



# **Doña Ana Mutual Domestic Water Consumers Association**

## **ByLAWS**

**AMENDED JANUARY 31, 2018**

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**Bylaws Of**  
**Dona Ana Mutual Domestic Water Consumers Association**

Originally formed as a non-profit association under the Sanitary Projects Act the association now functions as a political subdivision of the State of New Mexico.

**Article I**

**Names, objects, purposes and principal place of business**

The corporate name, the objects and purposes, and the principal place of business of this association, shall be as stated and provided in the certificate of incorporation of the association and in the sanitary projects act, including the acquisition, construction and improvement of water supply, reuse, storm drainage and wastewater facilities in Doña Ana and nearby communities and to operate and maintain such facilities for the public good.

**Article II**

The seal of the association shall be inscribed thereon the name of the association, a “Political Subdivision of the State of New Mexico.” The secretary of the association shall have custody of the seal.

**Article III**

The fiscal year of the association shall be the 1<sup>st</sup> of July of each year.

**Article IV**

**Section 1. Members**

Property owners within and in the vicinity of the community of Doña Ana and surrounding areas, County of Doña Ana, New Mexico, being reasonably accessible to the system of the association and who are in need of water for domestic and related purposes and/or the collection and disposal of sewage, and who are eligible for membership as provided by article iv of the articles of incorporation, may be admitted to membership upon application therefor and the payment of a membership fee plus the current tap-in fee per meter and water right fee as approved by the association’s board of directors. However, the membership may be denied if the capacity of the association’s system is exhausted by the need of its existing members, and if it is physically or financially impossible for the association to acquire additional facilities to accommodate new members. In the event of a shortage of water, the association shall take appropriate measures to meet the needs of the association.

**Section 2. Cost of meter installation**

Any member applying for connection shall pay the actual cost of connection.

### **Section 3. Approval of membership**

All applications for membership shall be passed on by the board of directors. Applications for or subscriptions to membership in this association shall be in the form approved and provided by the board of directors. Membership shall not be denied because of the applicant's race, color, creed, national origin or sex.

### **Section 4. Member rights**

Each member of the association has equal rights, privileges and obligations. No member has more than one vote in the affairs of the association regardless of the number of services or connections under a member's name.

### **Section 5. Voting**

Each member shall be entitled to one vote only. Voting by proxy or by mail will not be permitted, except that absentee voting by mail is permitted in elections for the board of directors under article v of the articles of incorporation.

### **Section 6. Notification**

At any time that a schedule of the matters proposed to be presented for action at a meeting of the members is known in advance of such meeting, the secretary-treasurer shall send to each of the members a copy of such proposed schedule with the notice of said meeting.

## **Article V**

### **Meeting of Members**

#### **Section 1. Annual membership meeting**

The annual meeting of the members of this association shall be held on the last Wednesday of January of each year.

**Section 2. Special meetings of the members** of the association may be called at any time by the president, or upon resolution of the board of directors, upon written petition to the president of the board, signed by two percent (2%) of the members. The purpose of every special meeting shall be stated in the notice thereof, and no business shall be transacted thereat, except such as is specific in the notice.

**Section 3. Notice of meetings of the members** of the association, both regular and special, shall be given by a notice mailed to each member of record, directed to the address shown upon the books of the association, at least ten (10) days prior to the meeting. Such a notice shall state the nature, time, place and purpose of the meeting.

#### **Section 4. Meeting of members (quorum).**

One percent (1%) of the total membership of the association shall constitute a quorum at any meeting of the association for the transaction of business. Also, one percent 1% of total membership of the association shall constitute a quorum for any special meeting of the membership of the association.

#### **Section 5. The order of business**

At the regular meetings, and as far as possible at other meetings, shall be:

1. Calling to order and proof of quorum
2. Proof of notice of meeting
3. Reading and action on any approved minutes
4. Reports of officers and committees
5. Unfinished business
6. New business
7. Adjournment

## **Article VI**

### **Directors**

#### **Section 1. Functions of the board of directors.**

The business and affairs of this association shall be managed by a board of directors consisting of five (5) members, all of whom shall be members of this association.

#### **Section 2. Election and term of board members.**

The board of directors shall be elected biennially from the membership of the association, for staggered terms of four (4) years each. The purpose of the election every two (2) years is to provide a system of staggered four (4) year terms, so that three (3) directors will be elected in one (1) year and two (2) years later the other two (2) directors shall be elected.

#### **Section 3. Election of officers.**

The board of directors shall meet as soon as possible after the holding of the annual election of directors, and in any event within ten (10) days of that time, and shall elect by ballot a president, vice-president, and secretary-treasurer from among themselves, each of whom shall hold office until the next annual meeting and until the election and qualification of his successor unless sooner removed by death, resignation, or for cause.

#### **Section 4. Compensation of officers.**

The members of the board of directors shall receive no compensation for their services as directors

#### **Section 5. Meetings of the board of directors.**

In addition to the annual meeting, the board shall hold meetings at such regular intervals as the board may determine. A majority of the board present in person at any meeting shall constitute a quorum for the conduct of business thereat.

#### **Section 6. Powers of the board.**

The board of directors shall have the general power to act for the association in any manner not prohibited by statute of the articles of incorporation. If the association shall, at any time, borrow or receive by way of grant, any property of the united states, through any of its agencies, the board of directors shall pursue such management methods, including accounting and audits, as such agency may prescribe.

## **Section 7. Vacancies.**

If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification or otherwise, except by removal from office, a majority of the remaining directors, though less than a quorum, shall by a majority vote choose a successor who shall hold office until the next regularly scheduled election. At that election, the members shall elect a director for the unexpired term.

## **Section 8. Removal of directors and officers.**

- a. Any director or officer of the association may be removed from office with or without cause, upon petition of not less than ten percent (10%) of the members of the association in said director's district for a recall election. A meeting shall be held prior to the election and the director or officer shall be informed in writing of the charges against him or her at least ten (10) days before such meeting and at such meeting shall have the right and opportunity to be heard in person or by counsel, and to present witnesses in his or her behalf. The director or officer may be removed by a vote of not less than 2/3 of the votes cast in the recall election.
- b. Any director or officer who fails to attend as many as three (3) regular scheduled monthly board meetings in any one year, without prior notification and approval of absence by the board, may be dropped as a board member if such action is approved by a majority of the remaining members of the board. The board will select an interim appointee to serve until the next annual membership meeting at which time the general membership will elect a member to complete the unexpired term of the original board member.

## **New section 9. Board districts**

Each member of the board of directors shall represent a geographical district of the association's service area. The membership address of the board member shall be located within the district that the board member represents. Each district shall be reasonably contiguous and include approximately one-fifth of the association's total membership. The initial districts and their boundaries shall be in accordance with the attached map and description. Subsequent adjustments to district boundaries shall be made by written policy of the board of directors. The board of directors shall by written policy adopt election procedures regarding the election of board members, which procedures are to be consistent with the articles of incorporation and these bylaws. In accordance with the Articles of Incorporation, district boundaries shall be reviewed at least every five (5) years.

## **Article VII**

### **Duties of Officers**

#### **Section 1. Duties of the president.**

The president shall preside over all meetings of the association and the board of directors, shall call special meetings of the board of directors and perform all acts and duties usually performed by an executive and presiding officer. He/she shall sign all membership certificates, notes, bonds, mortgages, contracts and other instruments on behalf of the association. He/she shall be an ex-officio member of all standing committees and shall have such powers and shall perform such other duties as may be properly required of him/her by the board of directors.

**Section 2. Duties of vice-president.**

The vice-president, in the absence or disability of the president, shall perform the duties of the president. The board of directors may declare the office vacant and elect his/her successor, to fill the unexpired portion of the president's term.

**Section 3. Duties of the secretary-treasurer.**

The secretary-treasurer shall ensure a complete record of all meetings of the association and of the board of directors is kept and shall have general charge and supervision of the books and records of the association. He/she shall attest the president's signature on all membership certificates and other papers pertaining to the association unless otherwise directed by the board of directors. He/she shall serve, mail, or deliver all notices required by law and by these bylaws and shall make a full report of all matters and business pertaining to his office to the members at the annual meeting, or at such other time or times that the board of directors may require. He/she shall ensure the corporate seal and membership certificate records of the association are kept, complete and attest all certificates issued and affix said association seal to all papers requiring seal. He/she shall make all reports required by law and shall perform such other duties as may be required of him/her by the association or the board of directors. Upon the election of his successor, the secretary-treasurer shall turn over to him/her all books and other property belonging to the association that he/she may have in his/her possession.

**Section 4. Executive Director.**

The board of directors shall appoint in addition to the officers named above, an Executive Director to superintend the water and/or sewer system of the association and its construction, maintenance and repair. The Executive Director may be authorized by the board of directors under its direction and pursuant to its policies, procedures and resolutions to provide for the delivery of water and/or sewer service to the members of the association.

**Section 5. Nepotism policy.**

No member of the immediate family of a Dona Ana mutual domestic water consumers association employee or board member shall be hired as an employee of the Dona Ana mutual domestic water consumers association.

"immediate family" for purposes of this section (5), means the employee's spouse, parent, child, sibling, grandparent, grandchild, step-parent or step-child, aunt, uncle, nephew, niece or cousin; or the parent, child, sibling aunt, uncle, nephew, niece or cousin of the employees' or board members' spouse.

**Article VIII****Water and /or Sewer Charges, Assessments, and Distribution of Water and/or Collection of Sewage**

The association is designated a political subdivision of the State of New Mexico and a public body by the 2006 amendments to the New Mexico Sanitary Projects act and the association intends to maintain a perpetual existence. The association may merge with another association or political subdivision or the association may

transfer its functions and assets to another political subdivision upon making adequate provisions for the continuation of services to its members. In the event of a proposed merger, transfer and/or dissolution, the board shall propose a plan to be approved by a two-thirds vote of the members present at a regular or special meeting of the membership. In no event may any member, former member, director, former director, officer or former officer receive, directly or indirectly, any distribution or portion of a distribution of any assets. In the event of a merger, transfer or dissolution all assets of the association shall be transferred or disposed of in a manner set forth in a plan approved by and which serves the best interests of the membership.

### **Section 1. Delivery and collection**

Water shall not be delivered and/or sewer collected by the systems of the association, except to users who are members of the association. If any member needs and desires service connections with the system in excess of one, such excess connections shall be made only upon application to and the approval of the board of directors and upon payment of charges as stated in article 4 of these by-laws for each connection in excess of one. No service connections in excess of one shall be approved for any member or made pursuant to this section when the full capacity of the association's system(s) is needed to serve the existing connections.

### **Section 2. Rate setting**

The board of directors shall establish a rate schedule to be charged the members for services provided by the association. The established rate schedule shall apply to each service connection by an approved rate schedule in effect. Annually, the board of directors shall review the established rate schedule of charges to assure that sufficient income will be generated for the coming year to cover anticipated expenses. This determination shall be based on the previous year's actual expenses and the estimated budget for the coming year.

### **Section 3. Balancing the budget**

If at any time within ninety (90) days prior to the end of any fiscal year, it appears in the judgment of the board of directors that the amount derived, or which will be derived, from the collection of water and/or sewer charges during any fiscal year will be insufficient to pay when due all costs incident to the operation of the association's system(s) and the payment of all debts of the association, the board shall make and levy an assessment against the members of the association so that the total amount reasonably expected to be collected from water and/or sewer charges to fully pay when due all costs of operation, maintenance, replacement and repayments on the indebtedness, or other expenses of the year's operation. A proportionate amount of the necessary total of such assessments levied in any year shall be levied against each member in an amount, which bears the same relation to the total assessment as the patronage of such member bears to the total patronage of the association for the year.

### **Section 4. Termination of membership**

Notwithstanding the rights of the association to terminate the membership of a delinquent member, the association, through policies adopted by its board of

directors, shall have the additional rights to terminate the supply of water and/or sewer service to the delinquent member

## **Article IX**

### **Membership Records**

#### **Section 1. Form of certificate.**

The board of directors shall determine the form of membership certificate and the same shall be signed by the president and his signature attested by the secretary-treasurer, who shall impress thereon the corporate seal of the association, provided that the form of certificate, in addition to any other matters required by the board of directors to appear therein, shall contain the statements as required by the laws of the State of New Mexico.

#### **Section 2. Membership Record.**

As a part of the records of the association, there shall be kept a membership record, which shall contain a list of the certificates of membership which have been issued, noting the number of the certificate, the date thereof, the number of service connections and the name and address of the person to whom issued.

#### **Section 3. Transfer of membership.**

Certificates of membership may be transferred, and the transfer shall be noted on the books of the association, as provided by the laws of New Mexico, and also provided that the transferee shall be eligible for membership and shall be approved by the board of directors.

## **Article X**

### **Amendments**

These bylaws may be repealed or amended by a vote of the majority of the members present at any regular meeting of the association or at any special meeting of the association called for that purpose, except that so long as any indebtedness is held by or guaranteed by the United States Department of Agriculture, the members shall not have the power to change the purposes of the corporation so as to decrease its rights and powers under the laws of the State of New Mexico, or to waive any requirement of bond or other provision for the safety and security of the property and funds of the corporation or its members, or so to amend the bylaws as to effect a fundamental change in the policies of the corporation without the prior approval of United States Department of Agriculture in writing.

## **Article XI**

### **Commercial Water Use**

**Section 1. Allowance of commercial water use,** the association, through the board of directors, shall have the authority to allow the commercial use of water through the issuance of a “commercial water service agreement” as provided by policies adopted by the board of directors. A commercial user of water shall become a member of the association, and shall be required to pay all membership, tap-in, water right and other fees required of a new member.

**Section 2. Definition**

The “commercial” use of water is defined as the use of water for anything other than domestic-residential use.

**Section 3. Water sales**

Approval of a “water service agreement shall only be allowed if there is adequate capacity in the system and it is in the best interest of the association to allow the use as determined by the board of directors. The board of directors will identify the types of uses proper for each type of agreement.

**Section 4. Policies and Procedures**

The policies and procedures adopted by the board of directors shall minimally provide provisions regarding water conservation; rates, charges and penalties; payment of account; term of the contract; requirement of deposits; membership status; membership certificate; termination provisions; easements; and the form of the commercial water service agreement. The board of directors may add whatever other provisions to the agreements that it deems necessary under the circumstances.

**Section 5. Commercial Wastewater**

A commercial water user may also request wastewater service from the association. The terms shall be included in the water service agreement.

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We certify that the foregoing bylaws are true and correct and that the same are in full force and effect.

Given under our hands and the seal of the corporation, this 28th day of March 2018.

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President

Attest:

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Secretary-treasurer