

# EL VADITO DE LOS CERRILLOS WATER ASSOCIATION

## RULES AND REGULATIONS

ADOPTED March 9, 1994, revised 5/95, 11/95, 7/96, 11/97, 11/98, 1/99, 1/01, 6/09, 7/11, 2/12, 7/12, 12/13, 12/14, 12/15, 8/16, 4/18, 8/20, 10/23, 12/23

These Rules and Regulations are promulgated in compliance with the amended Articles of Incorporation and amended Bylaws of El Vadito de los Cerrillos Water Association (Association) and are designed to govern the supplying and taking of services rendered by the Association. If any provision of these Rules and Regulations conflicts with a provision of the Articles of Incorporation or the Bylaws, the provision of the Articles of Incorporation or the Bylaws shall prevail.

El Vadito de los Cerrillos Water Association is a Member-owned and operated Mutual Domestic Water Consumers Association formed under the Sanitary Projects Act, NMSA 1978 3-29-11, and incorporated in the State of New Mexico on October 4, 1974.

El Vadito de los Cerrillos Water Association (Association) exists to deliver water for domestic purposes to the residents of the community of Cerrillos and outlying areas served by the Association. Actions of the Association shall comply with the membership provision of the Sanitary Projects Act and to the extent possible be consistent with the purposes and goals set forth in the Los Cerrillos Community Plan, made effective on October 12, 1999. (Bylaws, Article XIII, Section 7, amended 1-16-09.)

### ARTICLE I – MEMBERSHIP

#### Section 1: Definitions

“Membership” means the entitlement to, and holding of, fair and equal rights to receive and use water from this Association and the system thereof, and the fair and equal right to participate in the governing of this Association through the exercise of memberships’ voting right, in accordance with these Rules and Regulations, the Bylaws and Articles of Incorporation of this Association.

“Member” means the person or persons, business, or government entity who owns the land for which a membership is granted by the Association, in accordance with these Rules and Regulations, the Bylaws and Articles of Incorporation of this Association. Each Member, regardless of the number of memberships that Member may possess, is entitled to one vote in the governing of this Association.

No person or persons, business, or government entity has any right or entitlement to service and/or the delivery of water by this Association and the system of Association except those rights, entitlements, privileges and responsibilities which are granted through membership in this Association.

Membership is granted to the land in the name of the Member, and the membership stays with the land until relinquished or revoked, in accordance with these Rules and Regulations, the Bylaws and Articles of Incorporation of this Association.

All memberships remain the property of the Association and memberships may not be reassigned or transferred to another property or person(s) except when that membership is relinquished a new membership or membership transfer is granted by the Board of Directors in accordance with these Rules and Regulations, the Bylaws and Articles of Incorporation of this Association.

#### Section 2: Rights to Membership

Neither ownership of, nor residency on, real property located within the Community of Cerrillos (as defined by the Sanitary Projects Act and Supreme Court of New Mexico), the potential limits and boundaries of the system infrastructure (e.g., water main locations) nor the gravity feed potential of the system, constitutes or guarantees any rights or entitlement to membership in this Association or any right to receive water from any source or asset of this Association. Properties with an existing membership that is not in good standing have no inherent rights to continued water service by the Association until they bring their membership into good standing.

Persons who are considering the purchase of property within the service area of this Association are advised to thoroughly investigate the availability of membership and/or the presence of a transferable membership for that property. An existing and current membership may be transferred according to these Rules and Regulations, the Bylaws and Articles of Incorporation of this Association.

All memberships in this Association remain the property of the Association and cannot be transferred by the Member without the approval of the Board of Directors.

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No Member may sell their membership to another party or parties. Any membership that is no longer wanted, desired, or for which payment is not made as set forth in these Rules and Regulations by any Member, automatically revert to the Association.

### Section 3: Special Membership Considerations

The Board of Directors may accept and approve applications for membership to meet the special needs and considerations of certain community service facilities. These special considerations may include, but are not limited to, the provision of water service to temporary or leased facilities necessary to the welfare and convenience of the community such as Medical clinics and post offices. In such circumstances, the Board of Directors may approve a membership, when memberships are available, that is tied to the facility rather than the land or leased space. In this manner, a community service facility may relocate within the community as may be necessary or required by the availability of leased space.

If, at any time after the granting of membership, the community service facility relocates to a permanent facility owned site within the community and service area of this Association, that membership shall then become tied to the land.

At any time that such a community service facility ceases to operate within the community that membership shall automatically and unconditionally revert to the Association.

## ARTICLE II - APPLICATION FOR MEMBERSHIP

### Section 1: Requirements for Applications

Application for membership must be made for property owned by the applicant within the Service Area, as defined below. Service Area Definition for all forms of membership:

Applicant's property must be within the Community of Cerrillos as defined by the Sanitary Projects Act and the Supreme Court of New Mexico (Case Nos. 19 596 & 19 835).

Service is further limited by the gravity feed potential of the system and reasonable proximity to the system water mains.

No Member, Applicant, or persons living within the service area is authorized to connect the water system without prior written approval from the Board of Directors.

Member or Applicants' property must be adjacent to existing easements/rights-of-way for the system water mains or applicant must obtain the appropriate easement/rights-of-way for construction and maintenance of new service lines.

Water main extensions laid beyond the Association's water system infrastructure must be formally agreed to in writing by the Association and Member(s), paid for by the Member(s) and installed to the Association's specifications. Members must provide easements/rights-of-way for water main extensions, if necessary. Water main extensions are "owned, constructed, or operated by [an] Association" (Sanitary Projects Act, Sec. 1, 3-29-2, F).

The Association reserves the right to ask new Members to either provide additional water rights or pay extra fees to purchase new water rights.

### Section 2: Form of Application for Membership

#### Section 2a: General Requirements for all membership applications are:

All applications for membership shall be made as provided in Article IV of the Association's amended Bylaws. All applications for membership shall include the following, in addition to any specific requirements herein for the type of service being requested:

- A copy of the last survey plat, recorded at the Santa Fe County Clerk's Office, showing the applicants property for which service is requested. This may be a pre-existing plat and is not meant to require that the new property owner obtain a new survey to fulfill these requirements.



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- A copy of the Warranty Deed, recorded at the Santa Fe County Clerk's Office, in the applicant's name, for the property for which service is requested.

The Board of Directors may waive submittal of a warranty deed or registered plat where other legal proof of ownership is provided.

Application shall be made on the form approved and provided by the Board of Directors.

Upon receipt, the Board of Directors will review the application to ensure that it is complete and meets the membership criteria outlined in Article II. Incomplete applications will be returned. No fees will be charged until the applicant is granted a membership.

Once the meter has been installed, the membership fee (Section 3) is non-refundable.

### **Section 2b: Applications for Transfer of Existing Memberships:**

Memberships are tied to the land for which they are granted and cannot be transferred from one property to another.

Memberships should be transferred when the land for which membership has been granted is sold or inherited. Such transfers are subject to approval by the Board of Directors.

Under no circumstances will membership be transferred without appropriate notification to and approval of the Board of Directors.

To transfer a membership:

- An application for Transfer of Membership must be completed and signed by the new owner or the previous owner and given to the Board of Directors.
- If available, the previous owner shall endorse, date and sign the Certificate of Membership in the name of the new property owner, and submit it to the Board of Directors for re-issue to the new owner.
- To facilitate membership transfers there is no transfer fee. If within two months the transfer has not been made then at the Board's discretion the meter may be turned off and locked until the proper transfer is complete.
- The new owner must provide legal proof of ownership.
- In the event the former Member is deceased, a court order or other appropriate legally satisfactory documents must be presented to the Board of Directors, which proves inheritance or legal disposition of the property and the rights to membership control.
- All current and past due amounts owed on the membership must be paid in full before board approval. Accomplishing this is the joint responsibility of the current and past owner and not the responsibility of the Association. Properties sold that are not properly transferred and continue to have outstanding balances on the membership will be terminated in accordance with provisions in articles IV and V.

### **Section 2c: New Metered Service Application:**

Applications for new metered service will be considered if the Association has sufficient 1) infrastructure 2) water supply; and 3) water rights to serve existing and new Members. 4) Sufficient water rights are defined as no less than 0.25 acre-feet/year (~6,790 gallons a month) per membership.

The applicant must submit the following in addition to the requirements for all applications:

- Official "right-of-way" Easement(s), when required by the meter location of the property to be served, which grants the Association the right of ingress/egress to said applicant's property for the sole purpose of meter reading, servicing, removal or replacement, or terminating water service; or
- Upon acceptance and granting of membership, the estimated cost (determined by the water operator) for the service meter installation shall be paid in advance by the Member. The full cost of the service meter and installation, based on actual materials and labor costs, shall be paid in full by the Member upon completion of the service meter installation.

### **Section 2d: Hauling Service Application**

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The Association does not accept applications for or grant new hauling service memberships except to those properties that were served by the Cerrillos Water and Irrigation Company at the time the Association was formed.

Applicants for hauling service must provide evidence to the Board of Directors that Cerrillos Water and Irrigation Company formally served the property for which the applicant desires membership.

### Section 3: Membership Fees

A Member may hold more than one membership, provided that each membership is for a legal lot or parcel of record, and the appropriate membership fee is paid for each membership. Although the Association will not enforce county land use regulations or the Los Cerrillos Community Plan (County Ordinance No. 2006-11, December 12, 2006), when applicable, the Board of Directors will consider these factors when granting memberships.

Membership fees are not refundable or reimbursable for any reason, except in the event that the Association cannot provide service to the membership due to engineering or design problems and the membership must be canceled as unserviceable.

Membership fees are separate from and in addition to any fees assessed, imposed, charged, or due for the construction and installation of new metered service facilities; transfer fees; late fees, interest or penalties; and assessments which may be imposed under the Association's Bylaws and Articles of Incorporation.

The membership fees are one thousand dollars (\$1,000.00) effective January 1, 2013.

Membership fees are due and payable, in full, when the Applicant is offered a membership by the Board of Directors.

## ARTICLE III-WATER SERVICE

### Section 1: Form of Service

There are three (3) forms of water service provided to Members to this Association.

**Metered:** Members who receive Association water through the gravity flow system of pipes and meters to the property for which membership is held.

**Hauling:** Members obtaining Association water from the metered dispensing (water hauler) station, from which the Member or a Member's agent is authorized to transfer water to a portable water tank for delivery to and only to the property for which the membership is held.

The Association does not grant new hauling service memberships except to properties that were served by the Cerrillos Water and Irrigation Company at the time the Association was formed. Applicants for hauling service must provide evidence to the Board of Directors that Cerrillos Water and Irrigation Company formally served the property for which the applicant desires membership.

**Temporary Hauling:** Applicants approved for metered membership, waiting installation may request a temporary hauling service until water meter is installed. At which time, temporary hauling service is revoked.

### Section 2: Water Service

Water service shall consist of facilities to supply water to:

- The system meter serving one legal lot or parcel of record; or
- The hauling service delivery facility, from which Members may obtain water for the legal lot of record their membership is assigned to.

This restriction does not apply to memberships serving multiple dwellings prior to the adoption of Rules and Regulations of El Vadito de los Cerrillos Water Association, January 1991. In such existing situations, one meter is allowed to service multiple dwellings, but no additional dwellings may be serviced by such meters after that adoption of rules. When a single meter is used to service multiple dwellings, a reduction of pressure is possible. The Association takes no responsibility whatsoever for low water pressure in such situations.

Water service shall be considered available when the Association maintains the water supply to the Member's point of delivery in readiness for the Member's use, regardless of whether or not the Member makes use of this water.

The Association will make all reasonable efforts to supply continuous, uninterrupted service.



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The Association shall have the right to interrupt service for the purpose of making repairs, connections, extensions, or for any other necessary work.

The Association will make all reasonable effort to notify Members of such interruptions, but shall not take responsibility for losses, which may result due to necessary interruptions of service or shortage of water supply.

Water service shall be for the sole use of Member's property for which the membership is assigned.

The sharing or reselling of water is grounds for suspension of service and/or revocation of membership.

Members receiving water delivery at the hauling station may not transfer, exchange, resell, or give their access and right to water from this facility to non-members or other properties or person. Such actions are grounds for suspension of service and/or revocation of membership.

Members with water delivery privileges from the hauling facility may, upon the request and agreement of other Members with hauling service rights, provide a delivery service to those other Members. Delivery may not be made, arranged or agreed upon between a Member and non-members, and such actions are grounds for suspension of service and/or revocation of membership.

Member's use of duds to obtain water from the hauler station is cause for suspension of service and/or revocation of membership.

Non-Members caught obtaining or attempting to obtain water from the hauler station will be prosecuted under state/county laws pertaining to the theft of water.

### Section 3: Service Connections

A Member may have one water service delivery point for each membership held by the member. That delivery point may be either a metered service connection or hauling facility access.

Each metered service connection shall serve one legal lot of record except as noted in Section 2, Paragraph 2.

Water hauler Members shall have the right to obtain water from the hauler station to serve Member's property for which the membership is assigned.

### Section 4: Connections to Other Systems or Sources of Water

There shall be no physical connections between any private water source or system and the physical system of the Association.

The Association requires that anti-siphon and/or backflow prevention devices on all water tanks, cisterns and other appurtenances for any Member's metered service connection, and that those devices meet Association specifications.

Violation of these provisions is cause for suspension of service and/or revocation of membership.

### Section 5: Member Connections to the System

The Member is responsible for all materials and labor to connect the Member's dwelling unit or place of business to the system at the meter. The member is responsible for installing a shut-off on their side of the meter for the protection of their home. The water association is not responsible for leaks beyond the meter.

The Association retains the right to inspect the Member's water line prior to that line being covered and the meter being turned on.

### Section 6: Water Metering

- Water service will be metered for each Member connected to the system.
- The hauling facility will have a separate bulk meter.
- The Association will read water meters monthly.

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### Section 7: Water Meters

For purposes of this section, meter shall be taken to mean the mechanical device for measuring water flow from the system main to the Member's property and all necessary accessory materials and parts required for the proper and complete installation and operation of the meter.

Meters will be installed at the Member's expense. All meters installed on the system become the property of the Association.

All meters attached to the system shall meet the standards and specifications of the Association.

Meters shall be located at a place agreed upon by the Association and the Member. With exceptions on a case by case basis, the meter will be installed within 50 feet from the system's main line and Member's property boundary, and within an easement/right-of-way dedicated for that purpose.

Member shall bear all costs for meter relocation performed at the Member's request.

The Member is responsible for maintaining accessibility to any meter located on the Member's property. If the Association is required to clean or excavate the meter area in order to read or service the meter, the Member will be billed for the costs of the service.

### Section 8: Determination of Meter Accuracy

Members will be charged for all water use recorded by the meter. Should a Member believe that a meter does not accurately record actual water usage; the Member may request that the Association test the meter.

If the meter is determined to be not more than 2 percent fast or slow, the Member will be charged for all costs associated with and relevant to the meter testing. Otherwise, there will be no charge to the Member for testing and repairs.

If the meter is determined to be faulty, it will be replaced or repaired by the Association in a timely manner.

### Section 9: Water Leaks and Usage

Any leaks in the system before the meter, from the meter, or between the meter and the end of the service line provided and installed by the Association will be repaired by the Association in a timely manner.

The Member shall be responsible for the detection and timely repair of any plumbing leaks between the Member's connection to the meter and the household or serviced area.

Members who have higher than normal bills resulting from leaks and usage on the Member side of the meter shall be liable for the full amount of the bill. However, at the Board's discretion, Members experiencing sudden or unexpected leaks of a catastrophic nature may limit their liability by contacting a Board Member who will verify that a large leak occurred and that it is not the result of the Member's own actions. This exception is intended for catastrophic leaks that are underground or somewhere outside of normal observation and not for small leaks such as leaking toilets, faucets, spigots, hydrants, etc. Leaks or high usage caused by Members own actions, their carelessness, or resulting from failure of equipment members have installed and/or attached to their water lines (such as: water softeners, timed irrigation systems or other automatic devices) are not considered leaks and are not covered by this policy. The limitation of liability when applied will be equal to two times the average of the Members' preceding three monthly bills. The Board of Directors shall shut off a Member's water if a leak has been visually observed on Member's side of the meter, or if an unexplained increase in water usage takes place, as is evidenced by meter readings or visual inspection. The Association will make effort to discuss water meter readings and the potential for leaks with the Member.

The provision limiting the liability of Members will not apply to homes that are left vacant and the meter has not been shut off.

The Board of Directors shall immediately shut off the water supply, at the meter, to any dwelling/facility with an unattended leak as soon as the leak is discovered. The Board of Directors shall make a diligent effort to contact and inform the Member and/or resident of the leak at the time the water is shut off. If no contact is made or the dwelling is vacant, a "red tag" will be placed on the door to notify the Member or resident that the water has been shut off because of an unattended leak and to contact the Association (contact information will be provided). If there is evidence that the Member has known about the leak and left it unattended, the Board of Directors shall charge up to \$50 each for both shutting off and turning on the water meter, once the leak has been repaired.



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It is recommended that Members with a metered dwelling/facility (e.g., rental unit) that is vacant for an extended period of time shut off water to the dwelling/facility. On request, the Board of Directors will shut off the water meter valve. An option for the Member would be to check meter reading at least weekly during normal weather, daily during freezing weather.

### Section 10: Inspection and Enforcement

Representatives of the Association shall have the right to enter upon Member's premises for the purpose of inspection and enforcement of the provisions of these Rules and Regulations.

## ARTICLE IV-WATER CHARGES, PAYMENT, COLLECTION, AND DISCONNECTION

### Section 1: Water Rates and Charges

All Association Members are subject to at least the minimum monthly membership fee as soon as membership has been granted, regardless of whether or not a water meter has been installed. The purpose of the monthly membership fee is to help cover water system operations and maintenance costs.

As long as the Member is able and willing to post the meter installation fee the Association must make every effort to install the meter in a timely fashion to meet the Members water needs. In cases where memberships have been granted but meters are not installed due to Member's actions or decisions then Member shall be charged the monthly metered membership fee for Association Members is set forth in the attached official Rate Schedule of this Association.

Token Delivery: Water charges will be controlled and collected by the sale and use of tokens to activate the delivery system. Tokens must be purchased from an approved Association Sales Agent. Token purchase prices shall be set forth in the official Rate Schedule of this Association, and adjusted by the Board of Directors as necessary to maintain the established per gallon charge.

### Section 2: Billing and Payments

It is the responsibility of each Member to keep the Association informed as to their current mailing address. It is not the Association's responsibility to locate Members who have not provided their current mailing address. All bills, late notifications, and revocation notices will be sent to the address provided by the Member. Notice of Intent to Revoke Membership as specified in Article V need only be sent to the last address provided by the Member.

Starting January 1, 2014 the Association will no longer provide bills to lessees or renters. Water bills and all notices from the Association will be mailed to the address provided by the Member.

Service and water usage bills are mailed no later than the tenth (10<sup>th</sup>) of every month. All charges and fees stated on these bills are due and payable on the date of billing and must be paid in full no later than the thirtieth (30<sup>th</sup>) of that month.

### Section 3: Collections

The Association will take all necessary actions to collect past due accounts.

If outside agencies or legal action is required for the collection of past due accounts, the Member shall be responsible for all collection, legal and court costs, attorney fees, and any and all fees not herein mentioned which are incurred by the Association in the collection of the past due account.

A \$35.00 service charge will be levied and added to the Member's bill for checks returned because of "insufficient funds".

Any Member whose personal or business check fails to clear the bank for any two payments during a calendar year will be required to make payments by money order or cashier's check; or may be required to pay a security deposit as set forth in these Rules and Regulations.

Members who own rental properties receiving water service have the primary responsibility for all water service payments regardless of the renter's actions, payments or non-payment.

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### Section 4: Disconnection of Service

In accordance with Article IX, Sections 4 and 5 of the Bylaws of this Association, the Board of Directors shall have the right to disconnect water service to any Member when the account becomes \$200.00 or more in arrears. Any member with a membership that is \$200.00 or more in arrears will be considered delinquent and subject to this rule.

A Certified Letter will be sent to the member to notify the member that their water is in jeopardy of being disconnected.

If, after fourteen (14) days following the postmark date of the Certified Letter, Member's account is not paid in full or other payment arrangements have not been made with the Board of Directors, Member's water meter will be disconnected until the account is paid in full.

Other payment arrangements, for example, may include entering into a written payment agreement with the Association.

Following written notice as described above, Members utilizing the hauling facility will have their rights to purchase tokens suspended until all amounts owed the Association have been paid in full.

Members caught using anything except Association-approved tokens in the water hauler station will have their memberships terminated.

Members whose service has been shut off will only have service reconnected by fulfilling the following three requirements:

- Payment in full of the account balance due or other arrangements made (per the above).
- Payment in full of a \$150.00 reconnection service charge.
- Payment of a security deposit equal to the sum of the two highest monthly bills for that membership during the past 12 months will be made by Members whose service has been disconnected twice within a 12 month period. The security deposit will be refunded after completion of a continuous 12 month period in which the Member has maintained all monthly payments in a timely manner.

If a Member's water bill is 60 days past due and the property is for sale, the Board of Directors, by majority vote, may elect to file a lien on that property to recover monies owed to the Association.

## ARTICLE V-TERMINATION OF MEMBERSHIP

### Section 1: Revocation of Membership

Pursuant to Article IX, Section 6 of the Association Bylaws, the Board of Directors has the right to revoke memberships and offer those memberships to new members.

Any Member account for which water service has been disconnected or suspended will receive notice of delinquency and intent to revoke membership by certified mail when:

- The account becomes at least One Hundred and Fifty (150) days past due, and again;
- Sixty (60) days later.

Failure by the Member to respond to these notices in a timely manner and to pay the account and all applicable fees, penalties, and charges will result in the membership being revoked sixty (60) days following the second notice of delinquency.

Members who relinquish their membership under the terms of this section may apply for a new membership only after paying all past due balances on the revoked membership through the date it was revoked.

Persons, other than the former holder of a revoked membership, applying for new memberships for properties where a prior membership has been revoked may be exempted from paying past balances of prior property owners by vote of the Board of Directors.

### Section 2: Voluntary Forfeiture of Membership



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Any Member of this Association may voluntarily choose to forfeit their membership. Such action does not necessarily forgive debts owed the Association and the Board of Directors to collect indebtedness may utilize other collection methods. All memberships so forfeited remain the property of the Association and may be offered by the Board of Directors to applicants for new memberships.

Any Member who voluntarily forfeits their membership under these Rules and Regulations, forfeits all rights and privileges of that membership, and is not entitled to priority offering of reinstatement or new membership.

Any Member who forfeits their membership may apply for new membership or placement on a waiting list as defined in these Rules and Regulations.

### **ARTICLE VI-ASSESSMENTS**

Each fiscal year, the Board of Directors shall review the financial status of the Association and make a determination as to whether or not the annual income from water service and usage charges is sufficient to meet the financial obligations of the Association and provide for operation and maintenance of the system.

Should the Board of Directors determine that the income does not meet the financial obligations and costs of operating and operating the system, the Board of Directors will determine an equitable assessment for each membership, to balance Association income with expenses.

This amount will be assessed and charged to each Member and will be due and payable by each and every Member.

Immediately following the determination that an assessment is required to prevent financial insolvency of the Association, the Board of Directors shall examine the monthly service charges and water usage charges and adjust them in such a manner as to provide sufficient income for the next fiscal year.

### **ARTICLE VII-ASSIGNMENT OF RIGHTS**

#### **Section 1: Representation and Voting Rights Assessments**

Members may assign the right of representation to any person the Member chooses as their representative in any and all business matters of the Association by giving the Board of Directors with a legal, notarized "Power of Attorney," which explicitly details the assignees' powers and limits thereon to represent the Member in official matters other than voting by written proxy. A "Power of Attorney" so presented must include a reasonable expiration date for that power.

No single person, organization or entity may hold or be assigned and voting rights, by written proxy for more than one Member or membership, and should be noted in the minutes and official record of the Association.

Members have only one vote regardless of the number of memberships that a Member has and may only assign their voting rights to one person by written proxy.

### **ARTICLE VIII – WATER CONSERVATION**

The purpose of this Article is to encourage and require all Association Members to actively conserve water by reducing unnecessary water consumption and waste.

No Member using water from the water system shall make, cause, use or permit the use of water in a manner contrary to reasonable water conservation practices. Nor shall any Member using water from the water system intentionally waste, cause or permit to be wasted any water from the system. Water waste is defined as the non-beneficial use of water.

Non-beneficial use includes but is not limited to the excessive application of water such that it overflows the landscaped area being watered or other area of water use and runs onto adjacent property or a public right-of-way. The above does not apply to water use from fire fighting, hydrant flushing or routine water system maintenance; water applied to prevent or abate health, safety or accident hazards; or from temporary water system failures or malfunctions, i.e., leaks.

Restrictions on landscape irrigation apply only to Association water from the water system.

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### *Section 1. Declaration of Water Conservation Stages*

The Board of Directors is authorized to declare Water Conservation Stages. Members shall be notified when Water Conservation Stages are implemented and the water conservation measures for the stage. Imposition of Water Conservation Stages shall be based upon water level height in the gallery. Declarations to Members shall be made through regular or special mailings. The Water Conservation Stage declared shall become effective immediately upon the first announcement. The following Water Conservation Stages shall govern the use of Association water, as prescribed below.

#### Water Conservation Stage I

1. Water Conservation and Use Restrictions: **Voluntary**
2. Stage I shall be initiated when the water level in the reservoir gallery drops below five (5) feet or when the National Weather Service predicts below normal precipitation for the next three-month forecast period.
3. Water Conservation information (flyers, brochures, pamphlets) will be provided to encourage Members to implement suggested water conservation measures, and to reduce or stop non-essential water consuming activities (e.g., landscape irrigation, vehicle washing). Voluntary Water Conservation Measures include but are not limited to:
  - Maintain indoor and outdoor water lines, fixtures, etc. in good repair and leak free.
  - Water outdoors only when needed and early morning or late evening to avoid excessive evaporation. Do not water outdoors between 9:00 a.m. and 8:00 p.m.
  - Use Xeroscaping principles for outdoor landscaping, lawns and gardens.
  - Do not water outdoors when it is raining or the wind is blowing strong enough to cause water to leave the area being watered.
  - Do not allow water to leave property (fugitive water).
  - Wash cars using a bucket and hose with a positive cutoff nozzle.
  - Mulch around all existing plants, trees, shrubs, or flower gardens to hold moisture in the soil.
  - Avoid outdoor water uses that require large amounts of water.
  - Repair indoor and outdoor water leaks immediately upon discovery or shut the water off to the leak. Notify the Board Member as soon as possible.
  - Commercial users will provide water to customers only upon request.
  - Replace old plumbing fixtures with low flow shower-heads, faucets and toilets; or retrofit existing fixtures with toilet tank dams, water-filled plastic jugs, or other low flow devices.
  - Retrofit plumbing to use grey water for outdoor watering.
  - Take shorter showers; not to let the water run continuously while brushing teeth or shaving, and flush the toilet only when necessary. (If it's yellow let it mellow; if it's brown flush it down.)
  - Run appliances such as clothes washers and dishwashers minimally and only with full loads. Utilize laundry services in Santa Fe if economical.
  - Run evaporative coolers only when needed. Convert evaporative coolers to air condition systems.
  - Insulate hot water heaters, set temperature appropriately, and partially drain them each year.
  - Minimize open burning outdoors that requires water to be available for extinguishing them.

#### Water Conservation Stage II

1. Water Conservation and Use Restrictions: **Mandatory**
2. Stage II can be initiated when the well is being used. This could constitute an emergency and can be declared immediately by a quorum of the Board of Directors if the board activates State II. Water Conservation notices will be posted and Members will be notified as soon as possible (e.g., email, special mailing, public notice at Post Office). At this stage, no Member, person or entity will use Association water for any non-essential use except as needed for public health, safety, or welfare. At this stage, Members will be limited to 5,000 gallons per month.



# EL VADITO DE LOS CERRILLOS WATER ASSOCIATION

## RULES AND REGULATIONS

ADOPTED March 9, 1994, revised 5/95, 11/95, 7/96, 11/97, 11/98, 1/99, 1/01, 6/09, 7/11, 2/12, 7/12, 12/13, 12/14, 12/15, 8/16, 4/18, 8/20, 10/23, 12/23

3. Members using water for commercial/industrial purposes will be required to discontinue their water use except as needed for public health, safety, or welfare.
4. A surcharge of \$10 per 1,000 gallons will be assessed for usage over 5,000 gallons per month. Usage due to a leak will be dealt with as per Article III, Section 9, Water Leaks
5. Water Conservation information (flyers, brochures, pamphlets,) will be provided to encourage Members to implement the voluntary water conservation measures, and to reduce or stop non-essential water consuming activities.

### Section 2. Penalties and Enforcement

Assessment of penalty: Water service may be suspended or a penalty fee may be assessed by the Association for violating Water Conservation Stage II. The fee and/or service suspension may be deferred pending the outcome of an appeal. The schedule for assessment of fees and/or suspension of service shall be as follows:

#### 1. Water Conservation Level I

Compliance is voluntary. Issue warnings for wasting water.

#### 2. Water Conservation Level II

- a. First observed violation: \$50 penalty fee..
- b. Second observed violation: \$100 penalty fee.
- c. Third observed violation: Cutoff service and \$200 penalty/reconnect fee.

Authority to enforce the Water Conservation Stage II restrictions shall be assigned to the Board of Directors and employees.

Penalty assessment procedure: Fees for violations of the Water Conservation Stage II restrictions shall be upon the issuance of a notice of violation.

1. Within five (5) business days of the issuance of a violation notice, the Member shall be sent by certified mail a copy of the notice of violation, along with a statement of the fee to be assessed.
2. The notice to the Member shall include a notice of the party's right to appeal the assessment pursuant to the provisions of subsection (c) hereof.
3. Fees shall be assessed to the Member's billing account, listed as a separate line item on the water bill.
4. Cutoff of service shall be effected on the sixteenth (16th) day following the expiration of the appeal period or the date the appeal determination is issued, whichever applicable date is later.
5. Fees must be paid within the normal water bill payment period.

### Section 3. Appeal

Members may appeal the penalty fee assessment or suspension of service for violating the Water Conservation Stage II restrictions by delivering to the Board of Directors, within thirty (30) days after the date the notice of violation was postmarked, a written notice of appeal of the fee assessment or service cutoff. The Member's appeal shall include:

1. Association membership number,
2. The Notice of Violation, and
3. A statement of the reasons for the appeal with relevant supporting materials, documents and records.

Within thirty (30) days of the date the Board of Directors receives the appeal, it shall issue a written appeal decision either upholding the fee assessment or service cutoff, modifying the assessment or cutoff, or overruling the assessment or cutoff.

The Member shall be mailed, by certified mail, the Board of Director's written decision, along with a notice of the Member's right to request a review of the appeal decision before a (NEUTRAL PARTY) pursuant to the following provisions. The aggrieved Member will select a NEUTRAL PARTY mutually agreed to by the Board of Directors.

### Section 4. Review of Appeal Decision

# EL VADITO DE LOS CERRILLOS WATER ASSOCIATION

## RULES AND REGULATIONS

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If a Member does not agree with the Board of Director's written appeal decision, the Member must file, within ten (10) days after the postmarked date of the mailing of the appeal decision, a written request for review of the appeal before a (NEUTRAL PARTY) with the Board of Directors.

The request for appeal review shall include the Association membership number, identify the property, a copy of the Board of Director's decision, and state the grounds for requesting the Board's appeal decision be reviewed by a (NEUTRAL PARTY) together with all material facts in support thereof.

The (NEUTRAL PARTY) shall be allowed adequate time to review all records submitted for the appeal review, as mutually agreed upon by the (NEUTRAL PARTY), Member, and Board of Directors.

The Member and Board of Directors shall be allowed to present evidence and ask questions pertinent to the review and the Water Conservation Stage II restrictions upon which the fee assessment or service cutoff is based and that will help the (NEUTRAL PARTY) determine whether the Board of Directors acted appropriately to the violation of the Water Conservation Stage II or III restrictions.

All testimony and evidence presented at the appeal review shall be done under oath or affirmation.

If, the (NEUTRAL PARTY) finds that the Board of Director's decision was correct, then said decision shall be affirmed; otherwise the (NEUTRAL PARTY) shall have the power to revise the Board of Director's decision.

### ARTICLE IX-AMENDMENTS TO THESE RULES AND REGULATIONS

These Rules and Regulations may be reviewed and amended by the Board of Directors as needed for the benefit and welfare of this Association. Proposed amendments to these Rules and Regulations shall be presented for consideration at a regularly scheduled business meeting and require a majority vote of the Board of Directors.

### ARTICLE X-AREAS OF POTENTIAL CONFLICT—DIRECTORS

At the February meeting after the Annual meeting to elect a new Board Members, there shall be a discussion concerning conflicts (Ethics Policy: Bylaws, Article VI, Section 9) with reference to: granting memberships from the waiting list, expanding or contracting the service area, and changing water use rates. This list is not intended to be exclusive or complete.

### FOR EL VADITO DE LOS CERRILLOS WATER ASSOCIATION:

Todd Brown 1/20/24  
Todd Brown, President Date

Ann Murray 1/20/24  
Ann Murray, Vice President Date

Carol O'Keefe 1/20/24  
Carol O'Keefe, Secretary Date



**EL VADITO DE LOS CERRILLOS WATER ASSOCIATION**

**RULES AND REGULATIONS**

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12/13, 12/14, 12/15, 8/16, 4/18, 8/20, 10/23, 12/23

*Patricia Brown*

*1/20/2024*

Patricia Brown, Treasurer

Date

*[Signature]*  
~~Peter Wlassak, Director~~  
*Cynthia Frederick*

*1/20/2024*

Date