



CITY OF ELEPHANT BUTTE

ORDINANCE AMENDMENT

Request for Amendment of Ordinance 119 Chapter 51

51.05- Definitions

51.40 – Retract Appeal City Managers determination of charges billed to City Council

51.43 and 51.44- Remove liability for billing from previous property owner to owner on record with the County Assessor's office.

**CITY OF ELEPHANT BUTTE
ORDINANCE NO. 178**

**AN AMENDMENT SECTION 40 OF CHAPTER 51 OF THE CITY OF ELEPHANT BUTTE
NEW MEXICO ORDINANCE NUMBER 119, CUSTOMER COMPLAINT PROCEDURES FOR
CHARGES FOR WASTEWATER AND AMENDMENT OF CHAPTER 51 SECTION 43
VOLUNTARY DISCONTINUANCE OF SERVICE OF THE CITY OF ELEPHANT BUTTE
WASTEWATER OF ORDINANCE 119 DATED 05.20.2009**

WHEREAS, the City of Elephant Butte, New Mexico (the “City) is a legally and regularly created, established, organized and existing municipality under the federal laws of the State of New Mexico; and

WHEREAS, the City of Elephant Butte, provides an Customer Complaint Procedure for wastewater customers within the City Limits of Elephant Butte.

WHEREAS, the City of Elephant Butte, complaint procedure states the City Manager shall review any customer complaints of unfair charges of Residential or Commercial Wastewater Billing usages and document his determination in writing. The City Manager has the authorization to modify or not modify any charges to bring them into compliance with rates charged to other residential or commercial users.

WHEREAS, Section C of Chapter 51.40 of the City of Elephant Butte Ordinances states the user has a period of time to request a hearing to City Council if they disagree with the determination made by the City Manager. City Council shall have the power to revise the decision made by the City Manager. The appeal of a wastewater charges may be resolved via the Judicial System and the City Ordinance for Property Liens.

WHEREAS, the definition for Property Owner is to be defined in the amendment to Ordinance 119 Chapter 51 Sewer.

WHEREAS, the City of Elephant Butte, Chapter 51 Section 43 explains a property owner who sold a property shall give written notice thereof at the City Hall of the change in ownership. Due to situations where owners are incapable to providing notice to the City, the amendment is a requirement for new owners to submit an application for City Wastewater services within 30 days of ownership. The Ordinance explains property owners are responsible for the billing. By adding the time frame the city will have more recourse in place if the new owner fails to apply for the required wastewater services.

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the City of Elephant Butte, that amendments and additions to Ordinance 119 Chapter 50 SEWER, reinforces the City’s Public Safety and protects the rights of the citizens of Elephant Butte.

Section One Chapter 51 of the Municipal Code of the City of Elephant Butte, is amended by adding the following addition to the 51.05 Definitions (*italicized*)

Section Two. Chapter 51 of the Municipal Code of the City of Elephant Butte, is amended by retracting 51.40 (C) The appeal to City Council when the Customer Complaint Determination by the City Manager is not satisfactory to the Customer.

Section Three: Chapter 51 of the Municipal Code of the City of Elephant Butte is amended by retracting the previous property owner liable for the payment of all bill until notice has been given or change of ownership. Amending the section to have the new owner of the said property be liable for payment of all bills as they are the property owner of record through the Sierra County Clerk’s Office.

Section One

§ 51.05 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

DAYS. Calendar days unless otherwise indicated.

DFU. Drainage fixture unit.

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

EASEMENT. The right or privilege that a person or persons may have in another's land such as rite of passage; commonly associated with road and utility corridors.

ENGINEER. A professional engineer licensed in the *state of New Mexico*.

ENTERPRISE. Participation or engagement in a project undertake or to be undertaken.

ESTABLISHMENT. 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. 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. 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. *Plumber shall have a current business registration to work in the City of Elephant Butte.*

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. *Contractor shall shall have a current business registration to work in the City of Elephant Butte.*

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

MAYOR. The Mayor of the City of Elephant Butte or his or 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.

OWNER: 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, supervisor, or person who is on record with the County Assessor's Office as the person in charge of the property.

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

~~**PERSON.** 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. 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. 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. The division of a surface area of land, including land within a previously approved subdivision, into two or more parcels for the purpose of sale, lease or other conveyance or for building development, whether immediate or future.

SURFACE WATER. 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. 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. 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.

(Ord. 119, passed 5-20-2009)

Section Two

ADMINISTRATION AND ENFORCEMENT

§ 51.40 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 or 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 ten 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 three years.~~

(Ord. 119, passed 5-20-2009)

Section three

§ 51.43 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.

(Ord. 119, passed 5-20-2009)

§ 51.44 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 therefor. *Property Owners are required to submit an application with the applicable fees for the initiation of the mandatory Wastewater Services in the City of Elephant Butte within 30 days of ownership transfer. Failure to do so, shall render the property owner on record with the County Assessor's Office liable for the payment of all wastewater services during their time of ownership.*

(Ord. 119, passed 5-20-2009)

PASSED, APPROVED, AND ADOPTED by the Governing Body of the City of Elephant Butte, New Mexico, this _____ day of _____, 2019

BY:

Eunice Kent, Mayor

ATTEST:

City Clerk