrate to the County that the customer does not have adequate financial resources to

pay the outstanding bill without participation in the settlement agreement and because the customer has a low income and is elderly, disabled, or subject to other special considerations, the County shall give special consideration to such a customer in determining whether to extend a settlement agreement to that customer.

B. Every settlement agreement, involving an inability to pay an outstanding bill in full when payable according to Rule No. 18, shall provide that service will not be discontinued if the customer pays a reasonable portion of the outstanding bill upon signing the settlement agreement and agrees to pay the remaining outstanding balance in reasonable installments until the bill is paid. For purposes of determining reasonableness, the parties shall consider:

1. the size of the outstanding balance;
2. the customer's ability to pay;
3. the customer's payment history;
4. the time that the balance has been outstanding;
5. the reasons why the balance has been outstanding; and
6. any other factors relevant to the customer's service.

C. A settlement agreement to pay an outstanding past due balance on a bill does not relieve a customer from the obligation to pay future bills on a current basis.

D. If the customer has entered into an installment plan pursuant to a settlement agreement, the customer shall receive a statement of:

1. the actual service charges incurred for the current billing period;
2. the amount of the installment payment due;
3. the total amount due [sum of (1) and (2)]; and
4. an acknowledgment of previous installment payments.

E. If a customer fails to comply with a settlement agreement, the County may discontinue service after notifying the customer by delivery of written notice that the customer is in default of the settlement agreement; stating the nature of the default and, that unless a payment which brings the settlement agreement current is made within seven (7) days from the date of notice, the County will discontinue service on a specified date.

F. The County and a customer may renegotiate the terms of a settlement agreement.

Rule 22. Metering

A. Ownership of Meters

All meters used in connection with metered service shall be furnished and installed by certified personnel or by the County at the expense of the customer, all of which are maintained and owned by the County.

B. Meter Testing

Upon request by a customer, the County shall make a test of the meter. A report of the results of the test shall be made to the customer within a reasonable time after completion of the test, and a record of the report together with a complete record of each test, shall be kept on file at the County.

C. Accurate or Slow Meters

When a meter is found to be accurate, within two percent (2%) as a weighted average of the total volume of flow at all test rates, or slow, the County shall assess a Meter Testing Charge in accordance with Rate Schedule 4.

D. Fast Meters

When a meter is found to be fast, in excess of two percent (2%) as a weighted average of the total volume of flow at all test rates, the customer shall be issued a credit to their account for charges reflected by the incorrect reading for previous months as determined affected by the County Utility Director.

E. The County reserves the right to test meters at any time during business hours and to enter the premises of a customer if necessary for that purpose.

Rule 23. Limitations and Restrictions of Use

A. If an existing customer is planning further development, which will use unusually large quantities of water, the County shall be consulted in advance for its approval of such additional service and for the terms and advice as to conditions under which the water will be supplied to the premises of the customer.

B. Resale of water service or the furnishing of water service to others by customers will not be permitted except where such resale or furnishing of service is provided for in the applicable rate schedule and in a written agreement between the customer and the County.

C. The County reserves the right to limit the size of service connections and to prohibit the customer's waste or the flow of excessive quantities of water that exceed or strain the capacity of the County facilities. Noncompliance of this rule by a customer shall constitute grounds for discontinuing service in accordance with Rule No. 13, Discontinuance and Denying Restoration of Service.

D. The County reserves the right to impose restrictions or limitations on water services should an outside governing or regulatory body impose similar restrictions on the County.

Rule 24. Line Extension Policy

The purpose of this section is to define the terms and conditions for a County water line extension to serve an applicant. Applicants for subdivision development shall refer and comply with the Dona Ana County Subdivision Regulations, Ordinance No. 166-96 as well as this water ordinance.

A. The applicant requesting water service requiring a line extension must request such service in writing. The request shall describe the following:

1. number of new connections proposed;
2. classification of proposed connections;
3. water use projections; and
4. property, plat, and/or subdivision details.

The County Utility Director shall review the application and make a recommendation to the Board for Board consideration and approval as to the availability and feasibility of providing such service. The terms and conditions shall be set forth in a line extension agreement to be executed by the County and the applicant.

B. Conditions of a Line Extension

1. The County may extend or approve the line extension in the streets, alleys, and/or easements, within the service areas in order to permit connections by applicant seeking water service. The extension will be made from the nearest adequately sized waterline.

2. All line extensions shall be installed to the farthest property line of the lot or parcel to be developed or connected. All meters shall be installed in a manner approved by the County.

3. The size and capacity of the line extension shall be determined by the

capacity needs to meet the projected development. In the event the County requires a larger line size than is required to serve the applicant's needs, the County may absorb the difference in investment between the applicant's required line size and the line size required by the County. In no event shall the line extension be based on lines smaller than those needed for the applicant's fire service requirements. Minimum distribution line size for adequate fire protection is eight inches (8") diameter. The County shall be the sole judge of proper line sizing.

4. All lines will be constructed in existing public roads, streets, County-owned land, alleys, or easements. The applicant shall furnish such rights-of-way as are required without charge to the County within property owned by said applicant and shall assist the County in securing other rights-of-way necessary to provide service through property not owned by said applicant.

5. The County shall review, approve and inspect all design and construction of proposed line extensions. All line extensions shall be in accordance with and in compliance with all applicable technical provisions of county, state and federal laws. Where the water system is connected to a municipal, water and sanitation district, or other system not owned by the County, the line extension will additionally be in accord with and will comply with applicable municipal codes, ordinances and regulation of that municipality, the water and sanitation district, or other system.

C. The total cost for the line extension as set forth shall be paid by the applicant. The costs shall be subject to future refunds to that applicant, if water service is provided to a new customer, under the following terms and conditions:

1. Connection is within ten (10) years from the date of the original line extension agreement between the County and applicant;

2. The new customer's property abuts applicant's line extension (other than at the end of applicant's line extension where the new customer's line extension is to begin);

3. The County connects the line extension for said new customer's water service to applicant's line extension;

4. The applicant's line extension is necessary for domestic or fire flow service to a new customer;

5. The refund amount to the applicant shall be determined based on a front foot basis for individual lots or on an acreage basis for undeveloped tracts. The amount shall be calculated as a percentage of the footage and/or acreage for the total parcels already connected and to be connected to applicant's line extension;

6. Refunds made under this provision shall not exceed the amount of applicant's contribution to construction less that portion needed to serve applicant.

D. The determination of whether the line extension for a new customer's water service should be connected to an existing line extension shall be made by the County at its discretion based on engineering considerations and the County's plans for the development of its water system.

E. Where extenuating circumstances exist and at the sole option of the County, an extension may be made under a special long-term contract providing the contract terms are such that no adverse effects will be imposed on County's existing customers.

F. Special conditions which affect the furnishing of water service to an applicant such as elevation, terrain, capacity and other conditions resulting in increased costs to the County in providing water service shall be taken into consideration by the County and the cost thereof shall be included in estimating the cost of providing service.

G. In addition to the costs for the line extension, the applicant must pay the

Administrative Set-up Charge and the One-Time charge as established in the Water Rate Schedule.

H. The County shall not under any condition be required to make an extension that would be unprofitable and thereby cause undue hardship to existing customers.

I. The provisions of this Rule apply to connections to line extensions already in existence and line extensions installed after the effective date of this ordinance.

Rule 25. Infrastructure Transfer Policy

The purpose of this section is to define the County policy for accepting ownership and operation and maintenance of water infrastructure and facilities constructed by a developer or other person or entity after an approved development or building process as outlined in the County Subdivision Regulations, Ordinance No. 166-96, Zoning Ordinance and Building Permit Process.

A. All infrastructures to be transferred will be agreed upon prior to approvals as set forth in this section. Acceptance of the infrastructure and facilities shall be at the County's sole discretion.

B. All infrastructure to be transferred must have been constructed in accordance with the County Zoning Ordinance, County Subdivision Regulations, Right-of-Way Ordinance, County Water Ordinance, and applicable County design standards.

C. After final inspection and final certification by the County, the developer will provide As-Built Drawings, hard copy and electronic versions, for the infrastructure to be transferred.

D. The Developer will provide easements and title documents to the County on forms provided by the County or approved by the County.

Rule 26. Water Rights Acquisition Policy

A. It is the County's policy to acquire water rights in sufficient quantity to properly and legally provide water service to existing and new development within the unincorporated areas of the County as served by the County Utility.

B. Water rights may be acquired by requiring developers to provide a sufficient quantity and quality of water rights necessary to supply their subdivisions and developments with water over a 40-year period. This acquisition of water rights may occur in phases as the development is approved and built-out.

C. In the case of a subdivision or other land division, as defined in the County Subdivision Ordinance, Zoning Ordinance or Building Permit process, the County Water Utility will provide water service under the following terms and conditions:

1. Prior to the approvals required in Rule No. 26.C above, the developer will meet with the County Utilities Department to determine if and under what terms and conditions water service can be provided. The Utilities Director will make a recommendation to the Board for consideration and approval if service should be provided and under what terms and conditions. These terms and conditions will include the County's Line Extension Policy, Water Rights Acquisition Policy, Infrastructure Transfer Policy, Rate Schedules, Standards for Construction, and any other issues determined to be applicable at the time, including related water service issues.

2. If the County determines that it can provide the water service to the development within a reasonable time frame, and under terms and conditions acceptable to the developer and the County, the developer will quantify the proposed development's water requirements according to Section 14.3 of the County's Subdivision Ordinance. The quantifications required in Section 14.3 of the Subdivision Ordinance will be used as the

basis for determining infrastructure size and configuration, supply requirements, operating pressure requirements, and water rights acquisition requirements.

3. Prior to final approval by the County, the developer and County Utility Director will provide evidence of agreement on all of the issues outlined in Paragraphs 26.C.1 and 26.C.2, above. The agreement will be on a form provided by County Utilities Department.

4. Upon final approval by the County and prior to commencement of construction, the developer will provide the following items:

(a) Evidence that all easements identified have been provided to the county;

(b) Electronic versions of all engineering drawings;

(c) Evidence of water rights acquisition, transfer and approval by the Office of the State Engineer, for bonafide consumptive use water rights for the 40-year period described in the County's Subdivision Ordinance, and legal transfer of said water rights to Dona Ana County. All water rights offered to the County must be acceptable to the County and completed in accordance with the Office of the State Engineer requirements.

5. At the County's sole discretion, the developer may provide payment in lieu of water rights at the rate of the current market value.

6. Where extraordinary circumstances exist and at the sole discretion of the County, the developer may provide financial instruments in lieu of the requirements set forth in 26.C.5, above, including cash, bond, or other form of instrument acceptable to the County such that no adverse effects will be imposed on the County.

Rule 27. Fire Hydrants

A. In order to assure proper operation of fire hydrants, no water shall be drawn through fire hydrants for any other purpose than fire protection, except as provided by special permit from the County and in accordance with Rate Schedule 5.

B. In the event the County's main line is inadequate to provide fire hydrant service as requested by the customer, refer to Rule No. 24.C.4, Line Extension.

Rule 28. Fire Protection

A. A customer desiring private fire protection service, in addition to regular water service, shall request the service in writing to the County prior to construction of the fire protection service.

B. If water main facilities are available for such service as determined by the County, the customer shall install, at the customer's expense, a complete and separate piping system approved by the county extending and connecting to the county's facilities. This may include a meter box of sufficient size to house the necessary valves, meters, piping, etc., all of which shall be as specified by the County. The location of this pit will be determined by the County.

C. In the event the County's water mains are inadequate to provide the requested fire protection service or if extension of a main is required, refer to Rule No. 24, Line Extension Policy.

D. The customer shall be charged in accordance with Rate Schedule 5.

Rule 29. Restriction of Domestic Water Wells

A. The County may restrict the drilling of new domestic water wells within its designated service areas as provided for in § 3-53-1.1 NMSA 1978 and in accordance

with the mandatory connection requirements set forth in Section 6 of the Water Ordinance.

B. Similarly, where an existing structure, subject to mandatory connection requirements, is being served by an existing well on the property and if the existing well fails, the County may restrict re-drilling of the well for domestic use, consistent with § 3-53-1.1

DOÑA ANA COUNTY WATER SYSTEM

RATE SCHEDULE 1

ADMINISTRATIVE CHARGES:

APPLICABILITY: County utility customers shall be charged an Administrative Set-up Charge to cover all costs related to the application process, including verifying service, locating the meter installation, and any other tasks necessary to establish availability of service. Other charges may be required as determined by the Utility Administrator. Applicable governmental gross receipts taxes will be added to all charges.

SERVICE APPLICATION: Customers must request service by completing an Application for Water Service and User Agreement available at the offices of the Doña Ana County Utilities Department or designated agent. All Administrative Charges must be paid or payment arrangements approved prior to approving the customer's Application for Water Service and User Agreement.

A. Administrative Set-Up Charge:

Customer Classification:		Non-Compliance to Mandatory Connection (> 6 months to connect)
Residential:	\$150.00	\$300.00
Commercial:	\$300.00	\$600.00
Institutional:	\$500.00	\$1,000.00
Industrial:	\$700.00	\$1,400.00

The Administrative Set-up Charge shall increase when the hook-up of any occupied home or business exceeds six (6) months as required by the Doña Ana County Water Ordinance. For each water service area identified, the County shall conduct an inventory of all dwellings at the time the "Notice of Availability" is announced. The announcement of "Notice of Availability" shall start the six-month mandatory connection period.

B. Stand-By Charge: All applicants that have paid the Administrative Set-Up Charge within the mandatory connection period but have not physically connected to the water service shall be billed the minimum fixed monthly charge for the appropriate customer classification (Rate Schedule 3), beginning on the seventh month. If a customer has not paid the Administrative Set-Up Charge and is not physically connected to the water service, the customer shall pay the increased Administrative Set-up Charge as described in Paragraph A, above, and the minimum fixed monthly charge for the appropriate customer classification (Rate Schedule 3). All uncollected Stand-by charges must be paid prior to connection to the system.

C. Customer Deposit: A deposit may be required pursuant to Rule No. 17, Security Deposits, Guarantees of Payments. Initial deposit amounts are as follows:

Customer Classification:	
Residential:	\$100.00
Commercial:	\$150.00
Institutional:	\$150.00
Industrial:	\$250.00

D. Meter Installation Charges: The meter installation materials, labor, costs and related charges are the responsibility of the customer. At the time of application for service, the County will provide the residential and small commercial prospective customer with a set of standards that describe the type of meter installation required. Only licensed contractors will be allowed to tap an existing water line. The size of the installation shall be based on the recommendation of the customer's licensed plumber. The County shall determine the location of the meter installation. Services larger than 2 inches, generally for larger commercial customers, shall require the recommendation of a licensed plumber or engineer and shall comply with all applicable backflow prevention requirements in place at the time of application.

If a customer chooses to have the County or its designated representative tap into the water line, the County charges will be based on actual costs plus an administrative fee of 10%.

E. Exclusions: Charges described in this Rate Schedule may not be applicable to water system customers where the installation of new meters, water lines and facilities have been completed with the support of federal, state, and/or other grant funds.

DOÑA ANA COUNTY WATER SYSTEM

RATE SCHEDULE 2

ONE-TIME CHARGE:

APPLICABILITY: The One-Time Charge is applicable to all new customers who connect to the County's system. Service will be furnished in accordance with the County's Rules and Regulations addressing water service. Applicable governmental gross receipts taxes will be added to all charges.

A. One-Time Charge:

Water Meter Size:	
5/8" x 3/4"	\$1,250.00
1"	\$2,000.00
1 1/2"	\$3,000.00
2"	\$7,500.00

The One-Time Charge for meter size greater than 2" shall be determined on a case-by-case basis. The evaluation will include but is not limited to consideration of the volume and use of water requirements for the facility and its processes, the fire flow requirements, and the cost to the water utility's infrastructure and production/distribution capacities. The determination shall be described and executed by contract.

B. Multi-unit Service Lines with Individual Meters:

A customer may request individual meters to be installed for a multi-unit property. A master meter shall be required and the One-Time Charge for the applicable meter size will be applied. For each individual meter installed beyond the master meter, a Multi-Unit Surcharge will be required at \$157.50 per unit.

C. Residential Volume Discounts:

In the case of a large subdivision (>40 lots), the County will offer volume discounts for the One-Time Charge (Residential classification only), when payments are made in advance of construction (60 days after subdivision approval). The discounts shall apply according to the following table:

Subdivision Size (Lots)	Discount Per Lot
40-100 Lots	10%
101-200 Lots	15%
>200 Lots	20%

D. Exclusions: Charges described in this Rate Schedule may not be applicable to water system customers where the installation of new meters, water lines and facilities have been completed with the support of federal, state, and/or other grant funds.

DOÑA ANA COUNTY WATER SYSTEM

RATE SCHEDULE 3

MONTHLY USER CHARGES

APPLICABILITY: Residential and Commercial Rates are available for normal domestic water use to individual residences, individual dwelling units, individual farm units, individual apartments, and commercial establishments. All service shall be delivered through a single water service at a location to be designated by the County.

Service will be furnished in accordance with the County's ordinances and Rules and Regulations addressing water service, available at the County Utilities Department.

SERVICE AREA: The service areas are designated in the Doña Ana County Water Ordinance (Section 5). The Utilities Department maintains maps of the service areas.

A. Monthly Fixed and Variable Charges: The charge for water service provided shall be the sum of Fixed (F) and Variable (V). Applicable governmental gross receipts taxes will be added to all charges.

Customer Classification:	FIXED (F)	VARIABLE (V)		
	Minimum Charge (up to 7,000g)	Next 13,000 g (7,001- 20,000g)	Next 30,000 g (20,001- 50,000g)	Exceeding 50,000g (50,001g +)
Residential:	\$20.00	\$1.20/1000g	\$1.85/1000g	\$2.50/1000g
Commercial:	\$25.00	\$1.40/1000g	\$2.00/1000g	\$2.85/1000g
Institutional:	\$30.00	\$1.60/1000g	\$2.40/1000g	\$3.50/1000g
Industrial:	\$50.00	\$2.00/1000g	\$2.85/1000g	\$4.00/1000g
<u>Multi-Use</u>	<u>\$20.00/dwelling unit</u>	<u>\$1.20/1000g</u>	<u>\$1.85/1000g</u>	<u>\$2.50/1000g</u>

B. Minimum Charge: The minimum charge under this Schedule shall be the Fixed Monthly Charge regardless of volume of water delivered.

DOÑA ANA COUNTY WATER SYSTEM

RATE SCHEDULE 4

SPECIAL CHARGES

APPLICABILITY: Applicable to special services as defined in the County's Rules and Regulations regarding water service. Applicable governmental gross receipts taxes will be added to all charges.

- A. Collection Charge: If the customer does not pay for water service within the time specified by the bill, the County shall charge \$5.00 or 15% of the outstanding balance, whichever is greater, for each month the bill is unpaid.
- B. Reconnection Charge: Whenever service is discontinued for nonpayment of charges, nonuse, or similar reasons, as described in Rule No. 13, Discontinuance and Denying Restoration of Service, a charge of \$20.00 shall be assessed by the County for the cost of reconnecting service during normal County business hours. If the customer requests reconnection of service after normal business hours, the County shall assess a charge of \$40.00.
- C. Returned Check Or Bank Draft Charge: The County shall assess a charge of \$25.00 to the customer's account balance in the event the customer's check or bank draft is returned for insufficient funds, cancellation of account or for any other reason attributable to the customer.
- D. Meter Testing Charge: Upon request by the customer, the County shall make a test of the meter serving that customer. If the meter tests accurately or slow, the customer shall be charged \$50.00, for the removal, testing and re-installation of the meter. If the meter test proves the meter is fast (in excess of two percent (2%) error), the customer shall be issued a credit to their bill for charges reflected by the incorrect reading for previous months as determined by the County Utility Administrator to have been affected by the faulty equipment.

DOÑA ANA COUNTY WATER SYSTEM

RATE SCHEDULE 5

FIRE HYDRANT OR OTHER BULK SERVICE

APPLICABILITY: This rate applies to customers who purchase bulk water from the County. The customer must apply and receive permission prior to removing water from a fire hydrant or other means approved by the County. The County will issue a temporary meter and backflow device to attach to the Fire Hydrant or tap. Applicable governmental gross receipts taxes will be added to all charges.

If the County does not have a meter and backflow device available, the customer may be required to provide a unit at the customer's expense to be inspected, approved, and installed/uninstalled by the County.

- A. Bulk Service Deposit: A refundable deposit of \$150.00 will be required for all temporary meters. The deposit shall be refunded less the amount of the final bill for water service.
- B. Backflow Device Fee: A non-refundable Backflow Device Fee of \$50.00 shall be charged to each customer to support the costs of testing, inspection, and installation.
- C. Bulk Service Monthly User Charge: The charge for fire hydrant or other bulk water service provided shall be the sum of Fixed (F) and Variable (V):

	FIXED (F) (up to 15,000g)	VARIABLE (V) (15,001g +)
Bulk Service:	\$25.00/month	\$1.20/1000g

If meter readings during three (3) consecutive months describe no usage, DAC shall remove the Bulk Service meter and back flow device. The customer's final bill will be subtracted from any deposit on hand and the balance of the deposit returned to the customer.

- D. Special Services – Additional Fire Protection: A customer may request the placement of additional fire hydrants on a property to provide required fire protection. If the placement of the additional fire hydrants requires a line extension, the property owner will be responsible for the costs of the line extension including fire hydrants, water line materials, design, installation, and inspection and all infrastructure and easements will be dedicated to the County in accordance with Rule No. 24, Line Extension Policy, of the

Water Rules and Regulations. The County shall provide Special Services – Additional Fire Protection including producing water capacities for emergency use, operating, maintaining, and conducting yearly inspections of the infrastructure and hydrants to ensure functioning protection. The charge for this Special Service is \$150.00 per additional fire hydrant required.

E. Damage to County Property: If the customer loses or otherwise damages the meter or backflow device, the customer shall be charged the actual costs to replace or repair the meter/backflow device.

Doña Ana County SOUTHERN REGION

Water Service Area

EXHIBIT 1

2304

State of New Mexico County of Doña Ana, ss
RECEPTION NO. 2304

I hereby certify that this instrument
was filed for recording and duly recorded on

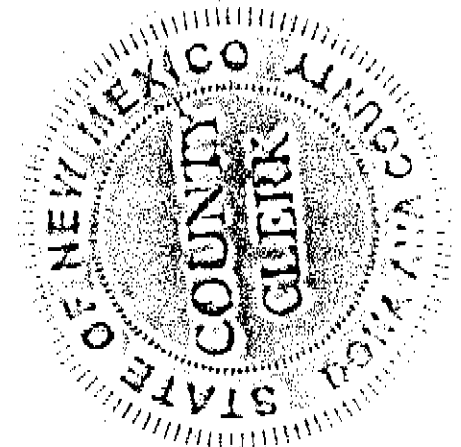
JAN 23 2004

at 1:56 o'clock P M
Book 492 Page 1271-1326

of the Records of said County. Ruben Abalos,
County Clerk BY Ruben Abalos

**La Union
Service
Area**

El Paso County, Texas



April 2003 STATE PLANE NAD 83 CENTRAL MAD 1983

- Doña Ana County Utility Service Areas
- City of Sunland Park
- Roadways
- Rio Grande

Not to Scale

Data Courtesy of DAC Water Utilities Department

**Santa Teresa-
Border
Service
Area**

STSC:
Santa
Teresa
Services
Company
Utilities

Sunland
Park