

**CITY OF ELEPHANT BUTTE
ORDINANCE NO. 119**

**AN ORDINANCE PROVIDING FOR SEWER SERVICE VIA THE SIERRA COUNTY REGIONAL WASTEWATER TREATMENT SYSTEM, NORTH AREA; PROVIDING FOR FEES AND PAYMENT PROCESSES; PROVIDING PENALTIES FOR DELINQUENCIES; PROVIDING FOR AN ADVISORY COMMITTEE
REPEALS ORDINANCES 111 AND 113**

WHEREAS, The City Of Elephant Butte Has Established Ordinance 119 for the Purpose Stated In the Title; and,

WHEREAS, The City Has Operated the Sewer System for A Year and Has Determined Some Items Were Not Addressed In the Original Ordinance and Modification are Needed; and

WHEREAS, The City has determined the need to add sections within the Ordinance to address the need for line extensions and stand by fees; and

WHEREAS, A Public Hearing Was Held By the Governing Body of the City of Elephant Butte to Address the Modifications;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ELEPHANT BUTTE, THAT:

SECTION 1. TITLE

This Ordinance shall be known as the Sierra County Regional Wastewater Treatment System, North Area Ordinance (SCRWWTS)

SECTION 2. PURPOSES

- A. To define who must be served by the collection lines and the Sierra County Regional Wastewater Treatment System, North Area.
- B. To establish processes and fees for connection, service deposit, and usage of the wastewater treatment system.
- C. To provide for payment of the fees established.
- D. To provide penalties for violations of this Ordinance
- E. To allow for establishment of an Advisory Board

SECTION 3. STATUTORY AUTHORITY

The authority for this Ordinance is found in Sections 3-18-1, 3-18-22, 3-18-25, 3-23-1 through 3-23-10, 3-26-1 through 3-26-3, and 3-36-1 through 3-36-7 of the NMSA 1978.

SECTION 4. INTERPRETATIONS AND CONFLICT

- A. Federal and State Conflict. Any provision of the United States or New Mexico State law, which imposes a greater duty, standard or requirement than those contained herein shall supersede the provisions of this Ordinance.
- B. Conflict within This Ordinance. When two or more provisions of this Ordinance are Conflicting, the most restrictive provision shall apply.
- C. Local Conflict: Where the provisions of any local Ordinance, regulation or legal covenant provide for greater restrictions than those of this Ordinance, the more stringent regulations or restrictions shall prevail.

SECTION 5. DEFINITIONS

BUILDING DRAIN - The part of the lowest horizontal piping of a drainage system which receives the discharge from waste lines and other drainage pipes inside the walls of the building and conveys it to the building sewer.

BUILDING SEWER - The extension from the building drain to the public sewer or other place of disposal. Also called yard lines and begins five feet outside the inner face of the building wall.

CITY – Will mean the City of Elephant Butte.

CITY ENGINEER - Person employed or contracted by the City for the purpose of overseeing City engineering concerns.

CITY MANAGER – Person serving in an administrative or managerial role for the City Council. Will mean his or her designee wherever referenced. In the absence of Manager the administrative role will revert back to the Mayor / City Council or his/her/their designee.

COMMERCIAL WASTEWATER – mean non-toxic, non-hazardous wastewater and includes, but is not limited to, commercial and institutional food operations, and animal holding facilities.

DAYS – means calendar days unless otherwise indicated.

DFU – Drainage Fixture Unit.

DWELLING UNIT – means a room or suite of rooms with kitchen and bath facilities designed as a unit for occupancy by one family.

EASEMENT- means the right or privilege that a person or persons may have in another’s land such as right of passage; commonly associated with road and utility corridors.

ENGINEER - means a professional engineer licensed in the State of New Mexico

ENTERPRISE – participation or engagement in a project undertake or to be undertaken

ESTABLISHMENT- means a multi-family housing, an apartment, a condominium or Townhouse complex, a mobile home park or recreational vehicle park, a commercial or institutional development, or places of business or assembly. An establishment includes all building or structures and the land pertaining thereto.

FUNCTIONING WASTEWATER SYSTEM - means a wastewater system that is operating as designed and as permitted by Environmental Protection Agency (EPA) and the State of New Mexico Environment Department (NMED).

GROUND WATER- means interstitial water that occurs in saturated earth material

INDUSTRIAL LIQUID WASTES – INDUSTRIAL DISCHARGE -All waterborne solids, liquids or gaseous wastes resulting from any industrial manufacturing or food processing operation or process, or from the development of any natural resource or any mixture of these with water or domestic sewage as distinct from normal domestic sewage. These shall include, but are not limited to: ordnance and accessories; food and products; apparel and other finished products made from fabrics and similar materials; lumber and wood products; furniture and fixtures; printing, publishing, and allied industries; chemicals and allied products; petroleum refining and related industries; rubber and miscellaneous plastics products; leather and leather products; stone, clay, glass and concrete products; primary metal industries; fabricated metal products, except ordnance, machinery and transportation equipment; machinery; electrical machinery, equipment and supplies; transportation equipment; professional, scientific and controlling instruments; photographic and optical goods; watches and clocks; miscellaneous manufacturing industries.

LICENSED PLUMBER – Any contractor meeting the criteria set forth in the State of New Mexico Construction Industries Division (NMCID) Rules and Regulations qualified to acquire permit for connection to the service tap and decommissioning and abandoning septic tanks.

LICENSED CONTRACTOR – Any contractor meeting the criteria set forth in the State of New Mexico Construction Industries Division (NMCID) Rules and Regulations qualified to acquire permit for connection to the main line of the wastewater system, and to perform work defined as utility work.

MANDATORY CONNECTIONS - A connection which is required when sewer service is available.

MAYOR – The Mayor of the City of Elephant Butte or his/her designee.

NATURAL OUTLET - Any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

ON-SITE MAIN - Sanitary sewer mains totally within a tract of land to be developed.

PRESSURIZED SEWER MAINS - Sanitary sewer mains which convey sewage under pressurized conditions.

PERSON - means any individual, partnership, firm, public or private corporation, association, trust, estate, governmental entity, agency or institution, any other legal entity or their legal representative, agents, or a designee.

PROPERLY SHREDDED GARBAGE - Wastes from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all suspended solids will be carried freely under the flow conditions normally prevailing in public sewers, with no suspended solids greater than one-half inch in any dimension.

PUBLIC SEWER - means a system of piping constructed for the purpose of collection and transmission of waste water owned or operated by a governmental or quasi-governmental agency in which all owners of abutting properties shall have equal rights to connect and dispose of wastewater.

SIERRA COUNTY REGIONAL WASTEWATER TREATMENT SYSTEM, NORTH AREA – also known as SCRWWTS

SEWER SYSTEM OR SEWER OR SANITARY SEWER - means a wastewater collection system which includes, but is not limited to: the trunks, arterials, channels, conduits, manholes, pumps, pumping stations, piping, and other appurtenances necessary to collect wastewater from a community, water district, corporation, company, or other entity that produces domestic sewage or a majority of domestic sewage mixed with other liquid wastes treatable in a wastewater treatment facility which is subject to a National Pollutant Discharge Elimination System(NPDES) permit or a NMED Discharge Permit. The public sewer portion of a wastewater facility which transports wastewater and to which storm, surface and ground water are not intentionally admitted.

STANDARD UTILITY SPECIFICATIONS AND DRAWINGS - A compilation of standard design requirements and drawings that have been approved for use in the construction of City water and/or sewer mains. These will be adopted by resolution.

SHALL - Mandatory; **MAY** is permissive.

STORM SEWER - A system of piping which carries storm and surface waters and drainage, but excludes wastewater and polluted industrial wastes.

SUBDIVISION - means the division of a surface area of land, including land within a previously approved subdivision, into two (2) or more parcels for the purpose of sale, lease or other conveyance or for building development, whether immediate or future.

SURFACE WATER - means a recognizable body of water, including swamp or marsh areas and natural or constructed ponds contained within a recognizable boundary. This does not

include retention or detention areas designed to contain standing or flowing water for less than 72 hours after a rainfall.

SYSTEM - means a wastewater system.

TOXIC, HAZARDOUS, OR INDUSTRIAL WASTEWATER WASTES - include, but not limited to: wastewater carried off by floor drains, utility sinks, and equipment drains located in buildings in industrial or manufacturing areas, wastewater from commercial laundry facilities, and wastewater resulting from car and truck washes.

TRAP - A device for retaining sand, silt, grit mineral material, petroleum solvent, grease or oil by gravity-differential separation from wastewater and of a design and capacity approved by the City.

UTILITY - Water, sewer and/or other public work furnished by the City to consumers thereof.

WASTEWATER - means the liquid or water-carried wastes removed from residences, institutions and other establishments, including bath and toilet wastes, laundry waste, and kitchen waste not including toxic, hazardous, or industrial waste.

WASTEWATER FACILITIES - The structures, equipment and processes required to collect, transport and treat domestic industrial wastes and dispose of the effluent.

WASTEWATER TREATMENT FACILITIES - An arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with **WASTE TREATMENT PLANT** or **WASTEWATER TREATMENT PLANT**.

UPC – Uniform Plumbing Code

SECTION 6. SERVICE AREA AND MANDATORY CONNECTION REQUIREMENTS

- A. This Ordinance applies to all situations where domestic, commercial, or industrial wastewater is collected, treated, or disposed of, including wastewater systems in existence prior to the effective date of this Ordinance, within the service limits of the Sierra County Regional Wastewater Treatment System, North Area., unless the Ordinance indicates otherwise. A map defining the current service area, accepted by resolution of the City Council is hereby made a part of this Ordinance. Revisions and/or updates of the service area map are included in this Ordinance as successors.
- B. All households/improved lots and commercial enterprises must connect to the sewer at such time as functioning collection lines are available. Connection must be completed within six (6) months of defined availability. See Section 6F for defined availability. The six (6) months begins following the date of the public notice of availability announcing the system is complete and ready for service.
- C. Determination of Necessity: Prior to the development or improvement of any property which may cause the generation of wastewater in the service limits of the Sierra County Regional Wastewater Treatment System, North Area; the owner shall request a review by the City. The

City shall provide a written response which shall establish the necessity for connection to SCRWWTS, assess the availability of sanitary sewer service in the area, as defined in Section 6F, and cite the conditions under which wastewater collection and treatment service may be provided by the SCRWWTS. The City's written response shall be obtained by the owner prior to the commencement of the design of any sanitary sewer improvements affecting the property.

D. If a public sewer system is available, all new structures or enterprises requiring wastewater disposal shall be connected to the sewer system prior to the structure being occupied. See Section 6F for defined availability.

E. If a public sewer system is available to a proposed subdivision, every lot in that subdivision shall be, at the property line of each lot, provided access to sewer by the developer.

F. Availability Defined:

A public sewer system is available to a lot that will be or is generating wastewater or has a structure that has generated wastewater whenever the following conditions are met:

1. For a residential lot, a sewer line or lift station exists in a public easement or right-of-way that abuts the property line of the parcel.
2. Within areas used for commercial, industrial, or manufacturing purposes or their equivalent, a sewer line or lift station exists in a public easement or right-of-way that abuts the property line of the parcel.
3. For proposed residential subdivisions with five (5) or fewer lots, there exists a sewer line or lift station in a public easement or right-of-way that abuts a boundary line of the subdivision.
4. For proposed residential subdivisions with more than five (5) lots and for proposed subdivisions to be used for commercial, industrial, or manufacturing purposes, or its equivalent, there exists a sewer system or project (that may or may not be under construction) that abuts a boundary line of the subdivision.
5. A map describing availability will be established by Resolution of the City Council. It will be replaced from time to time, by Resolution of the City Council as additional sewer lines are constructed. Such map and successor maps are hereby incorporated as a part of this Ordinance.
6. Grade, depth of cut, grinder pump required and any construction related issue to connect a dwelling or establishment to the sewer, does not negate the availability and said dwelling or establishment must connect and comply with this Ordinance.
7. Vacant lots within the availability area are not required to connect to the sewer system until such time lot is developed or built upon, but will be subject to a stand by fee.
8. In areas where there were group septic tanks and all lots have sewer taps, or once been served by a group septic tank; even if there is no structure currently on the lot, the presence of a sewer tap is considered sewer available. If no sewer tap is available the lot owner will be assessed a stand by fee.

F. The City may for specified reason, at its discretion, declare a moratorium on connection(s) in any service area.

SECTION 7. PROHIBITED CONNECTIONS

A. Manifold Connections are prohibited:

1. Pluvial or storm water drains from roofs, yards, and other surfaces shall not, under any circumstances, be connected to the sanitary sewer plumbing or sanitary sewer collectors. Any such connections are unlawful and shall be subject to the penalties and enforcement in accordance with Section 29 of this Ordinance
2. Combined sewers which are conduits carrying both storm water and wastewater shall not be permitted to connect to the SCRWWTS. If such a connection is discovered the owner of the combined sewer shall remedy such situation within ten (10) days from the issuance of notice by the City. Failure to comply with such notice shall result in penalties and enforcement action in accordance with this Section 29 of this Ordinance.
3. No more than one lot shall be connected into one service connection. No neighboring lot or dwelling is allowed to connect to an adjacent service line. Special circumstances will be considered upon approval of the City Engineer.

SECTION 8. SEWER SERVICE CONNECTIONS

A. City Service Agreement

1. All dwelling units, enterprises and establishments in receipt of a Notice of Availability must submit to the City within six (6 months) a completed Service Agreement in accordance with Section 9 of this Ordinance.

B. State Permits Required

1. A plumbing permit shall be obtained from the New Mexico Construction Industry Division (NMCID) before any connections are made to the SCRWWTS by the property owner.
2. When a property owner connects into the sanitary sewer, any existing on-site disposal system shall be abandoned in accordance with the requirements of the New Mexico Environment Department (NMED) Liquid Waste Division. All on site disposal systems shall be decommissioned and abandoned within thirty (30) days from the time of connection to the system. The licensed plumber who abandoned the system will certify to the City that abandonment has been done in accordance with NMED regulations.

C. Service Connections Made by a Licensed Contractor

1. All connections to the SCRWWTS sanitary sewer collection line (stub out) shall be made by a licensed plumber in accordance with the UPC and the City of Elephant Butte's Standards and Specifications Document and associated detail drawings.
2. In cases where there is no stub out from the sewer main line to the property line, the homeowner will be required to connect the building sewer source line to the sewer main located in the city right of way by a licensed contractor. Licensed contractor will comply with all City of Elephant Butte Standards and Specifications for proper tie into the sewer main. City personnel or contract sewer maintenance personnel will physically examine and inspect the connection into the sewer main. Since most sewer mains are in the center of the street or right of way, the City may require additional measures such as traffic control from the licensed contractor. If the connection is required to cut pavement in

order to get to the main line, the contractor will be required to replace the pavement to its original condition.

D. Inspections

1. The property owner and/or their licensed plumber or contractor shall have the required NMCID inspections. A copy of the inspection and acceptance certification is required to be submitted to the City upon completion of the connection and abandonment. If connections are made as referenced in Section 8.C.2, City or contract maintenance personnel shall inspect connection and certify standards are met.

E. Service Connections for Commercial Establishments

1. New or existing commercial establishments or existing buildings being remodeled into commercial establishments, in which existing sewer service is adequately sized and in good condition, and where grease traps or sand and grease interceptors are not required by this Ordinance or by the UPC, and which can be classified as either commercial retail businesses, or office buildings, shall not be required to construct a City of Elephant Butte standard monitoring manhole, provided the establishment has no more than 160 DFU's connected, as determined in the UPC.

2. Nothing in this subsection shall be construed to relax or modify the building requirements of the UPC or the City of Elephant Butte's Standards and Specifications Document.

F. Service Connections for Existing Group Septic Customers

1. Customers who have been previously connected to a group septic tank will be required to adhere to the provisions of this Ordinance. Customers will be required to submit service agreements and required fees.

2. All units including dwellings and vacant lots will be required to pay the monthly sewer service fee, if they at anytime have had sewer or septic in the past or have had water service in the present or the past. The only exception to this rule is if a lot has been combined with another lot through replat and owner can show proof that sewer stub and water service has been physically abandoned.

SECTION 9. SERVICE AGREEMENT

A. Each person, enterprise or business desiring or required to connect to the Sierra County Regional Wastewater Treatment System, North Area, shall submit within six (6) months a complete Service Agreement to the City or its agent which shall include but not be limited to his/her name, mailing address, phone number, local address and legal description of property for which service is needed, and proof of ownership of that property.

B. Service Agreement must be accompanied by required fees before any action for approval is taken.

C. Commercial or enterprises meeting the industrial discharge definition must submit an agreement prior to any work commencing. Agreement will be evaluated by the City Engineer and an approval or pre-treatment requirements will be required prior to any connection to the sewer system. Costs associated with the evaluation will be borne by the customer.

SECTION 10. MANDATORY CONNECTION EXEMPTIONS

- A. Any dwelling, industrial or commercial establishment or enterprise, which meets the following City criteria, may be exempt from mandatory connection to the regional wastewater system upon application for exemption and approval by the City:
 - 1. Based on the City engineer's recommendation, a temporary exemption from connection for those with unique situations, e.g. where a gravity flow connection is not available but will be in the future.
 - 2. An officially declared moratorium to new connections to the system is in effect.
 - 3. All temporary exemptions will be reviewed at least annually by the City Manager or his/her designee.
- B. Any building declared exempt from connecting to the regional wastewater system must have an approved on-site wastewater disposal system which is in compliance with local, state and federal regulations.

SECTION 11 – INDUSTRIAL DISCHARGE

- A. All industrial discharge (if required by engineering evaluation) will be pre-treated before discharge to the SCRWWTS.
- B. Industrial users discharging to the SCRWWTS will have their discharge evaluated by the City Engineer on a case by case basis to determine pre-treatment and reporting requirements necessary.
- C. Any commercial discharge which meets the definition of an industrial discharge, or if the City determines that commercial discharge may be detrimental to the waste water treatment facility processes shall also be evaluated by the City Engineer on a case by case basis to determine if pre-treatment and reporting requirements are necessary.
- D. Engineering evaluation of industrial discharge will be the responsibility of the owner and must be submitted prior to approval of the service agreement.
- E. Any processes impacting discharges to the system will require engineering evaluation prior to discharge. Engineering evaluation will be at the expense of the applicant.

SECTION 12. GREASE INTERCEPTOR FACILITIES

- A. Grease Interceptor Requirements:
 - 1. All restaurants, cafeterias, institutional kitchens, and other installations having facilities for the preparation and serving of food in quantity, laundromats, car washes, gas stations, auto machinery garages and car washes, and art shops or art galleries where the potential for discharge of grease, oils, and waxes into the sanitary sewer system exists, whose location is within the SCRWWTS's sanitary sewer service area shall be required to install a grease interceptor. A standard monitoring manhole may also be required as detailed in the City of Elephant Butte Standards and Specifications Document and the associated detail drawings.
 - 2. Any facility as listed above, that is currently operating without the required grease interceptor, even though there have been no history of blockages caused at or downstream from their location, shall be required to install a grease interceptor and

monitoring manhole as per the City of Elephant Butte's Standards and Specifications Document and associated detail drawings.

- 3 Any commercial or industrial facility, currently on an on-site sewer system connecting to the SCRWWTS, shall install or show proof of installation of a grease interceptor, according to the parameters of this section and in the City of Elephant Butte's Standards and Specifications Document and associated detail drawings, prior to approval of the application.
4. When any commercial or industrial facility is found to have grease interceptors which are inadequate to meet the requirements of this section, and is connected to the SCRWWTS, and/ or is in the process of changing owners, lessees or renters, the fee simple owner shall be required to update the system in compliance with the City of Elephant Butte's Standards and Specifications Document and associated detail drawings before the new owner or operator will be allowed to commence discharge.

SECTION 13. RULES AND REGULATIONS

The City Council shall have the authority to set by subsequent resolution, rule, regulation, or Ordinance such standards, specifications and policies, additional service areas, rates, expansion, line extension and line sizes and other charges, conditions of service and/or other matters, as may be deemed necessary, for the establishment, construction, expansion and maintenance and operation of the Regional Wastewater System. The rules, regulations, standards and specifications and detail drawings shall be filed in the office of the City Clerk. The Code Enforcement Officer may issue a citation into Municipal Court based on an alleged violation of such rules, regulations, standards and specifications. A violation shall be deemed a misdemeanor.

SECTION 14. FEE REQUIREMENTS

Properties being served by the Sierra County Regional Wastewater Treatment System shall be subject to the following fees. The amount of each fee shall be determined by resolution of the City Council and shall be adjusted from time to time to meet maintenance and operating expenses.

- A. Development/Capacity Fee: There will be a fee allowing connection to the Sierra County Regional Wastewater Treatment System for the purpose of providing plant capacity to serve the customer. Capacity Fee will be waived for dwellings with water service prior to March 31, 2006. Development and Capacity fees will be established by reference Resolution 08-09-214 or its successors.
- B. Connection Costs: The cost of connection for any new service shall be the responsibility of the lot owner, as follows:
 1. For an existing residence or commercial enterprise, connection costs include running a line from the residence or commercial source to the property line and connecting to the sewer main stub out, and decommissioning and abandoning the existing septic system following NMED and EPA guidelines.
 2. For a new residence or commercial enterprise, connection costs include running a line from the residence or commercial source to the property line. In cases where there is no stub

out from the sewer main line to the property line, owner shall bear all costs involving a connection from the source to the sewer main.

- C. Service Deposit Fee: For residential customers a set fee will be established by a fee resolution. For Commercial Customers a fee equal to 2 ½ months service charge which is held on deposit and may be used to cover delinquent bills
- D. Residential or Commercial Monthly Service Fee
- E. Administrative Set-up Fee- A one-time charge for setting up the customer account.
- F. Any owner not connecting within the required six (6) months will be billed monthly charges as if they were connected. Late fees and penalties will accrue if payment is not made.
- G. Stand by Fee – any vacant property including vacant land or unoccupied dwellings or buildings adjacent to a designated sewer availability will be assessed a stand by fee. Said fee will be established by Resolution by the City Council.

SECTION 15. REFUND OF DEPOSIT

- A. Refunds of deposits made for utility service shall be made to the customer upon written request for termination of wastewater service providing the customer has no outstanding indebtedness to the City.
- B. Deposits may be applied to any account debt remaining.
- C. Deposits may also be refunded after one year of timely payment of wastewater service fees.

SECTION 16. FREE SERVICES PROHIBITED

- A. No free wastewater services shall be allowed.
- B. For the services rendered the City, the City shall be subject to the same charges provided in this Ordinance.

SECTION 17. PAYMENT PROCESS

- A. Each connection to SCRWWTS shall have a customer account set up, upon payment of the Administrative Set-Up Fee.
- B. The City of Elephant Butte will mail monthly bills to owners of record of lots connected to SCRWWTS as identified in the customer account. Bills will be due and payable 15 days after mailing.
- C. Payment can be made to the City by mail with a check or money order or in person at the Municipal Office by cash, check, ~~or~~ money order, credit card or automatic bank debit. Receipts will be issued for payments made in person at the Municipal Office. A \$30.00 fee will be assessed for all returned checks.

SECTION 18. CUSTOMER COMPLAINT PROCEDURES

- A. If any residential or commercial sewer user believes that his or her user charges are unfair with respect to charges made to similar residential or commercial users, the user may request in writing to the City Manager or his/her designee that the charges be reviewed. The request shall set out in detail the facts and figures supporting the user's alleged unfair charge and a proposed solution.

- B. The City Manager shall review the request and determine whether the charges are fair with respect to the user made by some other residential or commercial users. The City Manager's determination shall be made in writing. If the City Manager finds that the charges made are not fair, then he or she shall modify those charges to bring them into compliance with rates charged other residential or commercial users. If the City Manager finds that the charges are fair, no change in rates shall be made.
- C. If the user does not agree with the determination of the, City Manager, the user shall, within 10 days of receipt of the determination, request a hearing before the City Council. If, upon such a hearing, a majority of those present and voting of the City Council are of the opinion the City Manager's decision is correct, then the decision shall be affirmed. Otherwise the Council shall have the power to revise the decision made by the City Manager. The same complaint may not be re-filed for 3 years.

SECTION 19. DELINQUENT CHARGES

- A. If any charge established shall not have been paid within 30 days after such charge is due; the account will be designated as delinquent.
- B. After the sewer account has been designated delinquent, the City can begin penalty, lien and foreclosure processes as spelled out in City of Elephant Butte Ordinance #70: An Ordinance establishing a lien process for overdue and unpaid utility bills; providing for a procedure; and providing for penalties.

SECTION 20. BILL FOR ILLEGALLY USED SERVICES

- A. Services connections to SCRWWTS which are found to be constructed without a permit or otherwise have been undertaken without City authorization or have not been billed for service in accordance with rates established by subsequent resolution, are deemed illegal and hereby prohibited.
 - 1. Upon discovery and determination of an illegal connection, the City shall inform the owner in writing of the property being serviced by such a connection that the property is served by an illegal connection; and begin the process of property lien for service without payment; and:
 - (a) within thirty (30) days of receipt of the City of Elephant Butte's letter, the owner shall contact the City and complete the Service Agreement, pay appropriate administrative fees, and pay appropriate service deposit to set up the account; or
 - (b) within thirty (30) days of receipt of the City of Elephant Butte's letter, the owner shall contact the City with proof that said illegal connection is in fact done legally and pursuant to the City Ordinance.
 - (c) If within thirty (30) days of receipt of the City of Elephant Butte's letter, the owner fails to contact the City, the owner is deemed in violation and will be cited into municipal court.
 - 2. If the connection is determined illegal, the owner shall uncover the connection and have NMCID inspectors verify the connection was done to standards. The owner will also uncover the septic tank location and have NMED inspectors verify the decommissioning and abandonment was completed in accordance with EPA and NMED regulations.

3. If the connection is found to be in violation of NMCID regulations, or City of Elephant Butte Standards and Specifications Document and associated detail drawings, the owner will have said connection removed and re-installed in accordance with said rules and regulations. If it is found that the septic tank has not been decommissioned by standards, the owner will have the tank properly decommissioned and abandoned prior to City acceptance.

4. Any connection found to be illegal; the owner shall be billed in arrears for twenty – four (24) months of service charges at the current authorized rates. If owner is not able to make full payment, a lien will be automatically be placed on the property and owner shall make such monthly payments to satisfy the debt within a one year period; or

(a) in the event that the owner can demonstrate to the City's satisfaction the actual time period that the illegal connection has been in existence, the City will adjust the billing in arrears for service charges to the period of actual connection at double the current billing rate.

5. If the owner of a determined illegal connection fails to satisfy any requirements of the City, the NMCID and the NMED, they will be in violation of the Ordinance and will be cited into Municipal Court and property lien process enacted.

SECTION 21. VOLUNTARY DISCONTINUANCE OF SERVICE

Customers wishing to discontinue the use of wastewater service due to change in ownership shall give written notice thereof at the City hall. Failure to do so shall render them liable for the payment of all bills until the notice has been given. Dwelling vacancy, removal of manufactured dwelling or non-connection to the water system is not considered a voluntary discontinuance of service.

SECTION 22. LIABILITY OF PROPERTY OWNER

The owner of premises where wastewater service is furnished by the City, whether or not the owner is the user or consumer of the utility service, shall be liable for the payment of all rates and charges therefore.

SECTION 23. LIEN ON NONRESIDENT CONSUMER'S PROPERTY

All persons, associations or legal entities, including governmental agencies and political subdivisions, and the owners of all property located without the corporate limits of the City do agree upon agreement being made for and the providing of wastewater service by the City to pay for such wastewater service at the rates provided by resolution and further that said charges for wastewater service shall constitute a lien upon the premises until paid superior to all other liens except general property taxes upon the property.

SECTION 24. FAILURE TO CONNECT

The failure or refusal by any owner or registered agent of any lot or tract of land, abutting any sewer main or lateral, required to be connected to the sewer system, following notice as required from the City shall constitute a violation of this Ordinance and the owner or registered agent

shall be cited into Municipal Court. Any owner not connecting within the required six (6) months will be billed monthly charges as if they were connected. Late fees and penalties will accrue if payment is not made.

SECTION 25. VIOLATIONS

- A. Unlawful Connections: Any person who shall make any connection in any manner to the wastewater system without the prior knowledge and consent of the City shall be deemed guilty of a misdemeanor.
- B. Damage or Trespass of Equipment: It shall be unlawful for any person, not having authority to do so, to tamper with the wastewater service, or to any other way molest damage or trespass upon any equipment or premises belonging to the City connected with the utility service.
- C. Connections; Suitable Treatment Required: It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this Ordinance.
- D. Prohibited Connections of Downspouts, Drains to Building Sewers: No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- E. Failure to connect in the required amount of time.
- F. Failure to decommission septic tank within the required time.
- G. Failure to comply with any provision of this Ordinance, referenced resolutions, the City of Elephant Butte's Standards and Specifications Document or detail drawings.

SECTION 26. WASTEWATER DISCHARGES

All users of the regional wastewater system shall comply with discharge guidelines and prohibitions found in the Rules and Regulations adopted by the City Council.

SECTION 27. LINE EXTENSIONS

Public line extensions will be allowed. Costs involved with proposed line extensions will be the responsibility of the person performing the extension. All line extensions will be a permanent nature and be in compliance and of a design matching the City master plan and future grade and size requirements. The City will enter into a negotiated amicable agreement with the extending party to include a cost share between the City and extending party, or credit the extending party to help relieve a portion of the cost. In no cases will the City credit or cost share for full price of an extension.

SECTION 28. STAND BY FEES

- A. A stand by fee will be charged to all vacant lots or dwellings under construction in which the sewer line has been constructed and available for connection.

- B. A stand by fee will be assessed to all customers receiving an exemption to connect if the sewer is deemed available.
- C. A stand by fee will be charged to all vacant commercial properties in which the sewer line is available.
- D. A stand by fee will be charged to all existing vacant dwellings in which sewer is available even if the dwelling has no connections (such as garages and storage units).
- E. A stand by fee will be charged to any vacant lot in which all dwellings and other utilities have been disconnected where sewer is available.
- F. The City will adopt stand by fees by Resolution.

SECTION 29. ENFORCEMENT PROCEDURES

- A. Notification of Violation: Whenever the City Manager or his designee finds that any person has violated or is violating this Ordinance, the City Manager or his designee may serve upon such person a written notice stating the nature the alleged violation and providing a time, not to exceed ten days for satisfactory correction unless otherwise detailed in this Ordinance or referenced Resolutions.
- B. Legal Action: Any discharge in violation of this Ordinance shall be considered a public nuisance. If any person discharges sewage, commercial wastes, or other wastes into the regional wastewater treatment system contrary to the substantive provisions of this Ordinance the City Manager or his designee may commence an action for appropriate legal and/or equitable relief in Municipal Court.
- C. Penalty for Violation of this Ordinance. Any person or entity convicted of a violation of this Ordinance shall be fined a sum not to exceed \$500 for any one offense, and such person may be confined in the County Jail for a period of not more than 90 days. Each day a violation of this Ordinance occurs may be considered a separate offense.

SECTION 30. ADVISORY BOARD

- A. An Advisory Board may be established made up of at least one City Council member or City employee and at least 3 customers.
- B. If such Board is established, it will meet as needed. If such Board is established, the duties and tasks will be defined at that time by the City Council. Any suggestions or recommendations to the City shall be advisory in nature, and they shall not bind the City Council.

SECTION 31. SEVERABILITY

Should a court of competent jurisdiction, hold any section, paragraph, clause, or provision of this Ordinance invalid or unenforceable, it shall not affect any of the remaining provisions of this Ordinance.

SECTION 32. EFFECTIVE DATE

This Ordinance shall take effect five days after it is passed, approved, and adopted.

PASSED, APPROVED, AND ADOPTED THIS ____ DAY OF _____, 2009.

Mayor Eunice Kent

ATTEST:

Mary Ann Dix, Municipal Clerk