

EL VALLE DE LOS RANCHOS WATER AND SANITATION DISTRICT

RESOLUTION 2010-05- 01

RELATING TO SEWER CONNECTION, USAGE FEES, PAYMENT PLANS FOR SEWER CONNECTIONS, ADMINISTRATIVE FEES, LIEN PLACEMENT, FORECLOSURE AND OTHER ADMINISTRATION OF THE DISTRICT.

Whereas, The Board of Directors of El Valle de Los Ranchos Water and Sanitation District (hereinafter "District") meeting in regular session as required by law, considered and adopted the following resolution:

1. The District was established according to New Mexico law and has the authority to construct, operate and maintain a sewer line system for liquid waste disposal;
2. The District has the authority to require residential and commercial establishments to connect to the District's sewer pursuant to the following New Mexico Statute:

For health and sanitary purposes, the board shall have the power to compel the owners of inhabited property within a sanitation district to connect their property with the sewer system of the district, and, upon a failure so to connect within sixty days after written notice by the board, the board may cause the connection to be made and a lien to be filed against the property for the expense incurred in making the connection; provided, however, that no owner shall be compelled to connect his property with such system unless a service line is brought by the district to a point within four hundred feet of his dwelling place. Section 73-21-16(L), NMSA (1978).

3. The Board of Directors of the District interprets the term "inhabited property" to mean "any separate unit to which the property owner is required to have sewer service." Any building located on a property owner's property that contains plumbing fixtures must be connected to the District's sewer. It is the property owner's responsibility to make payment for each connection at the rates established by the

Board.

4. The District has constructed certain sewer lines and in order to properly complete the disposal of the liquid waste, the District has entered into an Interconnection Agreement with the Town of Taos, which operates a waste water treatment facility in Taos County;

5. The Board has adopted a number of Resolutions for the efficient operation of the District and the collection of fees related to the sewer system. The resolutions adopted have been done so in compliance with New Mexico statutory authority permitting the District to compel property owners who have an inhabited property within four hundred feet of a District line to connect their inhabited property to the District line. (Section 73-21-16(L) NMSA (1978)).

6. The fees previously adopted and the time for enforcement of these fees are also reasonable and in compliance with New Mexico law.

7. The Board has now found it necessary to adopt a new Resolution consolidating all prior resolutions relating to connections, payments and enforcement and providing a time-frame for the enforcement of payment for connection fees;

NOW THEREFORE, BE IT RESOLVED that:

A. Connection Fees and Costs.

The cost to connect to the District's sewer line(s) is:

- | | |
|--|------------|
| 1. For each four inch (4") line for a single-family home | \$600.00 |
| 2. For each four inch (4") line for small commercial use | \$1,200.00 |
| 3. For each six inch (6") line for commercial use | \$7,500.00 |

4. For each eight inch (8") line for large commercial use \$10,000.00

(Based on a maximum of nine (9) commercial units. Each additional commercial unit shall be charged at the rate of \$1,200 per unit.)

Multi-family dwellings such as apartment buildings or duplexes shall be required to pay one connection fee for each unit. The connection fee shall be the commercial connection fee if the building is owned by one individual or entity and rented by that individual or entity to renters. For condominium complexes in which each unit is owned by the resident, the connection fee shall be for a residential unit. Multi-unit commercial businesses with more than one business contained therein shall pay a connection fee for each occupied business and the monthly fee shall be imposed on each business connected to the sewer.

B. Monthly User Fees and Costs - Residential.

The monthly user fee for residential users, based on a flat monthly schedule per the Interconnection Agreement with the Town of Taos, is (per each unit connected.) \$27.25

(New Mexico Gross Receipts Tax at the appropriate rate will be added)

C. Unoccupied Units:

A Residential or Commercial Unit which is unoccupied, as established by another utility bill or by inspection by the District, will be charged a minimal charge of \$10 per month, plus required gross receipts tax. It is the owner's responsibility to inform the District of any changes to the occupancy status of

the building. Should the building be re-occupied without the owner informing the District, the owner will be subject to a back-charge equivalent to 12 months' sewer service.

D. Monthly User Fees and Costs - Commercial.

The monthly user fee for commercial users will be \$31.88 per month for the first 1,000 gallons of discharge and \$3.56 per thousand gallons for all usage over 1,000 gallons. Each commercial user shall install an electronic water meter inspected and approved by the District to measure usage. Failure of a commercial user to install a meter as required shall cause the District to install a meter and impose a charge to the property owner for that meter, the installation and any other associated fees. Such charge shall become a lien on the real property, which if unpaid may be enforced by the District as set forth in paragraphs G and H, hereunder.

E. Connecting to District System:

1. Property owners of inhabited properties within 400 feet of a District service line, shall, within sixty (60) calendar days after written notice from the District, connect their property to the sewer system starting from the date that the notice is hand-delivered to the property owner, or any person, authorized by law to accept service of process; or from the date of mailing by certified mail. Property owners who fail to connect their property within sixty (60) calendar days shall be subject to the provisions of section 73-21-16 (L) NMSA (1978) which allows the placement of lien against the subject property and eventual foreclosure thereof.

For good cause shown, a reasonable extension of time may be provided by the District. (Good cause may include frozen ground or other practical difficulties that prevent connection.)

2. Illegal connections. A property owner who has connected to the District's system without payment and without the knowledge of the District may be required to pay a connection fee equal to three times the applicable connection fee. In addition, the illegally connected owner may be charged past usage fees plus interest at 1.5% per month from the date service was available within the area of the illegally connected owner's property. Failure to make payment or other arrangements with the District within thirty (30) days of notification shall result in the District either:

- a. computing the cost of a legal connection and imposing the appropriate charge thereon and filing a lien to secure payment thereon; or
- b. filing an action seeking a Court order to require the owner to pay the amount owed; or
- c. turning the matter over to the Eighth Judicial District Attorney for prosecution; or
- d. disconnection of the illegal connection by the District at the owner's expense, including the actual cost to the District of the disconnection, imposition of a charge of \$150 in attorney fees, \$100 in administrative fees and other actual fees incurred by the District.**
- e. all of the above.

3. It shall be the responsibility of each licensed plumber performing a connection to the District's lines to contact the District prior to beginning the work. The District shall confirm that the property owner has applied for the connection and shall give verbal or written authorization for the plumber to proceed. After the connection has been made, the plumber shall notify the District so that a formal inspection of the connection can be completed.
4. If a property owner fails or refuses to connect as required, the District may perform the connection at its expense and record a lien against the property as permitted by State Law. As an alternative, the District may file a case in the Eighth Judicial District Court requesting that the Court order the owner to connect to the sewer.

F. Payment Plan.

The District has implemented a payment plan to assist individuals in payment of the connection fees. The payment plan shall be as follows:

1. Within 60 days of notification of the requirement to connect to the District's system, the property owner shall pay a down payment of twenty-five percent (25%) of the connection fee.
2. The property owner will thereafter pay equal monthly payments for a period of twelve (12) months. The balance due will bear interest at the rate of six and one half percent (6.5%) per annum. The balance may be paid in full at any time within the twelve (12) month period with no prepayment penalty.
3. In order to be eligible for a payment plan, the property owner will be required

to sign a promissory note agreeing to make the required monthly payments. .

4. Failure to make timely payments under the terms of the agreement will subject the owner to immediate revocation of the payment agreement and the amount due, plus any interest thereon, shall become immediately due and payable.

G. Payments on Accounts:

1. Monthly connection and usage billings will be generated on the 1st working day of each calendar month. Payment for said bills shall be due by the fifteenth (15th) day of the next month (e.g., bills generated on the 1st working day of the month of November would be due on November 15th.)

2. A grace period of five (5) calendar days shall be permitted. Thus, a bill due by November 15th will not be considered late if received by November 20th.

3. Any payment not received by the due date (including the grace period) shall be charged a late fee of \$2.50.

4. Any account past due for three months or longer shall be subject to lien placement and foreclosure as set forth herein.

H. Delinquencies.

Failure to pay timely the connection fees, or installments thereof, or to make monthly sewer service payments shall subject the owner to a collection action for amounts due. Such enforcement action may include recordation of liens for the amount due upon the property and subsequent foreclosure of the property. The District may also seek to enforce the indebtedness by direct action to a court of

competent jurisdiction. In the event of repeated failure of the property owner to respond to collection efforts for past due sewer payment or connection fees, the District may disconnect the service of the owner. This action will only be taken in the event that the owner owes the District an amount equivalent to twelve (12) months of service and after written notice delivered to the property at least two (2) weeks prior to the disconnect. The owner will be responsible for the **actual** costs incurred by the District in disconnection and re-connection. **In addition, a \$100 administrative fee and \$150 in attorney fees shall be assessed to the owner.** The property will not be reconnected to the sewer unless and until the owner makes payment in full of all amounts due, or makes other arrangements satisfactory to the District to insure payment of all amounts due.

I. Time-line for Lien Placement and Initiation of Foreclosure Action

It is the policy of the Board of Directors to provide an efficient, fair and consistent policy of enforcement for delinquent accounts. Therefore, the following actions shall be taken:

1. Upon the expiration of the 60 day requirement to connect as set forth above (unless an extension of time is granted for good cause shown); the District shall do one of the following:

a. cause the inhabited property to be connected and immediately record a lien against the property in the amount equal to the connection fee plus administrative fees and applicable attorney fees, unless the property owner has applied for a payment plans as allowed herein;

or

b. file an action in District Court for Declaratory and Injunctive Relief against the Property Owner.

2. A property owner who has agreed to a payment plan and who is more than 30 days late in making of any payment shall be subject to lien placement for the entire amount owed plus administrative costs and attorney fees.

3. A property owner who has failed to make monthly payments on their sewer charges for three consecutive months shall have a lien recorded against their real property for the amount owed, costs, administrative fees and attorney fees. The District shall also send the owner a certified letter informing the owner of the recordation of a lien and informing the owner that enforcement of the lien will be commenced within three months thereafter if such fees are not paid in full.

4. If the property owner has failed to make payment or payment arrangements within three months of the lien recordation, the District may initiate either an action to foreclose the lien or a direct action against the property owner for the full amount owed.

J. Administrative Fees and Assessment.

If a user's account becomes delinquent and the District is required to place a lien on the property as set forth above, the District shall impose a \$100.00 administrative fee per account in addition to the imposition of any attorney fees or costs that are incurred in the collection of the amounts due.

This Resolution Supersedes and repeals Resolutions 2002-07-01, 2004-07-

06, 2004-10-04, 2004-12-03, 2005-03-02, 2005-12-01, 2006-05-01 and 2006-10-01, 2007-04-02, 2007-09-02, 2010-03-01.

PASSED AND ADOPTED this 12th day of May 2010.

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F.R. Bob Romero, Chairman

Attest:

Meliton Struck, Secretary

Approved:

Sarah C. Backus, Board Attorney