

RULES AND REGULATIONS NO. 1

RULES AND REGULATIONS  
GOVERNING THE FURNISHING AND CONTROL  
OF WATER AND/OR SEWER SERVICES  
WITHIN THE CORPORATE LIMITS OF THE  
CITY OF EL PASO BY  
THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111-1118M, REVISED CIVIL STATUTES OF TEXAS, AND ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON MAY 22, 1952; AS AMENDED, NOW, THEREFORE BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULES FOR THE FURNISHING AND CONTROL OF WATER AND/OR SEWER SERVICE WITHIN THE CITY OF EL PASO ARE HEREBY ESTABLISHED AND SHALL SUPERSEDE THE RULES AND REGULATIONS PREVIOUSLY ADOPTED FOR WATER AND/OR SEWER SERVICES WITHIN THE CORPORATE LIMITS OF THE CITY OF EL PASO. (KNOWN AS RULES AND REGULATIONS NO. 1).

THAT PUBLIC SERVICE BOARD RULES AND REGULATIONS NO. 1 GOVERNING THE FURNISHING OF WATER AND/OR SEWER SERVICE ARE HEREBY AMENDED BY ADOPTION OF NEW RULES AND REGULATIONS NO. 1, WHICH SUPERSEDE AND REPLACE THE EXISTING RULES AND REGULATIONS NO. 1, AND WHICH SHALL READ AS FOLLOWS:

SECTION I      GENERAL

A.      TABLE OF CONTENTS

The following headings or captions are adopted as the Table of Contents for Public Service Board Rules and Regulations No. 1.

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B. DEFINITIONS

Backflow:

The flow of water or other liquids, mixtures or substances into the distributing pipes of a potable supply of water from any sources other than its intended source.

Backflow Prevention Assembly(ies):

An assembly that has been manufactured in full compliance with the American Water Works Association ("AWWA") Standards C510 and C511 and is listed by the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California. Approved assemblies shall include an air gap, a reduced pressure assembly, a reduced pressure principle detector assembly, a double check assembly, and a pressure vacuum breaker, each of which is designed for a specific application, and any of which serve to protect the public water supply from contamination originating at the Customer's premises.

Back Siphonage:

Back Siphonage is the condition where negative pressure in a potable water pipe induces Backflow through a Cross Connection.

Certified Backflow Prevention Technician:

A person who is certified by TCEQ to test, repair, and maintain Backflow Prevention Assemblies within

the jurisdictional limits of the City of El Paso after having successfully completed a training course on cross connection control and Backflow prevention approved by the Texas Natural Resources Conservation Commission.

Charges:

As applied herein, the fees charged for services by the Utility not included in the monthly minimum charge and commodity usage charges.

Corporate Limits (City Limits):

The boundary line denoting the extent of land included within the legally incorporated limits of the City of El Paso, El Paso County, Texas.

Cross Connection(s):

Any connection or arrangement, physical or otherwise, between a potable water supply or device, through which it may be possible for non-potable, used, unclean, polluted or contaminated water or other substances, to enter into any part of such potable water system under any condition, including reduced or negative pressure.

Cross-Connection Control Program and Associated Fees:

An EPWU managed program whereby Backflow Prevention Assemblies are tested upon installation and at least annually thereafter. The fees associated with this program are called out and described in Rule and Regulations No.7.

Cross-Connection Control Program Manager:

A person designated by El Paso Water Utilities to administer and enforce the Cross-Connection Control Program.

Customer Responsibilities:

Those implementing actions and procedures under the Cross Connection Control Program for which the Customer is responsible and for which the Customer must either initiate action or cooperate fully with the EPWU in its fulfillment of that program.

Customer(s):

An individual water and/or sewer user or users who are included in the Utility's billing files.

Dedicated Right(s)-of Way:

The land (real estate) which has been dedicated, accepted and filed with the City of El Paso and/or the County of El Paso to be held in the public domain for use as a public right-of-way for access.

EPWater:

See definition of Utility below.

EPWU:

See definition of Utility below.

Fort Bliss Military Reservation:

Shall mean all lands held by the Federal Government for their use at Fort Bliss, Biggs Field, White Sands Missile Range or testing grounds.

Line Extension(s):

The water and/or sewer line which is required to be connected to the existing water/sewer system to provide Water Service and/or Sewer Service to a property, including piping installed in a Dedicated Right-of-Way which is contiguous or non-contiguous to a property.

Off-Site Facilities:

The water and/or sewer facilities required to provide service to a property, not including the water and/or sewer main located in the public Dedicated Rights-of-Way immediately contiguous to the property line of the property. Off-Site Facilities may include pipes, valves, reservoirs, pump stations or lift stations. In the content of these Rules and Regulations No. 1, Off-Site Facilities do not include wells, water treatment plants, wastewater treatment plants, administrative facilities, laboratories or master plan facilities.

Panhandle Lot(s):

A lot, because of inherent limitation, lacking frontage except for access provided by way of a narrow projection of the lot to the street.

Properties:

An occupied or vacant parcel of land (real estate) platted and filed on the City/County Tax Rolls.

PSB:

Public Service Board. The Board of Trustees created by Ordinance 752, which is the governing body that has the complete authority and control of the management and operation of EPWU (Utility).

Sewer Service:

A property is deemed to have Sewer Service available if a qualifying sewer collector line is in place in the public right-of-way, PSB or utility easements adjacent and contiguous to the property.

Sewer Service Lateral(s) - Customer:

The pipes, fittings and appurtenances within the property connected to the Sewer Service Lateral – EPWU or to the Utility's sewer collector lines located within PSB or utility easements. This Lateral allows the Customer's Wastewater (sewage) to drain (or be pumped, if necessary) from the Sewer Service Lateral – Customer into the Sewer Service Lateral – EPWU or into the Utility's Wastewater collection and treatment (sewer) system.

Sewer Service Lateral(s) - EPWU:

The pipes, fittings and appurtenances connected to the Utility's sewer collector line and extending within the public Dedicated Rights-of-Way up to the clean out or property line. This lateral allows the Customer's Wastewater (sewage) from the Sewer Service Lateral-Customer to drain (or be pumped, if necessary) into the Utility's Wastewater collection and treatment (sewer) system.

Sewer Service Tap:

The connection point at which the Sewer Service Lateral – Customer or Sewer Service Lateral - EPWU connects to the public main line.

Subdivision(s):

Subdivision(s) shall be defined as provided in Chapter 1904.020 of the El Paso Municipal Code.

Utility:

EPWU, EPWater or El Paso Water Utilities, as used herein means El Paso Water Utilities, the City of El Paso's publicly owned water and sewer agency located in and serving the people of El Paso County, Texas.

Wastewater (Sewage):

Water which has been used for domestic, commercial or industrial purposes and has acquired contaminants which must be removed by wastewater treatment processes prior to the return to or reuse of treated wastewater in the environment.

Water Meter(s):

The mechanical device, including appurtenances which totalizes the volume of water flowing through a water service connection.



Water Right(s) (Surface, Underground):

The legal right in accordance with Texas statutes to divert, use or consume water flowing to, over, or under a property. A Water Right is a real property right that may be apportioned to the land where the water is used and includes irrigation rights.

Water Service:

A property is deemed to have water service available if a qualifying water main is in place in the public right-of-way, PSB or utility easement adjacent and contiguous to the property.

Water Service Lateral(s) - Customer:

That point in the Customer's water supply system beyond the sanitary control of the El Paso Water Utilities, generally considered to be the outlet end of the water meter box or the bonnet box (fire lines).

Water Service Lateral(s) - EPWU:

The pipes, fittings, valves, meters and appurtenances which are connected to the water main in the street and extending to, or beyond, the property line of a Customer. The installation of all Water Service Laterals - EPWU will be performed by the Utility or at the direction of the Utility and all such connections shall be inspected by qualified Utility personnel.

C. NEUTRAL GENDER

When the context requires, all nouns and pronouns in the masculine gender shall also include the feminine gender.

SECTION II CONDITIONS OF SERVICE

A. GENERAL

1. Purpose

In recognition of the fact that the water and wastewater system of El Paso Water Utilities is owned by the citizens of El Paso and is operated for the benefit of these citizens as a publicly-owned utility; that the rates and Charges to each Customer should be related to the benefits received and to the cost of service; that the furnishing of new and/or enlarged Water Service Laterals-EPWU and/or Sewer Service Laterals-EPWU imposes an excessive cost on the operating revenue of EPWU; and the fact that these expenses, if added to the Water Service and/or Sewer Service rates, as such, would increase the cost of service to the existing users out of proportion to any benefits they would receive; therefore, in order to provide a reasonable division of these additional expenses between the existing Customers and the new Customers, these Rules and Regulations No. 1 for new services within the Corporate Limits of the City of El Paso are adopted. (See Rules and Regulations No. 11 for service outside the Corporate Limits of the City of El Paso.)

2. Water Rights

The PSB, through the Utility, and in accordance with these Rules and Regulations No. 1, assumes the responsibility of providing water to properties in its service area while simultaneously seeking to protect and conserve the water supply of the City of El Paso. To further such protection and conservation goals, Water Service will only be provided to properties where the underground and surface Water Rights are either owned solely by the current owner of the property or are owned by the PSB. Water Service will not be provided to a property if the underground and/or surface Water Rights have been sold or transferred to a third party other than the PSB. Water Service will be discontinued in the event a property's underground and/or surface Water Rights are sold or transferred to a third party other than the PSB. Further, Water Service will not be provided to a property, or will be discontinued, if the PSB determines that underground and/or surface Water Rights are used in a manner that does not promote protection and conservation of the water supply.

3. Cost Allocation

As a part of this regulation, the Utility may require, on any Line Extensions or additions to its system which require expenditures of operating revenue that are not justified on the basis of the anticipated revenue or which are speculative in nature and primarily beneficial to a certain party or parties, sufficient Charges or deposits of whatever nature the Utility may deem necessary and which may be legally assessed to assure that the costs are assumed by the apparently benefitted parties and not by the general water users of the City of El Paso.

4. Service Requirements

It is the intent of these Rules and Regulations No. 1 that Water Service and Sewer Service be provided only to property that is within the Corporate Limits of the City of El Paso or within the Fort Bliss Military Reservation except as permitted and limited by Rules and Regulations No. 11. For the purpose of this Rules and Regulations No. 1, property shall be considered as being within the Corporate Limits or the City of El Paso and eligible for Water Service and/or Sewer Service if it is located and improved in such a manner that all of the following conditions are satisfied:

- a. The property is totally or partially within the Corporate Limits of the City of El Paso.
- b. A portion of the property abuts on a Dedicated Right-of-Way that is within the Corporate Limits of the City of El Paso and said Dedicated Right-of-Way provides vehicular access to the property.
- c. The main building or buildings to be served with Water Service and/or Sewer Service are located in such a manner that all or part of such buildings are within the Corporate Limits of the City of El Paso and are included on the tax rolls of the City of El Paso or will be upon completion of construction of such buildings.
- d. The condition of the property must comply with the City of El Paso Subdivision Ordinance, as it now reads or may be amended, and all applicable local, state and federal laws.
- e. Panhandle Lots shall not be eligible for Water Service and/or Sewer Service unless they meet the following criteria:
  - \* All Panhandle Lot developments shall be properly subdivided in accordance with the City of El Paso subdivision ordinance.
  - \* Water Service and/or Sewer Service shall be provided at the property line adjacent to the public Dedicated Right-of-Way. Extension of service to each dwelling unit shall be the responsibility of the Customer. The Line Extensions of water and sewer mains through the panhandle easement shall not be permitted.

B. PROPERTY DESCRIPTION

The owner of the property or other person desiring Water Service and/or Sewer Service from the Utility water and sewer system shall provide the Utility with a complete legal description of all property on which buildings and/or other improvements are proposed to be located that require Water Service and/or Sewer Service. This property description shall become a part of the application for service and shall be used in calculating the Charges as provided in Rules and Regulations No. 7. No Water Service and/or Sewer Service shall be extended to any property other than that which was identified by the owner or applicant for service at the time such service was initially provided. Extending Water Service and/or Sewer Service directly or indirectly to property other than that originally identified in the application for service is a violation of these rules and regulations and shall be cause for discontinuance of service in accordance with Section IX. No Water service and/or Sewer Service shall extend through property owned or intended to be sold and consequently owned by different individuals or entities prior to connecting to an EPWU water and/or sanitary sewer main; unless previously discussed and approved by the EPWU.

### SECTION III SEVERABILITY CLAUSE

These Rules and Regulations are part of the other Rules and Regulations of the PSB and persons accepting service agree to comply with the appropriate provisions and conditions of all of the Rules and Regulations. If any provision, paragraph, section, subsection, sentence, clause or phrase of these Rules and Regulations No. 1 or the application of same to any person or set of circumstances is for any reason invalidated by any court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 1. The remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect.

### SECTION IV RIGHT OF APPEAL

The Customer may appeal in writing any ruling or action of the Utility or its agents to the PSB in accordance with the procedures established in Rules and Regulations No. 8. Any Customer who does not appeal such a ruling or action in accordance with these procedures within 60 days of the date of the issuance of the ruling or action shall waive any right to contest such action or ruling. The PSB, at its own discretion, may affirm, modify, limit or condition the ruling of the Utility or may defer final decision on the appeal to allow the person to seek a variance if available, in accordance with Rules and Regulations No. 8.

### SECTION V PROTECTION OF WATER SUPPLY

#### A. CUSTOMER RESPONSIBILITIES

The Customer is responsible for preventing contaminants or pollutants originating on the Customer's premises from entering the public water supply as well as the Customer's water system. The Customer's responsibility begins at each Water Service Lateral-Customer and extends throughout the entire length of the water system within the premises. Premises is defined as any and all areas on a Customer's property that is served, or has the potential to be served, by the Utility.

The Customer is responsible for the expenses incurred for the proper installation, relocation, repair, testing and maintenance of approved Backflow Prevention Assemblies in accordance with the EPWU's Cross-Connection Control Manual of Procedures. The Customer shall be responsible for the initial and annual testing of such assemblies, coordination and cooperation with the Utility's Cross-Connection Control Program Manager, and for retention of records. Records of Backflow prevention equipment tests, inspections, and repairs shall be retained for three years.

Backflow Prevention Assemblies shall be protected from freezing and vandalism by a method acceptable to the Utility's Cross-Connection Control Program Manager. Design of such enclosures, their installation and maintenance shall comply with OSHA 29 CFR, Part 1910.146 "Confined Spaces"; shall provide for adequate drainage from testing, flushing or relief valve discharges; and, shall be maintained so that assemblies are safely and readily accessible for testing, maintenance and repairs.

The Customer shall be responsible for the cost of the Backflow Prevention Assembly, thermal expansion device, freeze protection, initial and annual testing, maintenance and record keeping.

The failure of the Customer to install such a Backflow Prevention Assembly after notice by the Utility shall be a basis for discontinuance of service.

#### B. CONFORMING WITH CODES

Each Customer shall comply with this Rules and Regulations No. 1, the City of El Paso Plumbing Code and the regulations of the Texas State Department of Health, the rules and regulations of the TCEQ, and all other applicable laws. Each Customer shall permit inspection at any reasonable hour by the City Plumbing Inspector, the City of El Paso representative, County of El Paso representative, the Cross-Connection Control Program Manager, a Water Conservation Enforcement Officer or Technician, Pretreatment Inspectors or any official employee or representative of the Utility. The purpose of this inspection is to determine whether physical facilities exist on the premises of the user that are a hazard or may create a hazard to the health, safety or welfare of the citizens of El Paso through possible contamination of the water supply by Cross Connections, Back Siphonage, excessive leaks or other means or which constitute a threat to the water supply or other conditions or activities prohibited by the mandatory water conservation ordinance of the City of El Paso, Chapter 15.13 of the El Paso Municipal Code.

The horizontal separation between a Water Service line and a sanitary Sewer Service line between the property line to the water or sanitary sewer main shall be 5 feet of undisturbed or compacted earth or as outlined in the City of El Paso's Plumbing Code. Water and/or sanitary service lines are not allowed to be constructed within and parallel to the public Dedicated Right-of-Way or easement; only perpendicular extensions to the public Dedicated Right-of-Way or easement of Water Service and/or Sewer Service are allowed.

C. EQUIPMENT

An air gap or reduced pressure Backflow Prevention Assembly shall be approved for all installations. In addition, a reduced pressure principle detector assembly shall be approved for fire lines; a pressure vacuum breaker shall be approved for irrigation systems; and a double check assembly shall be approved for special applications by the Cross-Connection Control Program Manager.

All air gaps, reduced pressure Backflow Prevention Assemblies, reduced pressure principle detector assemblies, pressure vacuum breaker, and double check assemblies shall be constructed within the Dedicated Right-of-Way or outside the public Dedicated Right-of-Way perpendicular to the public water main, adjacent and as close to the Water Meter, fire line and/or stand pipe as possible so that a clear line of sight can be established between the public water main, Water Meter, fire line and/or stand pipe and the Backflow Prevention Assembly, unless approved by EPWater's Cross-Connection Control Manager.

D. PROTECTION OF THE WATER SUPPLY

In each instance listed below the Customer will aid the system in protecting other users by either accepting delivery of water through an acceptable and approved air gap device or through an acceptable Backflow Prevention Assembly:

1. Premises having their own well or any water supply not furnished by EPWater;
2. Premises that are partially or totally outside the State of Texas;
3. Premises including sewage treatment and/or sewage pumping;
4. Premises where bulk chemicals, hazardous chemicals, extremely toxic substances and/or radioactive materials are manufactured, processed, used or stored, also including any school, university or college facility with a chemistry, medical, or biology laboratory;
5. Premises with any process listed in 40 C.F.R. § 403 such as electroplating, metal finishing, metal molding and casting;
6. Premises where medical and/or dental surgical procedures are or could potentially be performed, including but not limited to, all hospitals, medical laboratories, rehabilitation hospitals, cancer treatment facilities, clinics, dentist offices, nursing homes, veterinary offices or clinics, or facilities where animals are groomed;
7. Premises where synthetic organic chemicals, oils, gases or other substances of petroleum origin are produced, processed, developed, refined, stored in bulk and/or transmitted via pipeline or truck;
8. Car washes;
9. Premises where food is processed, including but not limited to, dairies, milk processing, nut roasting plants, beverage processing, beverage bottling, breweries;
10. Premises where textiles or clothing are industrially or commercially laundered or finished using wet processes or dry cleaning;
11. Premises where ready-mix concrete is prepared, sand and gravel operations;
12. Pharmacies;
13. Radiator shops;
14. Greenhouses;
15. Leased space, including warehouses, malls, and strip shopping centers;
16. Premises where photographic or x-ray film is processed;

17. Premises which are connected to Reclaimed Water Service, as defined in Rules and Regulations No.7;
18. All fire lines and fire protection systems except as noted in Section F;
19. Non-residential yard meters or landscape irrigation systems;
20. Mortuaries, morgues, animal processing and taxidermy facilities;
21. Premises with more than one interconnected connection to the EPWU potable water system, buildings with two stories or more, facilities with complex piping or where inspection is restricted;
22. Temporary service connections, including but not limited to, construction water service points, fire hydrants, truck filling points; and,
23. Premises, in addition to the foregoing, where uncontrolled Cross Connection and/or an actual or potential condition exists that might, directly or indirectly, cause contamination of the public water supply or pose a danger to human health or safety of the environment without an air gap separation between the drinking water supply and the source of potential contamination.

E. HAZARDOUS CONDITIONS

In the event a system hazardous Cross Connection is determined to exist by EPWater personnel, water service to the premises shall be immediately terminated. Service shall be restored when the system hazard has been controlled or eliminated. The Utility reserves the right to install Backflow Prevention Assemblies in emergency situations where there is an imminent threat to the public water supply, and to charge the Customer the costs of such services as part of its monthly billing for service.

In the event no system hazards exist, but potential Cross Connections require containment control, the Utility shall give the Customer written notice to comply. The Customer shall submit a design and a plan for implementation to the Cross-Connection Control Program Manager within **45 Days** of the date of the written notice. The Customer shall have an additional **45 Days** from the date of the Program Manager's approval to have the Backflow Prevention Assembly installed, tested, and inspected. The Utility reserves the right to terminate Water Service to the premises for Customer's failure, refusal or inability to have the Backflow Prevention Assembly installed, tested, and inspected and to continue such termination until compliance has been achieved.

F. FIRE PROTECTION SYSTEMS

Fire protection systems begin at the Water Service Lateral-Customer and include sprinklers, hose connections, hydrants, reservoirs, tanks, standpipes, pumps, distribution pipes, and other appurtenances within a premises that are owned, operated and maintained by the Customer for the purposes of fire suppression. All existing and new fire protection systems shall have an approved Backflow Prevention Assembly at the water service connection except under the following circumstances: *Fire protection systems with no reservoirs, no fire pumper connections, no connections from auxiliary water systems, no antifreeze or other additives, and with all sprinkler drains discharging through an approved air gap, constructed with acceptable potable water piping materials conforming to ANSI/NSF Standard 61 and certified by an organization accredited by ANSI, except as otherwise required by these Rules and Regulations.*

G. CHANGE IN WATER OR BUILDING USE

In cases where a Backflow Prevention Assembly exists, and where the water use or building use has changed such that a Backflow Prevention Assembly is no longer required, the Customer may request an exemption from annual testing.

SECTION VI PROTECTION OF SEWER SYSTEM

NOTE: This Section was repealed and replaced by the adoption of Rules and Regulations No. 9, approved by the PSB on June 13, 1990, as amended.

## SECTION VII CUSTOMER'S RIGHTS AND RESPONSIBILITIES

### A. SERVICE SIZE

The Customer shall determine the size of Water Service Lateral-EPWU and the size and number of Sewer Service Lateral-EPWU he may need, subject to payment of the rates and Charges as provided in Rules and Regulations No. 7, within the limitations of these regulations, provided, however, that a single-family dwelling unit having a gross lot area of 10,000 square feet or less shall not be permitted a Water Service Lateral-EPWU larger than 3/4 inches. Each property or developable unit shall have a separate Water Meter and separate Sewer Service Lateral-EPWU. In no instance shall two Properties owned by different individuals or entities and/or Properties separated by a Dedicated Right-of-Way be served by one Water Meter or by one sewer connection. A single platted lot with single ownership but having multi-family residential housing may have a single service which shall be the responsibility of the property owner.

### B. EXTENSION AND CONNECTION CHARGES

Once Line Extension Charges have been paid, the right to the allowable service connection shall be vested in the property, whether used or not. However, should a service connection remain inactive for two years or more, the service connection may, at the sole discretion of the Utility, be vacated, locked and/or removed. If the property owner requests the removal of a water connection a \$2,100 fee each plus other applicable Charges as described in Rules and Regulations No. 7 will be due from the property owner. Re-installation shall require a new application and new service connection charge which shall be paid as stipulated in Rules and Regulations No. 7. This is applicable for services removed by the Utility or at the request of the Customer.

### C. CUSTOMER FURNISHED EQUIPMENT

1. The Customer shall be responsible for the furnishing, cost, and installation of the Water Service Laterals-Customer (domestic, irrigation/yard and stand pipe) from the meter into the property and for the furnishing and installation of a fire line service from the bonnet box located in the parkway, sidewalk or easement to the building, for the furnishing and installation of the approved Backflow Prevention Assembly (with meter for fire lines) and protective enclosures required for domestic, irrigation/yard, fire lines and stand pipes, for all equipment for the control and utilization of these services located past the meter or bonnet box, and within the property and for maintaining such lines and equipment in good, serviceable, and safe condition.
2. The Customer shall be responsible for the furnishing, cost, and installation of new or relocating public fire hydrants.
3. The Customer shall be responsible for the furnishing, cost, and installation of the Sewer Service Lateral-EPWU and Sewer Service Lateral-Customer from the tap at the sewer main or manhole into the property and within the property, and to include all equipment for the control and utilization of these services and for maintaining, repairing and equipment such Sewer Service Laterals-Customer in good, serviceable, and safe condition. Sewer Service Taps shall be installed or inspected by qualified Utility personnel.
4. The Customer shall be responsible for the furnishing, cost, and installation of new sewer manholes if required for Sewer Service.
5. The Customer shall not extend water or sewer lines to furnish such service to properties other than that on which Charges provided herein Rules and Regulation No. 7 have been paid.

### D. WATER SERVICE CONDITIONS

The Customer agrees to accept such conditions of water pressure or service as may from time to time exist and to hold the Utility, the City of El Paso and/or its PSB harmless on account of damage caused by low or high pressure, fluctuations of pressure or interruptions or curtailment of service. Where the static water pressure at the meter exceeds 80 pounds per square inch, the Customer should, for his own protection and at his own expense, install a pressure regulator, strainer and relief valve, to be set for pressure as desired by the Customer.

### E. SEWER SERVICE CONDITIONS

The Customer shall agree to accept the elevation and location of all sewers as laid by the Utility and will, where

necessary, install and operate on his own premises and at his own expense, all necessary sewage lifting equipment or backup protective devices. Customers having drain or fixture outlets into the house connections which are at an elevation that is lower than the top of the nearest downstream sanitary sewer manhole shall protect their premises from possible backup of sewage by the installation of Backflow or other devices to prevent sewage backing up and flowing out of such outlets. Such Customers agree to accept responsibility for any damages caused by a sewage backup where the Customer has failed to install devices to prevent such sewage backing up and agrees to hold the City of El Paso, the Utility and/or the PSB harmless for any damage caused by such a sewage backup.

In areas where vacuum sewer lines are installed, service valve boxes are required for service. As a condition of service, the service boxes may be required to be located on the Customer's premises in an area determined by the Utility to be accessible at all times for inspection, testing and maintenance. One service box may serve two or more Properties. The service box may be set on the property line between adjoining served Properties or on any of the served Properties. The Customer shall maintain the surrounding property in a manner that protects the service box from damage and assures that it is clearly visible. The Customer shall immediately report any defect or damage he/she observes in the service box to the Utility. Application by the Customer for service shall be deemed as permission for the Utility to set the service box on his/her property. No rent or other charge shall be assessed or imposed by the Customer on the PSB or the Utility for placing the service box, service lines or other equipment upon the Customer's premises.

F. WATER METER LOCATION

When a location for the Water Meter box outside the property line is not practical, the Water Meter box shall be located on the Customer's premises near the point where the service pipe crosses the property line and/or easement and where the meter will be accessible at all times for inspection, testing and reading and the Customer shall maintain the surrounding property in a manner that protects the meter from damage and assures that it is clearly visible. The Customer shall immediately report any defect he/she observes in the meter to the Utility. Application by the Customer for service shall be deemed as permission for the Utility to set the meter box on his/her property, if necessary. No rent or other charge shall be assessed or imposed by the Customer on the PSB or Utility for placing the meter box, service pipe or other equipment upon the Customer's premises.

G. CUSTOMER FACILITIES

The Utility does not assume the responsibility of inspecting any part of the Customer's installation of water or sewer facilities. The Customer shall be solely responsible for the costs of installing and maintaining any such facilities. The Utility has the right to inspect all Backflow Prevention Assemblies at the costs described in Rules and Regulations No. 7.

H. DAMAGE TO CUSTOMER

The City of El Paso and/or EPWU shall not be responsible for any loss or damage caused by the improper installation, condition or use of the Customer's equipment or by any negligence or wrongful act of the Customer or his agents, employees or licensees.

I. DAMAGE TO UTILITY

Any damage to equipment belonging to the Utility caused by the negligence or wrongful act of the Customer or his agent, employee or licensee shall be paid by the Customer upon presentation of a bill therefore. Non-payment of such Charges shall be grounds for disconnection of service.

J. SERVICE SIZE GUIDE

As a guide in the selection of the size service, the Customer may consider that a service connection will deliver the following amount when discharging to atmosphere at the Customer side of the meter:

Meter Size	Gallons Per Minute Demand
<u>5/8 X 3/4"</u>	<u>15</u>
1"	37
1 1/2"	75

2"	120
3"	240
4"	375
6"	750
8"	1400
10"	2000

This amount should be adjusted downward with an adequate allowance made by the Customer for pressure drop caused by the Customers piping system. The Customer understands and agrees that the above table constitutes an estimate of the amount to be delivered and that neither the PSB or the Utility shall be responsible for any failure to deliver the estimated capacity shown on the above table.

## SECTION VIII DESIGN AND OWNERSHIP OF FACILITIES

### A. OPERATIONS, MAINTENANCE AND OWNERSHIP

The Utility shall design, operate and maintain all of its water and sewer facilities with due regard to present and future requirements of capacity, system operation and efficiency and anticipated life of such improvements. Ownership and/or title to all such facilities shall remain in the El Paso Water Utilities, City of El Paso, Texas, acting by and through its PSB upon completion of the construction of such facilities and upon the incorporation of such facilities into the operating system.

### B. UTILITY FURNISHED EQUIPMENT

1. The Utility will furnish, install and maintain all meters and all pipes, equipment and materials connecting the Water Meters, fire lines and stand pipes with the main as required by the Water Service Connection Charge as provided in Rules and Regulations No. 7. Responsibility and ownership to all such installations shall remain in the El Paso Water Utilities, City of El Paso, Texas, acting by and through its Public Service Board.
2. The Responsibility and ownership to the Sewer Service Lateral-EPWU within the public Dedicated Rights-of-Way shall remain in the El Paso Water Utilities, City of El Paso, Texas, acting by and through its PSB. The Utility is responsible for the repair of the Sewer Service Lateral-EPWU.
3. When the Utility, the City of El Paso or the County of El Paso is replacing water and sewer mains, installing new public water and sewer mains, or reconstruction or resurfacing of streets, the Utility will furnish and install Water Service Laterals-EPWU and Sewer Service Laterals-EPWU to vacant or undeveloped Properties or parcels. The Water Service Laterals-EPWU and Sewer Service Laterals-EPWU will be installed ahead of pavement. The Customer will be required to use the furnished and installed Water Service Laterals-EPWU and Sewer Service Laterals-EPWU and comply and be responsible for Charges described in Rules & Regulations No. 7 for future development. The Customer will not be provided additional Water Service Laterals-EPWU and Sewer Service Laterals-EPWU to the reference Properties or parcels until 5 years have passed from the installation of the pavement or unless an exception granted by the Utility.

### C. RIGHT TO OPERATE

The Utility shall have sole right to connect or disconnect the Customer's service with the water and/or sewer main; to install, remove or reset meters; and to operate water main valves and appurtenances. No person, other than a duly authorized representative of the Utility, shall in any way interfere with or operate any of the facilities of the water and wastewater system.

### D. LINE LOCATION

Water Line Extensions shall be located on the north and east sides and sewer Line Extensions on the south and west sides of Dedicated Rights-of-Way, provided, however, the Utility may designate another location, if such locations are unavailable or if in the interest of operation, efficiency, or maintenance of the water and wastewater system. Under no circumstances shall any structure be placed over or around any water or sewer main Line Extension unless prior provision is made for ready and easy access to any and all parts of such Line Extension.



E. FIRE HYDRANTS

Public fire hydrants shall be installed only along opened dedicated public Dedicated Rights-of-Way, PSB or utility easements and/or as approved by the Utility in coordination with the City of El Paso Fire Department.

F. RIGHT-OF-WAY

Before water and/or sewer Line Extensions, being financed in whole or in part by Utility funds, are made in public Dedicated Rights-of-Way shall be legally dedicated and brought to within six (6) inches of the finished grade as approved by the City of El Paso. The Utility will not place meters or services on the outside of the curb line on any existing or newly constructed streets unless the grading on the outside, which is the property side of the curb, is within four (4) inches of finished grade for a distance of ten (10) feet from the property side of the curb.

It is the intent of the Utility to construct sewer mains in public Dedicated Rights-of-Way. Conditions under which water and sewer mains may be allowed in easements are discussed in Rules and Regulations No. 7, Sections II(J) and III(H)

G. CONDITIONAL SERVICES

When service is required to a property within the Corporate Limits of the City of El Paso that is not adjacent to a water main and/or a sewer line from which adequate service can be provided and when, in the opinion of the Utility, it is not feasible to construct a main that would provide adequate service, the Utility may grant permission to the Customer to take conditional service at the nearest existing adequate main. The Customer shall pay the appropriate Charges as provided in Rules and Regulations No. 7, computed as though the main were adjacent to the property. The Customer shall pay all cost of installation and maintenance of a pipeline from the Water Meter and/or sewer connection to this property and shall assume all responsibility and liability therefore as well as the payment of all costs and damages growing out of the installation, operation or failure of this pipeline. Such a connection and pipeline shall be installed and used as a temporary arrangement only. At such time as an adequate main may be installed adjacent to the property and on written demand of the Utility, the Customer will have installed a regular service at his expense, will discontinue the use of the temporary connection and pipeline and will pay the Utility the appropriate Charges for a regular service.

H. RESTRICTED WATER SYSTEM DESIGNS

Pressurized water systems or hydro-pneumatic water systems are not allowed. Private water systems are not allowed.

I. RESTRICTED SEWER SYSTEM DESIGNS

Grinder pump or low-pressure sewer systems are not allowed. Private sewer collection systems are not allowed.

SECTION IX DISCONTINUANCE OF SERVICE

The Utility shall have the right, with notice to the Customer, to discontinue the Water Service and/or Sewer Service and to apply any of the Customer's Water Service Guarantee or Deposit to amounts owed the Utility for non-payment of service Charges; for the excessive waste of water; for failure to comply with the mandatory water conservation ordinance for the City of El Paso; for violation of any provision of Rules and Regulations No. 9 (Pretreatment Regulations) for the violation of any of the City of El Paso's Plumbing Code; for the piping of service along or across streets, alleys, or to the property of others without the prior written consent of the Utility; for using a service without applying for and signing the proper service contract; for supplying service to property other than that which was identified by the owner or applicant for service at the time such service was initially provided; for violation of the provisions relating to service outside of the Corporate Limits of the City of El Paso, Texas as set out in Rules and Regulations No. 11; for furnishing false or erroneous information in any application for service; when any existing Water Service and/or Sewer Service shall become inactive; for the failure to install a mechanical Backflow prevention device when required; or for the violation of any provision of these Rules and Regulations No. 1 or any other lawful rule or regulation of the Utility or the City of El Paso or for any other action which interferes with the water service of other Customers or which creates a danger of contamination to the water system. Provided, however, the Utility shall have the authority to immediately discontinue the Customer's meter or Sewer Service without notice should any violation of these rules and regulations cause an immediate threat to the public health or safety or the environment. Such service shall remain discontinued until all errors are rectified and/or violations have ceased.

#### SECTION X SAVINGS

These rules and regulations are a part of the other rules and regulations of the PSB and, save and except as amended hereby, the remaining provisions of the PSB's rules and regulations shall remain in full force and effect.

#### SECTION XI EFFECTIVE DATE

These rules and regulations shall be and become effective from and after their adoption hereby and shall remain in effect until amended or changed by the PSB.

PASSED, APPROVED and ADOPTED this 9th day of December, 1992, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 1, SECTIONS I(B), II(A)(5), II(A)(6), V(A), V(B), V(C), VII(C), VII(G), VII(K), VIII(A), and VIII(B), ADDED or MODIFIED, APPROVED, AND ADOPTED this 11th day of December, 1996.

RULES AND REGULATIONS NO. 1, SECTION VII(C), REVISED, APPROVED, AND ADOPTED this 18th day of December, 1997.

RULES AND REGULATIONS NO. 1, SECTION VII(E), REVISED, APPROVED, AND ADOPTED this 14th day of April, 1999.

RULES AND REGULATIONS NO. 1, SECTIONS I(B), II(A), V, and VII(K), ADDED, DELETED, or MODIFIED, REVISED, APPROVED, AND ADOPTED this 23rd day of January, 2002.

RULES AND REGULATIONS NO. 1, SECTION V(D), ADDED, MODIFIED, REVISED, APPROVED, AND ADOPTED this 25<sup>TH</sup> day of January 2006, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 1, SECTION V(A), ADDED, MODIFIED, REVISED, APPROVED, AND ADOPTED this 17<sup>TH</sup> day of December 2009, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 1, SECTION VIII (H) and (I), ADDED, MODIFIED, REVISED, APPROVED, AND ADOPTED this 8<sup>TH</sup> day of September 2010, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 1, SECTION V (B), (C), (D)22, SECTION VII (B), (C), ADDED, MODIFIED, REVISED, APPROVED, AND ADOPTED this 11<sup>TH</sup> day of December 2013, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 1, SECTION V (B), ADDED, MODIFIED, REVISED, APPROVED, AND ADOPTED this 10<sup>th</sup> day of December 2014, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 1, SECTION VII (B), ADDED, MODIFIED, REVISED, APPROVED, AND ADOPTED this 9<sup>th</sup> day of January, 2019, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

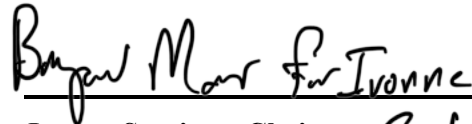
RULES AND REGULATIONS NO. 1, SECTION VII (F), ADDED, MODIFIED, REVISED, APPROVED, AND ADOPTED this 8<sup>th</sup> day of January 2020, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 1, SECTION IX, ADDED, MODIFIED, REVISED, APPROVED, AND ADOPTED this 13<sup>th</sup> day of January 2021, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

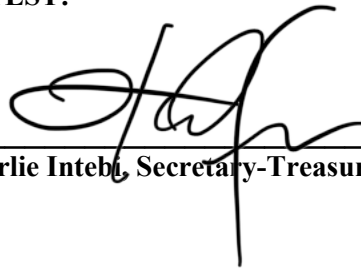
RULES AND REGULATIONS NO. 1, SECTION I (A, B), SECTION II (A, B), SECTION III, SECTION IV, SECTION V (A, B, C, D, E, F,G), SECTION VI, SECTION VII (A, B, C, D, E, F, G, H, I, J), SECTION VIII (A, B, C, D, E, F, G, H, I), SECTION IX, SECTION X, SECTION XI ADDED, MODIFIED, REVISED, APPROVED, AND ADOPTED this 12<sup>th</sup> day of January 2022, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 1, SECTION I (B), SECTION II (A)(4)(e), VII (B), REVISED, APPROVED, AND ADOPTED this 10<sup>th</sup> day of January 2024, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.


**PUBLIC SERVICE BOARD:**

  
Ivonne Santiago, Chair *Santiago*

**ATTEST:**

  
Charlie Intebi, Secretary-Treasurer

**APPROVED AS TO FORM:**

  
Daniel Ortiz, General Counsel

## RULES AND REGULATIONS NO. 2

### RULES AND REGULATIONS GOVERNING THE FURNISHING OF STORMWATER SERVICE WITHIN THE CORPORATE LIMITS OF THE CITY OF EL PASO BY THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD PURSUANT TO CHAPTER 552 OF THE TEXAS LOCAL GOVERNMENT CODE, AS AMENDED (THE ACT), AUTHORIZING THE CITY OF EL PASO, TEXAS TO ESTABLISH A MUNICIPAL DRAINAGE UTILITY SYSTEM, AND ORDINANCE 016668, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON JUNE 19, 2007, DECLARING THE DRAINAGE SYSTEM OF THE CITY TO BE A PUBLIC UTILITY AND AUTHORIZING THE PUBLIC SERVICE BOARD TO HAVE COMPLETE AUTHORITY AND CONTROL OF THE MANAGEMENT AND OPERATION OF THE SYSTEM ON BEHALF OF THE CITY OF EL PASO; THEREFORE BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULES FOR THE FURNISHING OF STORMWATER SERVICE WITHIN THE CITY OF EL PASO ARE HEREBY ESTABLISHED.

#### SECTION I GENERAL PROVISIONS

##### A. TABLE OF CONTENTS

The following headings or captions are adopted as the Table of Contents for Public Service Board Rules and Regulations No. 2.

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B. ABBREVIATIONS AND DEFINITIONS

The following abbreviations, when used in this rule, shall have the designated meanings as follows:

BMP –	Best Management Practice
CFR –	Code of Federal Regulations
EPA –	Environmental Protection Agency
HHW –	Household Hazardous Waste
MS4 –	Municipal Separate Storm Sewer System
NOC –	Notice of Change
NOI –	Notice of Intent
NONC	Notice of Non Compliance
NOT –	Notice of Termination
NOV-	Notice of Violation
NPDES –	National Pollutant Discharge Elimination System
PMF –	Probable Maximum Flood
PMP –	Probable Maximum Precipitation
PSB –	Public Service Board
SWP3 –	Stormwater Pollution Prevention Plan
TCEQ –	Texas Commission on Environmental Quality
TPDES –	Texas Pollutant Discharge Elimination System

Unless the context specifically indicates otherwise, the following terms and phrases, as used in these Rules and Regulations No. 2, shall have the following meanings:

Agricultural Stormwater Runoff:

Any Stormwater runoff from orchards, cultivated crops, pastures, range lands, and other Non-Point Source agricultural activities, but not Discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23 or Discharges from concentrated aquatic animal production Facilities as defined in 40 CFR Section 122.24.

Best Management Practices (BMPs):

Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices implemented to control, prevent or reduce the Discharge of Pollutants. BMPs also include treatment requirements, operating procedures, and practices to control Site runoff, spillage or leaks, sludge or waste disposal, or Drainage from raw material storage.

Benefited Property:

An Improved Lot or Tract to which Drainage service is made available under the establishing Drainage Ordinance and in accordance with

applicable Rules and Regulations.

City:

The City of El Paso, Texas, a Texas Home Rule Municipality.

Commencement of Construction:

Exposure of soils from activities such as clearing, grading or excavating activities or other construction activities.

Compacted Soil:

Any amount of compaction above the soil's natural state caused by any means. This includes but is not limited to soil that has been compressed by vehicles that have driven over it.

Detention Pond:

An excavated area of land that protects against flooding by storing water for a pre-determined period of time. Detention Ponds have an outlet structure.

Discharge:

Any addition or introduction of any Pollutant, Stormwater, or any other liquid, gas or solid substance whatsoever into the MS4 or into Waters of the United States.

Discharger:

Any Person who causes, allows, permits, or is otherwise responsible for, a discharge, including, without limitation, any Operator of a construction site or industrial Facility.

Domestic Sewage:

Human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and waterborne waste normally Discharged from the sanitary conveniences free from Industrial Waste.

Drainage:

The process by which excess water or liquid is discharged from an area.

Drainage System:

Dams, catch basins, channels, conduits, creeks, culverts, Detention Ponds, Retention Ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural or artificial watercourses.

Drainage Ordinance:

Ordinance No. 016668 passed and approved by the City Council of the City of El Paso, Texas on June 19, 2007, authorizing the Public Service Board to have complete authority and control of the management and operation of the Stormwater System.

Environmental Protection Agency (EPA):

The United States Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of EPA or such successor agency.

EPWater:

See definition of Utility below.

EPWU:

See definition of Utility below.

Extremely Hazardous Substance:

Any substance listed in the Appendices to 40 CFR Part 355, Emergency Planning and Notification.

Facility/Facilities:

The property, either real, personal, or mixed, that is used in providing Drainage and included in the System.

Fertilizer:

A solid or non-solid substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more Fertilizers. The term does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no claim of essential plant nutrients is made.

Final Stabilization:

The status when all soil disturbing activities at a Site have been completed, and a uniform perennial vegetative cover with a density of seventy percent of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Fire Department:

The fire department of the City or any duly authorized representative



thereof.

Garbage:

Putrescible animal and vegetable waste materials from the handling, preparation, cooking, or consumption of food, including waste materials from markets, storage Facilities, and the handling and sale of produce and other food products.

General Permit:

A permit issued to authorize Discharge into or adjacent to water in the state for one or more categories of waste Discharge within a geographical area of the state or the entire state as provided by Section 26.040 of the Texas Water Code, or into Waters of the United States according to Section 402 of the Federal Water Pollution Control Act Amendments.

Harmful Quantity:

The Discharges of substances in such quantities that EPWater has determined may be harmful to the public health or the environment including, without limitation, substances that are of sufficient quantity to:

- a. Violate applicable water quality standards;
- b. Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines;
- c. Cause any damage to the MS4; or
- d. Interfere with the operation of the MS4.

Household Hazardous Waste (HHW):

Any material generated in a household (including single and multiple residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreational areas) by a consumer which, except for the exclusion provided in 40 CFR Section 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261, as amended from time to time.

Hazardous Substance:

Any substance listed in Table 302.4 of 40 CFR Part 302.

Hazardous Waste:

Any substance identified or listed as a hazardous waste by EPA in 40 CFR Part 261.

Herbicide:

A substance or mixture of substances used to destroy a plant or to inhibit plant growth.

Impervious Area:

Any area that has been disturbed from its natural condition in such a way as to reduce the ability of the surface to absorb and infiltrate water into the soil, by regrading, placement of any material underlaid by plastic, placement of millings or any other drivable material. Impervious areas include, but are not limited to, compacted soils, buildings, pavement, parking lots, driveways, sidewalks, and any other man-made structure or surface that is built or laid on the natural surface of the land which has the effect of increasing, concentrating, or otherwise altering Stormwater runoff so that flows are increased. Xeriscaped properties and turf are considered pervious.

Improved Lot or Tract:

A lot or tract that has a structure or other improvement on it that causes an impervious coverage of the soil under the structure or improvement.

Industrial Waste:

Any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade, or business, including transportation related activities.

Industrial Activity:

The categories of industries and activities identified in TPDES General Permit pursuant to Chapter 26 of the Texas Water Code and Section 402 of the Clean Water Act, as amended, including, without limitation, construction activity including clearing, grading and excavation activities (except for operations that result in the disturbance of less than one (1) acre of total land area which are not part of a larger plan of development or sale).

Large Construction Activity:

Construction activities including, without limitation, clearing, grading, and excavating that result in land disturbance of equal to or greater than five (5) acres of land. Large construction activity also includes the disturbance of less than five (5) acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five (5) acres of land. Large Construction Activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar Stormwater conveyance. Large construction activity does not include the routine grading of existing dirt roads, asphalt overlays of existing

roads, the routine clearing of existing rights-of-way, and similar maintenance activities.

Motor Vehicle fluid:

Any vehicle crankcase Oil, antifreeze, transmission fluid, brake fluid, differential lubricant, gasoline, diesel fuel, gasoline/alcohol blend, and any other fluid used in a motor vehicle.

Municipal Drainage Utility Systems Act:

Section 552.001, et seq., of the Texas Local Government Code, as it may be amended to include, but not by way of limitation, the applicable definitions in the Municipal Drainage Utility Systems Act.

Municipal Landfill (or Landfill):

An area of land or an excavation in which municipal solid waste is placed for permanent disposal, and which is not a land treatment Facility, a surface impoundment, an injection well, or a pile (as these terms are defined in regulations promulgated by the TCEQ).

Municipal Separate Storm Sewer System ("MS4"):

The system of conveyances (including roads with Drainage Systems, municipal streets, flood control dams, retention and detention ponds, grate and/or curb inlets, curbs, gutters, ditches, man-made channels, arroyos, agriculture drains, storm drains or designated flow paths) owned, operated or controlled by the City and/or EPWater and designed or used for collecting or conveying Stormwater, and which is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES):

The federal program under which the administrator of the United States Environmental Protection Agency may authorize the Discharge of waste into Waters of the United States according to Section 402 of the Federal Water Pollution Control Act (such administrator may also delegate its permitting authority to the State of Texas).

Non-Point Source:

Any source of any Discharge of a pollutant that is not a "Point Source."

Notice of Non-Compliance (NONC):

A notice issued to a Person or entity regarding non-compliance with Rules and Regulations No. 2.

Notice of Change (NOC):

The notice of change that is required by either the industrial General

Permit or the construction general permit.

Notice of Intent (NOI):

The notice of intent that is required by either the industrial General Permit or the construction General Permit.

Notice of Termination (NOT):

The notice of termination that is required by either the Stormwater Multi - Sector General Permit for Industrial Facilities or the Stormwater General Permit for Construction Activities.

Notice of Violation (NOV):

A written notification that documents and communicates violations of these Rules and Regulations No. 2 observed during an inspection that is issued to the business or individual so inspected.

Oil:

Any kind of oil in any form, including, but not limited to petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste

Operator:

The Person or Persons who, either individually or taken together, meet either of the following two criteria: (a) they have operational control over the Facility specifications (including the ability to make modifications in specifications); and (b) they have the day-to-day operational control over those activities at the Facility necessary to ensure compliance with Pollution prevention requirements and any permit conditions.

Owner:

The Person who owns a Facility or part of a Facility or who has control over day-to-day activities.

Person:

Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns or Person who has control over day-to-day activities. This definition includes all Federal, State, and local governmental entities.

Pesticide:

A substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant

regulator, defoliant, or desiccant (as these terms are defined in Section 76.001 of the Texas Agriculture Code).Petroleum Product:

A petroleum product that is obtained from distilling and processing crude Oil and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene distillate fuel Oil, and No. 1 and No. 2 diesel.

Petroleum Storage Tank (PST):

Any one or combination of aboveground or underground storage tanks that contain Petroleum Products and any connecting underground pipes.

Point Source:

Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation landfill, leachate collection system, vessel or other floating craft from which Pollutants are or may be Discharged. This term does not include return flows from irrigated agriculture or Agricultural Stormwater Runoff.

Pollutant:

Dredged spoil, solid waste, incinerator residue, Sewage, Garbage, Sewage sludge, filter backwash, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste Discharged into water. The term "Pollutant" does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pastureland, and farmland.

Pollution:

The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any Waters in the State and/or the United States that renders the Water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the Water for any lawful or reasonable purpose.

Probable Maximum Flood (PMF):

The largest flood that could occur at a particular location, usually estimated from the probable maximum precipitation, and where applicable, snow melt, coupled with the worst flood producing conditions in the watershed.

Probable Maximum Precipitation (PMP):

Defined by the National Weather Service as "theoretically, the greatest depth of precipitation for a given duration that is physically possible over a given storm area at a particular geographical location at a certain time of the year".

Properly Maintained System:

A Drainage System must be kept functioning to carry out substantially the original purpose for which it was designed and constructed. Examples of a properly maintained system include but are not limited to regularly inspected, cleared of debris, trash, silt accumulation and sediment build up; be cleaned and any visible signs of erosion must be repaired.

Public Service Board ("PSB" or Board):

Refers to board of trustees established by the City pursuant to Section 1502.070 of the Texas Government Code under Ordinance No. 752 and Chapter 552 of the Texas Local Government Code under Ordinance No. 016668 charged with having complete authority and control of the management and operation of the Water, Wastewater and Stormwater Systems.

Public Utility:

A Stormwater service that is regularly provided by the municipality through municipal property dedicated to that service to the users of Benefited Property within the Service Area and that is based on:

- a. An established schedule of charges;
- b. The use of the police power to implement the service; and
- c. Nondiscriminatory, reasonable, and equitable terms.

Release:

Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4 or the Waters of the United States onto the ground in such a manner that a Pollutant may be Discharged in the MS4.

Release Report:

The report submitted by the Operator of the Facility that must be submitted following the notification of a prohibited Discharge into the MS4 or Waters of the United States.

Reportable Quantity (RQ):

For any "hazardous substance," the quantity established and listed in Table 302.4 of 40 CFR Part 302; for any "Extremely Hazardous Substance," the quantity established in 40 CFR Part 355 and listed in Appendix A or B

thereto and as amended from time to time.

Retention Pond:

Excavated area that protects against flooding by storing water for an indefinite period of time. Retention Ponds do not have an outlet structure. Release of water happens through infiltration and/or evaporation.

Sanitary Sewer (or Sewer):

The system of pipes, conduits, and other conveyances which carry Industrial Waste and Domestic Sewage from residential dwellings, commercial buildings, industrial and manufacturing Facilities, and institutions, whether treated or untreated, to the City sewage treatment plant (and to which Stormwater, surface water, and groundwater are not intentionally admitted).

Septic Tank Waste:

Any Domestic Sewage removed from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Service Area:

All that area of land located within the city limits of the City and any other land areas as provided by the Municipal Drainage Utility Systems Act or other applicable law. Upon the effective dates of completed annexation of additional lands into the City, each such annexed additional land shall become part of the service area. Land annexed for limited purposes shall become a part of the service area upon annexation for full purposes. The Service Area may be extended by written resolution of the Board, to the extent permitted by the Act at the time of adoption of such resolution, to include other land areas outside the city limits of the City which, as a result of topography or hydraulics, contribute overland flow into the watersheds served by the system provided, however, in no event may the Service Area extend farther than the boundaries of the City's then current extraterritorial jurisdiction, nor, except as expressly provided by the Act, may the Service Area extend into the boundaries of another municipality.

Sewage (or Sanitary Sewage):

The Domestic Sewage and industrial waste that is Discharged into the City Sanitary Sewer Systems and passes through the sanitary sewer system to the City sewage treatment plant for treatment.

Site:

The land or water area where any Facility or activity is physically located or conducted, including adjacent land used in connection with the Facility or activity.

Small Construction Activity:

Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one (1) acre and less than five (5) acres of land. Small Construction Activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres of land. Small Construction Activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar Stormwater conveyance. Small Construction Activity does not include the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing rights-of-way, and similar maintenance activities.

State:

The State of Texas.

Stop Work Order:

An order issued by EPWater to Persons or entities performing construction related activities ordering them to immediately cease construction activities to prevent, cease, or abate the commission of any offense in violation of these Rules and Regulations No. 2.

Stormwater:

Precipitation such as rainwater or melted snow that runs off streets, lawns, and other sites producing surface runoff that enters an MS4, also known as, Drainage System.

Stormwater Discharges Associated with Construction Activity:

Stormwater runoff from a construction activity where soil disturbing activities (including clearing, grading, excavating) result in the disturbance of one (1) or more acres of total land area, or are part of a larger common plan of development or sale that will result in disturbance of one (1) or more acres of total land area.

Stormwater Discharges Associated with Industrial Activity:

Stormwater runoff that exits from any system that collects and conveys Stormwater that originates from manufacturing, processing, material storage, and waste material disposal areas (and similar areas where Stormwater can contact industrial Pollutants related to the Industrial Activity) at an industrial Facility. The definition is restricted, for the



purposes of this Rule, to those Stormwater Discharges that qualify for authorization under the provisions of the TPDES or NPDES General Permits.

Stormwater Pollution Prevention Plan (SWP3):

A plan required by a TPDES General Permit that describes and ensures the implementation of practices that are to be used to reduce the Pollutants in Stormwater Discharges associated with the Facility.

System/Stormwater System:

As used under these Rules and Regulations No. 2, System/Stormwater System shall mean the Municipal Drainage Utility System established by the Drainage Ordinance and encompassing the complete Drainage system of the City as it now exists and may be improved, added to, or extended hereafter, there being included in such term all Drainage Facilities now or hereafter owned or operated by the City, lying within and without the boundaries of the City, and including all real estate and real and personal property of every kind and nature comprising any part of or used or useful in the operation of the System but excluding parks, roads, and streets.

Texas Pollutant Discharge Elimination System (TPDES):

The state program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under Clean Water Act §§307, 402, 318 and 405, the Texas Water Code and Texas Administrative Code regulations as amended from time to time.

TPDES General Permit:

A permit issued by the TCEQ under the provisions of Section 402 of the Clean Water Act and/or Chapter 26 of the Texas Water Code.

Uncontaminated:

Not containing a Harmful Quantity of any Pollutant.

Used Oil (or used motor oil):

Any Oil that has been refined from crude Oil or a synthetic Oil that, as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties but that may be suitable for further use and is recyclable in compliance with State and Federal law.

User:

The Person or entity that owns or occupies a Benefited Property.

Utility:

——EPWU, EPWater, El Paso Water, or El Paso Water Utilities, as used herein means El Paso Water Utilities, the City of El Paso’s publicly owned water, sewer, and drainage agency located in and serving the people of El Paso County, Texas.

Wastewater:

See Rules and Regulations No. 9 for definition.

Water(s); Water in the State:

Any groundwater, percolating or otherwise, lakes, ponds, impounding reservoirs, springs, rivers, canals, streams, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.

Water Quality Standard:

The designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by the State to be necessary to protect those uses, as specified in Chapter 307 of Title 30 of the Texas Administrative Code as amended from time to time.

Waters of the United States:

1. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters including interstate wetlands;
3. All other waters such as intrastate rivers, streams (including intermittent streams), wetlands, natural ponds, the use, degradation, or destruction of which could affect interstate or foreign commerce including any such waters, which are or could be used by interstate or foreign travelers for recreational or other purposes; or
4. All impoundments of waters otherwise defined as waters of the United States under 40 CFR Section 230.3 this definition;
5. All Tributaries of waters identified in this definition in paragraphs (s)(1) through (4) of this section;
6. All Wetlands adjacent to waters identified under 40 CFR 230.3; and any waters within the federal definition of Waters of the United States”: at 40 CFR Section 230.3; including the Rio Grande River, but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act 60.

Wetland:

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

C. NEUTRAL GENDER

When the context requires, all nouns and pronouns in the masculine gender shall also include the feminine gender.

D. DAY(S)

When the term “day(s)” is referenced in these Rules and Regulations No. 2, the term shall mean calendar days unless otherwise specified.

E. CONDITIONS OF SERVICE

It is the intent of these Rules and Regulations No. 2 that Stormwater service be provided only to property that is within the Service Area as defined in Section I of this Rule. For the purpose of these Rules and Regulations No. 2, property shall be considered as being within the corporate limits of the City of El Paso and eligible for Stormwater service if it is located and improved in such a manner that all of the conditions for service, as defined in Rules and Regulations No. 1, are satisfied.

SECTION II PURPOSE AND ADMINISTRATION

A. PURPOSE AND SCOPE

The purpose of these Rules and Regulations No. 2 is to comply with all applicable local, State and Federal Stormwater Discharge laws implemented for the control, elimination or reduction of Pollutants from entering El Paso’s Municipal Separate Storm Sewer System (MS4) and for control over Discharges to and from the System. The provisions of this chapter are intended to complement all relevant El Paso Municipal Code Ordinances and all agreements between the PSB and the City. This chapter shall apply to all Discharges to the MS4 generated on any developed and undeveloped land. The purposes of these Rules and Regulations No. 2 are enacted in furtherance of the following objectives:

1. To maintain and improve the quality of Stormwater, surface water and groundwater within the jurisdiction of the City.
2. To prevent the Discharge of contaminated Stormwater runoff from industrial, commercial, residential, and construction sites into the MS4 and Waters of the State and the United States
3. To establish legal authority to carry out all inspection, surveillance and

monitoring procedures necessary to ensure compliance with these Rules and Regulations No. 2.

4. To promote public awareness of the hazards involved in the improper Discharge of Hazardous Substances, Petroleum Products, Household Hazardous Waste, industrial waste, sediment from construction sites, Pesticides, Herbicides, fertilizers, and other contaminants into the storm drains and natural waters of the City.
5. To facilitate compliance with state and Federal standards and permits by Owners and Operators of Facilities engaged in industrial and construction activities within the City.
6. To enable EPWater to comply with all Federal and State laws, regulations and permits applicable to Stormwater Discharge.

**B. ADMINISTRATION**

El Paso Water Utilities, under the direction of its President & CEO and acting through its employees and agents, is hereby authorized to administer this Rules and Regulations No. 2, and to take all steps necessary to implement them. Unless explicitly stated otherwise, references to the Public Service Board in this Rules and Regulations No. 2 shall include El Paso Water Utilities.

**SECTION III GENERAL STORMWATER SYSTEM USE REQUIREMENTS**

**A. GENERAL AND SPECIFIC PROHIBITIONS**

No Person shall introduce or cause to be introduced into the MS4 or Waters within the jurisdiction of the City any Discharge that is not composed entirely of Stormwater. The list of prohibitions in this Section III is not intended to be exclusive:

1. No Person shall introduce or cause to be introduced into the MS4 any Discharge that causes or contributes to causing the City to violate a water quality standard, the City's TPDES permit, or any state-issued Discharge permit for Discharges from its MS4.
2. No Person shall Release or cause, allow, or permit to be introduced any of the following substances into the MS4 nor the waters within the jurisdiction of the City such that the substance may enter the MS4 system:
  - a. Any used motor Oil, antifreeze, or any other Motor Vehicle Fluid;
  - b. Any Industrial Waste;
  - c. Any Hazardous Waste, including Household Hazardous Waste;
  - d. Any Domestic Sewage or septic tank waste, grease trap waste, or grit trap waste;

- e. Any wastewater from a commercial carwash Facility; from any commercial vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance Facility.
- f. Any wastewater from the commercial washing, cleaning, de-icing, or other maintenance of aircraft;
- g. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of building exterior where the wastewater contains any harmful cleaning substance;
- h. Any wastewater from commercial floor, rug, or carpet cleaning;
- i. Any wastewater from the washdown or other cleaning of pavement that contains any Harmful Quantity of any cleaning substance; or any wastewater from the washdown or other cleaning of any pavement where any spill, leak, or other Release of Oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such Released material have been previously removed;
- j. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;
- k. Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydro mulch material, or from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;
- l. Any filter backwash from a swimming pool, fountain, or spa;
- m. Any non-dechlorinated swimming pool or spa water;
- n. Any Discharge from water line disinfection by super-chlorination or other means if it contains any Harmful Quantity of chlorine or any other chemical used in line disinfection;
- o. Any water from a water curtain in a spray room used for painting vehicles or equipment;
- p. Any contaminated runoff from a vehicle wrecking yard;
- q. Any substance or material that will damage, block, or clog the MS4;
- r. Any Release from a Petroleum Storage Tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any Discharge of pumped, confined, or treated wastewater from the remediation of any such PST Release, unless the Discharge complies with all state and federal standards and requirements;
- s. Any Discharge into any street, gutter, ditch, channel, watercourse, drain, Stormwater inlet or storm sewer of any wastewater, including, without limitation, sand/grit trap sludges and restaurant grease trap sludges, or liquid waste containing cement, concrete, building materials, Oil, chemicals, wastewater or other liquid Industrial Waste, such as all waterborne solids, liquids or gaseous waste containing toxic or poisonous substances in amounts prohibited by any federal or state regulation or any substance which can block or

interfere with the flow in any of the previously named storm sewers and other public rights-of-way.

3. No Person shall introduce, or cause to be introduced into the MS4 or Waters within the jurisdiction of the City, any Harmful Quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities, or associated with landfilling or other placement or disposal of soil, rock, or other earth materials, in excess of what could be retained on Site or captured by employing sediment and erosion control measures to the maximum extent practicable under prevailing circumstances.
4. No Person shall connect a line conveying Sanitary Sewage, domestic or industrial, to the MS4, or allow such a connection to continue.
5. Regulation of Pesticides, Herbicides, and Fertilizers.
  - a. Any sale, distribution, application, labeling, manufacture, transportation, storage, or disposal of a Pesticide, Herbicide, or Fertilizer must comply fully with all State and Federal statutes and regulations including, without limitation, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and all federal regulations promulgated pursuant to FIFRA; Chapters 63, 75, and 76 of the Texas Agriculture Code and all state regulations promulgated pursuant thereto; and any other state or federal requirement.
  - b. No Person shall use or cause to be used any Pesticide or Herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation.
  - c. No Person shall dispose of, discard, store, or transport a Pesticide, Herbicide, or Fertilizer, or a Pesticide, Herbicide, or Fertilizer container, in a manner that the Person knows, or reasonably should know, is likely to cause, or does cause, a Harmful Quantity of the Pesticide, Herbicide, or Fertilizer to enter the MS4 or Waters of the United States.
6. Used Oil Regulation.
  - a. No Person shall:
    - i. Discharge Used Oil into the MS4 or a sewer, Drainage system, septic tank, surface water, groundwater, or watercourse;
    - ii. Knowingly mix or commingle Used Oil with solid waste that is to be disposed of in a Landfill or knowingly directly dispose of Used Oil on land or in all Landfill or knowingly Discharge Used Oil onto the ground; or
    - iii. Introduce Used Oil into the environment by any method,

including application of Used Oil to a road or land for dust suppression, weed abatement, or other similar use.

b. Notice to Public Required by Retailers:

A retail dealer who annually sells directly to the public more than five hundred (500) gallons of Oil in containers for use off-premises shall post in a prominent place a sign provided by the state informing the public that improper disposal of Used Oil is prohibited by law. The sign shall prominently display the toll-free telephone number of the State's Used Oil information center.

**B. DEFENSES**

No affirmative defense shall be available under this Section III(B) if the Discharge or flow in question has been determined to be a source of a Pollutant or Pollutants to the Waters of the United States or to the MS4, and written notice of such determination has been provided to the Discharger.

It is an affirmative defense to any enforcement action for violation of this Section III(B) that the Discharge was composed entirely of one or more of the following categories of acceptable Discharges:

1. A Discharge authorized by, and in full compliance with, an TPDES permit (other than the TPDES permit for Discharges into the MS4) or a Stormwater Pollution Prevention Plan (SWP3);
2. A Discharge resulting from firefighting;
3. Agricultural Stormwater Runoff;
4. A Discharge from water line flushing but not including a Discharge from water line disinfection that contains no Harmful Quantity of chlorine or any other chemical used in line disinfection;
5. A Discharge from lawn watering, landscape irrigation, or other irrigation water;
6. A Discharge from a diverted stream flow or natural spring;
7. A Discharge from Uncontaminated pumped groundwater or rising groundwater;
8. Uncontaminated groundwater infiltration (as defined in 40 CFR Section 35.2005 (20)) to the MS4;
9. Uncontaminated Discharge from a foundation drain, crawl space pump, footing drain or sump pump;

10. A Discharge from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
11. A Discharge from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of Pollutant;
12. A Discharge from individual residential or charity car washing but only without the use of detergents or surfactants;
13. An Uncontaminated Discharge from riparian habitat or Wetland;
14. A Discharge from water used in street washing; provided, that the water is not contaminated with any harmful cleaning substance;
15. Vehicle, external building, and pavement wash water where detergents and soaps are not used and where spills or leaks of toxic or hazardous materials have not occurred (unless spilled materials have been removed; and if local, state, or federal regulations are applicable, the materials are removed according to those regulations), and where the purpose is to remove mud, dirt, and dust;
16. Water used to control dust.

C. RELEASE REPORTING AND CLEANUP

1. The Operator of any Facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing, or any other release of any of the following quantities of any of the following substances that may flow, leach, enter, or otherwise be introduced into the MS4 or waters of the United States, shall telephone and notify the Fire Department and EPWater as soon as practicable concerning the incident:
  - a. An amount equal to or in excess of a reportable quantity of any hazardous substance, as established under 40 CFR Part 302;
  - b. An amount equal to or in excess of a reportable quantity of any extremely hazardous substance, as established under 40 CFR Part 355;
  - c. An amount of oil that either (1) violates applicable water quality standards, or (2) causes a film or discoloration of the surface of the water or an adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining



- shoreline; or
  - d. Any harmful quantity of any pollutant.
- 2. The immediate report to EPWater and the Fire Department required by subsection 1 of this section shall include the following information:
  - a. The identity or chemical name of the substance Released, and whether the substance is an Extremely Hazardous Substance;
  - b. The exact location of the Release, including any known name of the Waters involved or threatened and any other environmental media affected;
  - c. The time and duration (thus far) of the Release;
  - d. An estimate of the quantity and concentration (if known) of the substance Released;
  - e. The source of the Release;
  - f. Any known or anticipated health risks associated with the release and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals;
  - g. Any precautions that should be taken as a result of the Release;
  - h. Any steps that have been taken to contain and clean up the Released material and minimize its impacts; and
  - i. The names and telephone numbers of the Person or Persons to be contacted for further information.
- 3. Within fourteen (14) days following the report of an incident pursuant to this Section III(C), or following the receipt of notice of such a report, the Operator of a Facility, vehicle, or other source of the Release shall submit a written report (Release Report) to the EPWater containing the following information:
  - a. The ultimate duration, concentration, and quantity of the Release;
  - b. All actions taken to respond to contain, and clean up the Released substances, and all precautions taken to minimize the impacts;
  - c. Any known or anticipated acute or chronic health risks associated with the Release;
  - d. Where appropriate, advice regarding medical attention necessary for exposed individuals;
  - e. The identity of any governmental/private sector representatives responding to the Release; and
  - f. The measures taken or to be taken by the responsible Person(s) to prevent similar future occurrences.
- 4. Any Release Report required by a State or Federal authority shall be adequate to meet the reporting requirements of this Section III(C) upon submittal to EPWater.
- 5. Nothing contained in this section shall be interpreted to limit liability of the

responsible Person for the loss, damage, or other liability which may be incurred as a result of the Release of substances prohibited herein, including, without limitation, any liability for damages to EPWater, the City or to any Person.

6. Nothing contained herein shall be interpreted as to relieve the responsible Person of any fine, penalty, or other liability which may be imposed pursuant to local, state or federal law.
7. Any Person responsible for the Release of any substances prohibited herein shall comply with all state, federal, and any other local law requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the Release.
8. Any Person responsible for a Release described in this Section III(C) shall reimburse EPWater and/or the City for any costs incurred by the EPWater in responding to the Release within thirty (30) days of being invoiced by EPWater.

#### SECTION IV STORMWATER PERMITS

##### A. ADOPTION OF TPDES PERMITS

The following permits are hereby adopted and shall be considered part of these Rules and Regulations No. 2 to the prescribed extent of each of such permit: TPDES General Permit number TXR050000 for industrial facilities, TPDES General Permit number TXR150000 for construction facilities, and all other such TPDES General Permits, and their successors if applicable, required by the State or any other regulatory entity with the authority to regulate the Discharge of Stormwater within the Service Area of EPWater.

##### B. UNPERMITTED DISCHARGES PROHIBITED

A Person who is the Operator of a Facility commits an offense if the Person Discharges, or causes to be Discharged, Stormwater regulated by an NPDES or TPDES permit without first having obtained a NPDES or TPDES permit to do so.

##### C. SMALL CONSTRUCTION ACTIVITIES

1. Automatic Authorization for Small Construction Activities with Low Potential for Erosion: For Small Construction Activity that occurs during periods of low potential for erosion, Operators are not required to develop a Stormwater Pollution Prevention Plan (SWP3) or submit a NOI, so long as the following requirements are met:

- a. Construction activity is initiated and completed, including either

final or temporary stabilization of all disturbed areas, within the time frame identified in the TPDES General Permit for the location of the construction site.

- b. A signed copy of the pertinent construction site notice, including the certification statement, is posted and maintained at the construction site in a location where it is readily available for viewing by the general public and local, State, and Federal authorities prior to commencing construction activities and a copy of it was mailed or delivered to EPWater at least two (2) days prior to Commencement of Construction activities.
- c. All temporary stabilization is adequately maintained to effectively reduce or prohibit erosion and Final Stabilization is completed no later than thirty (30) days following the end date of the time frame identified in the TPDES General Permit for the location of the construction site.
- d. Any supporting concrete batch plant or asphalt plant is separately authorized for Discharges under an individual TPDES permit or other TPDES permit.
- e. The Operator complies with the requirements of the TPDES General Permit.

2. Automatic Authorization for All Other Small Construction Activities: Other Small Construction Activity that does not comply with item 1) above may be automatically authorized under the TPDES General Permit and are not required to submit a NOI provided:

- a. The Operator develops a Stormwater Pollution Prevention Plan (SWP3) according to the provisions of the TPDES General Permit that covers either the entire Site or all portions of the Site for which the applicant is the Operator and implements that plan prior to the Commencement of Construction or any activities related thereto.
- b. The SWP3 and any fees shall be submitted to the City's Office of Planning and Inspections for review and approval. The approved SWP3 shall be obtained by the Operator from the City prior to Commencement of Construction activities. A copy of the SWP3

City permit shall be provided to EPWater at least two (2) days prior to Commencement of Construction activities.

- c. A signed copy of the pertinent construction site notice, including the certification statement, is posted at the construction site in a location where it is readily available for viewing by the general public and local, State, and Federal authorities prior to Commencement Construction activities and a copy of it was mailed or delivered to EPWater at least two (2) days prior to Commencement of Construction activities.
- d. The Operator complies with the requirements of the TPDES General Permit.

3. Waivers from Coverage for Small Construction Activities

Operators of Small Construction Activity sites may be eligible for a waiver from the requirements of this Section IV(C), in the sole discretion of EPWater, under the following terms and conditions:

- a. The Operator of a Small Construction Activity site applies for and receives a waiver from the requirements to obtain authorization under the TPDES General Permit for construction where:
  - (i) The Operator prepares a signed “Low Rainfall Erosivity Waiver” in accordance with the TPDES General Permit for construction activities and certifying that the construction activity will commence and be completed within a period when the value of the calculated rainfall erosivity R factor is less than five (5);
  - (ii) The “Low Rainfall Erosivity Waiver” form is submitted to the TCEQ and a copy is provided to EPWater at least two (2) days before construction activity begins; and
  - (iii) The waiver is approved by TCEQ.
- b. If a construction activity extends beyond the approved waiver period due to circumstances beyond the control of the Operator, the Operator must either:
  - (i) Recalculate the rainfall erosivity R factor using the original start date and a new projected ending date, and if the R factor is still under five (5), the Operator shall submit a new “Low Rainfall Erosivity Waiver” to the TCEQ and to EPWater at least two (2) days before the end of the original waiver period; or
  - (ii) Comply with the requirements of the previous two subsections (Section IV(C) (1) and IV(C) (2) at least two (2) days before the end of the approved waiver period.

D. LARGE CONSTRUCTION ACTIVITIES

Operators of Large Construction Activity that qualifies for coverage under the TPDES General Permit for construction must:

1. Develop a Stormwater Pollution Prevention Plan (SWP3) according to the provisions of the General Permit that covers either the entire Site or all portions of the Site for which the applicant is the Operator and implement that plan prior to commencing construction activities.
2. The SWP3 and any fees shall be submitted to the City for review and approval and a City SWP3 permit shall be obtained by the Operator from the City prior to Commencement of Construction activities. A copy of the SWP3 City permit shall be provided to EPWater Code Compliance at least two (2) days prior to Commencement of Construction activities.
3. Submit a Notice of Intent (NOI), along with required fee(s) if applicable, to TCEQ and EPWater at least ten (10) days prior to commencing construction activities, or within 24 hours before commencing construction activities if utilizing electronic NOI submittal. If the Operator changes, or an additional Operator is added after the initial NOI is submitted, the new Operator must submit an NOI at least ten (10) days before assuming operational control, or within 24 hours before assuming operational control if utilizing electronic NOI submittal.
4. Post a copy of the NOI at the construction site in a location where it is readily available for viewing by the general public and local, State, and Federal authorities prior to commencing construction activities, and maintain the notice in that location until completion of the construction activity.
5. Mail or deliver a copy of the signed NOI to EPWater Code Compliance at least two (2) days prior to the Commencement of Construction activities and retain proof of submittal of the NOI in the SWP3.
6. Submit the Notice of Termination (NOT) to TCEQ requesting termination of coverage at the termination of the permitted Discharges in accordance with the TPDES General Permit. A copy of the NOT shall be mailed or delivered to EPWater Code Compliance.
7. File a Notice of Change (NOC) letter with the TCEQ if applicable in accordance with the TPDES General Permit. A copy of the NOC shall be mailed or delivered to EPWater Code Compliance.

8. Comply with the requirements of the TPDES General Permit.

E. INDUSTRIAL ACTIVITIES

1. All Operators of industrial Facilities must:
  - a. Obtain a TPDES General Permit (number TXR050000) for industrial Facilities (unless exempt by the TCEQ for such permit) and do all of the following:
    - (i) Submit a NOI, along with required fee(s) if applicable, to TCEQ and EPWater prior to commencement of Industrial Activity that could result in a Discharge of Stormwater runoff subject to the requirements of the General Permit.
    - (ii) Maintain the NOI and SWP3 at the Site and be readily available for review by EPWater upon request.
    - (iii) Submit the Notice of Termination (NOT) to TCEQ within ten (10) days after the Facility ceases discharging Stormwater associated with Industrial Activity, obtains coverage under an individual permit, obtains coverage under an alternative General Permit, or within ten (10) days following transfer of ownership or responsibility of the Facility. A copy of the NOT shall be mailed or delivered to EPWater Code Compliance.
    - (iv) File a Notice of Change (NOC) letter with both TCEQ and EPWater within fourteen (14) days, if applicable in accordance with the General Permit.
    - (v) Continue to pay any required fee(s) to TCEQ.
    - (vi) Comply with the requirements of the TPDES General Permit.
  - b. Develop and implement a Stormwater Pollution Prevention Plan (SWP3) according to the provisions of the TPDES General Permit for Discharges associated with Industrial Activity that covers either the entire Site or all portions of the Site for which the applicant is the Operator prior to submitting a Notice of Intent (NOI).
    - (i) The SWP3 and any fees shall be submitted to the City's Office of Planning and Inspections for review and approval. The approved SWP3 shall be obtained by the Operator from the City prior to Discharges associated with Industrial Activity. A copy of the SWP3 City permit shall be provided to EPWater Code Compliance prior to Discharges associated with Industrial Activities.

2. Facilities regulated under a TPDES General Permit may be excluded from permit requirements if there is no exposure of industrial materials or activities from precipitation or runoff. To qualify for a no exposure exclusion from permit requirements, the Operator of the Facility must provide certification that industrial activities and materials are isolated from Stormwater and Stormwater runoff by storm resistant shelters. The certification shall be submitted to the TCEQ using the “No Exposure Certification” (NEC) form. A copy of the NEC form shall be provided to EPWater. The Facility is subject to inspection by EPWater to determine compliance with the NEC.
3. Any Discharge eligible for coverage under a TPDES General Permit may alternatively be authorized under an individual TPDES permit according to Title 30 Texas Administrative Code Chapter 305. If an industrial Facility operates under an individual permit for Stormwater Discharges, the Facility must comply with the requirements of the individual permit.

F. COMPLIANCE WITH PERMIT

1. A Facility shall be operated in strict compliance with the requirements of its NPDES or TPDES general or individual permit to Discharge Stormwater.
2. A Person shall be considered in non-compliance with this Section IV(F) if the Person: (1) operates a Facility in violation of a requirement of the Facility's NPDES; or (2) TPDES individual permit or General Permit to Discharge Stormwater; or (3) fails to obtain authorization to Discharge in accordance with TPDES Permit requirements, if applicable.
3. Notice of Non-Compliance. A Notice of Non-Compliance (NONC) shall be issued to the Person or business pursuant to Section IV(F)(2) may be accompanied with a fine or other disciplinary penalty. A Notice for Non-Compliance shall identify: (1) the non-compliance being alleged; (2) information on how to return to compliance; and (3) specify a reasonable time for the violator to return to compliance. If the time period for compliance expires, the Person shall be issued a Notice of Violation.

G. MODIFICATION OF SWP3

1. EPWater may require any Operator of a Facility to modify the Facility's Stormwater Pollution Prevention Plan (SWP3) if deficiencies in the implementation of the SWP3 are determined by EPWater.

2. The deficiencies in a Facility's SWP3 will be made in writing in a Notice of Non-Compliance, and EPWater will give the Facility Operator a reasonable amount of time, not to exceed thirty (30) days, to make the necessary changes in the SWP3. EPWater may grant a time extension if requested by the Operator and EPWater determines that the request is reasonable.
3. A Person commits an offense for failure to respond to EPWater's Notice of Non-Compliance or for failing to correct the deficiencies identified by EPWater within the required timeframe.

#### H. BEST MANAGEMENT PRACTICES

EPWater may adopt requirements identifying Best Management Practices (BMP) for any activity, operation, or Facility which may cause or contribute to Pollution or contamination of Stormwater, the storm drain system, or Waters of the United States. The Owner or Operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental Discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of these structural and non-structural BMP. Further, any Person responsible for a property or premise, which is, or may be, the source of an illicit Discharge, may be required to implement at said Person's expense, additional structural and non-structural BMP to prevent the further Discharge of Pollutants into the MS4. These BMP shall be part of a Stormwater Pollution Prevention Plan (SWP3).

### SECTION V REPORTING AND MONITORING

#### A. MONITORING OF DISCHARGES

EPWater reserves the right to require the Discharger to install monitoring equipment as necessary. The Facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the Discharger at the Discharger's expense. All devices used to measure Stormwater flow and quality shall be calibrated to ensure their accuracy.

#### B. ACCESS TO FACILITIES

1. EPWater, or its agents or representative(s), or the agents or representatives of the TCEQ or EPA, may enter premises regulated by these Rules and Regulations No. 2 at all reasonable times, whenever it is necessary to make an inspection to enforce any of the provisions of these Rules and Regulations No. 2, to conduct any activity authorized or required by these Rules and Regulations No. 2, including without limitation, to inspect permits and records required by these Rules and Regulations No. 2, to



collect air, Stormwater, Water, waste, or Wastewater samples, or whenever probable cause exists to believe that a violation of these Rules and Regulations No. 2 or any other environmental laws exists on such premises.

2. EPWater agents and representatives shall first present credentials and request entry if the premises are occupied. If the premises are unoccupied, a reasonable attempt shall be made to locate the Owner or Person in control of the premises and request entry.
3. Where premises have security measures in force that require proper identification and clearance before entry into its premises, the Person in control of the premises shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, EPWater agents or representatives shall be permitted to enter without delay for the purpose of conducting any activity authorized or required by these Rules and Regulations No. 2, including without limitation ensuring compliance with these Rules and Regulations No. 2.
4. If entry is denied or if a Person in control cannot be located, EPWater agents or representatives shall have every recourse provided by law to secure entry. Such recourse may include, but is not limited to, the right to obtain a right of entry under applicable law.
5. Facility Operators shall allow EPWater agents or representatives immediate access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept pursuant to the terms of a SWP3, the conditions of an NPDES or a TPDES permit to Discharge Stormwater, if applicable, and the performance of any additional duties as defined by State and Federal law.
6. EPWater shall have the right to set up on any permitted Facility such devices as are necessary in the opinion of EPWater to conduct monitoring and/or sampling of the Facility's Stormwater Discharge.
7. Any temporary or permanent obstruction to safe and easy access to the Facility to be inspected and/or sampled shall be promptly removed by the Operator at the written or oral request of EPWater and shall not be replaced. The costs of clearing such access shall be borne by the Operator.
8. Unreasonable delays in allowing EPWater access to a permitted Facility is an express violation of a Stormwater Discharge permit and of these Rules and Regulations No. 2. A Person who is the Operator of a Facility associated with construction or Industrial Activity commits an offense under these Rules and Regulations No. 2 if the Person denies EPWater

access to the Facility for the purpose of conducting any activity authorized or required by these Rules and Regulations No. 2, including without limitation ensuring compliance with these Rules and Regulations No. 2.

C. CITIZEN PARTICIPATION

1. All citizens are encouraged to report to EPWater any spills, Releases, illicit connections, other instances of anyone discharging Pollutants, into the MS4 or Waters of the United States, and any other violation of these Rules and Regulations No. 2, of which they become aware.
2. EPWater may receive citizen reports by telephone, in writing, or in person. A written record of each citizen report will be prepared and kept on file for a period of three (3) years, and a copy of EPWater's record of the report will be furnished to the reporting citizen upon request. Also, upon request, EPWater will inform the reporting citizen of any action undertaken by EPWater in response to the citizen's report.

D. CONFIDENTIAL INFORMATION

Discharger information and data obtained from reports, questionnaires, applications, permits, monitoring programs and inspections may be made public by EPWater subject to the Texas Public Information Act.

E. DISCHARGE MONITORING REPORTS

A copy of any Discharge Monitoring Report (DMR) submitted by the permittee under a TPDES General Permit shall be submitted to EPWater within fifteen (15) days of submitting it to the TCEQ.

F. NOTICES

Unless otherwise provided, all written notices required by these Rules and Regulations No. 2, shall be submitted to:

El Paso Water Utilities  
Code Compliance Manager  
4801 Fred Wilson Ave.  
El Paso, TX 79906

SECTION VI PENALTIES AND ENFORCEMENT

A. CIVIL PENALTIES

1. NOTICE OF VIOLATION

a. Whenever EPWater reasonably believes that any Person has violated or is violating any of the provisions contained in these Rules and Regulations No. 2 and/or a permit or order issued hereunder, EPWater may serve (either personally or by registered or certified mail) upon such Person or permittee a written Notice of Violation (NOV) directing the Person or permittee to stop alleged violation; to immediately comply with these Rules and Regulations No. 2; and to state that they are in violation of these Rules and Regulations No. 2 and specify the alleged violation.

b. The recipient of an NOV must respond in writing to EPWater within fifteen (15) days from the date of receipt of such notice (Response) indicating one of the following:

1. The Person or permittee admits his or her responsibility for the alleged violation. The Person or permittee shall also submit any required information specified in the NOV; or
2. The Person or permittee denies his or her responsibility for the alleged violation. The Person or permittee must submit an explanation to the EPWater explaining why responsibility is being contested.

EPWater will review Response submitted as to the appropriateness of the Response and whether or not any Civil Penalties will be assessed by EPWater. EPWater will subsequently issue a written decision. A Person or permittee may appeal such decision in accordance with Rules and Regulations No. 8.

Should the recipient of an NOV fail to send a Response to EPWater in writing within the fifteen (15) day response period, the recipient shall be deemed to have admitted to responsibility for the alleged violation. EPWater may assess Civil Penalties for the violation(s).

c. Civil Penalties assessed by EPWater will be included with the customer's subsequent EPWater monthly bill along with a copy of the NOV. Such penalties shall be paid by the customer upon receipt and/or due date specified on their bill. Non-payment of such charges related to the Notice of Violation shall be grounds for termination of EPWater services.

## 2. CIVIL PENALTIES

A Person who violates any provision of these Rules and Regulations No. 2 shall be subject to a civil penalty up to a maximum of \$5,000. If a violation continues for more than one (1) day, each day shall constitute a separate offense. A culpable

mental state is not required to prove an offense under these Rule and Regulations No. 2.

B. CRIMINAL PENALTIES

1. CRIMINAL PENALTIES

Any Person violating any provision of these Rules and Regulations No. 2 may be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$2,000 per violation, and if such violation is a continuous one, each day's violation shall constitute a separate offense, as outlined in Title 15 of the City of El Paso Municipal Code.

2. AUTHORITY TO ISSUE CITATIONS

Authorized EPWater personnel may issue Class C misdemeanor citations for violations of any provision of these Rules and Regulations No. 2.

C. STOP WORK ORDER

EPWater is authorized to issue Stop Work Orders to Persons or entities performing construction related activities ordering them to immediately cease construction activities to prevent or abate any violations of these Rules and Regulations No. 2. A Person or entity in violation of any provision of a Stop Work Order shall be subject to Civil Penalties.

D. SUSPENSION OF MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) ACCESS

1. Suspension due to Illicit Discharges in Emergency Situations. EPWater may, without prior notice, suspend MS4 discharge access to a Person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of Persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to Persons.

2. Suspension due to the Detection of Illicit Discharge. Any Person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit Discharge. EPWater will notify a violator of the proposed termination of its MS4 access. A violator may appeal the suspension in accordance with Rules and Regulations No. 8.

3. A Person commits an offense if the Person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of EPWater.

E. JUDICIAL RELIEF

Notwithstanding any contrary provisions herein contained, legal counsel for EPWater is hereby authorized, in the President's discretion, to initiate and proceed with legal action and/or equitable remedies against any Person and/or Discharger believed to be violating, believed to have violated or believed to be imminently about to violate any provision contained in these Rules and Regulations No. 2 and/or Federal or State laws governing water quality, Stormwater, and Hazardous Waste or non-hazardous waste over which EPWater has enforcement authority. A legal proceeding prosecuted under these Rules and Regulations No. 2 does not constitute a waiver by EPWater of any right EPWater may have to join in a legal action originating from an alternative source of law.

F. REMEDIES NONEXCLUSIVE

The remedies provided for in these Rules and Regulations No. 2 are deemed not exclusive, and EPWater may take more than one enforcement action against any Person in violation of the provisions contained herein. EPWater may take any, all, or a combination of the enforcement provisions contained herein and/or allowed under the law, to include, but not limited to termination of services, against a person in violation of these Rules and Regulations No. 2.

## SECTION VII CUSTOMER'S RIGHTS AND RESPONSIBILITIES

A. CUSTOMER FACILITIES

EPWater does not assume the responsibility of inspecting any part of the customer's installation of Stormwater Facilities. The customer shall be solely responsible for the costs of installing and maintaining any such Facilities. EPWater shall have access to any Benefited Property served by the Drainage Utility for inspection or repair or for the enforcement of the provisions of these Rules and Regulations No. 2.

B. DAMAGE TO CUSTOMER

The City of El Paso and/or EPWater shall not be responsible for any loss or damage caused by the improper installation, condition or use of the User's equipment or by any negligence or wrongful act of the User or his agents, employees or licensees.

C. DAMAGE TO UTILITY EQUIPMENT

Any damage to equipment belonging to EPWater caused by the negligence or wrongful act of the User or its agents, employees or licensees shall be paid for by the User immediately upon issuance and receipt of a bill, therefore, non-payment of such charges shall be grounds for termination of service.

## SECTION VIII DESIGN AND OWNERSHIP OF FACILITIES

### A. OPERATIONS, MAINTENANCE AND OWNERSHIP

EPWater shall design, construct, operate and maintain all public Stormwater Facilities with due regard to present and future requirements of capacity, system operation and efficiency and anticipated life of such improvements. Title to all such Facilities shall remain in the El Paso Water Utilities, City of El Paso, Texas, acting by and through its Public Service Board upon completion of the construction of such Facilities and upon the incorporation of such Facilities into the operating system.

### B. UTILITY FURNISHED EQUIPMENT

All EPWater-installed fixtures, equipment and materials shall remain the sole property of the El Paso Water Utilities, Public Service Board, acting for and on behalf of the City of El Paso.

## SECTION IX SEVERABILITY CLAUSE

These Rules and Regulations No. 2 are part of the other Rules and Regulations of the Public Service Board and Persons accepting service agree to comply with the appropriate provisions and conditions of all of the Rules and Regulations. If any provision, paragraph, section, subsection, sentence, clause or phrase of these Rules and Regulations No. 2 or the application of same to any Person or set of circumstances is for any reason invalidated by and court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 2. The remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect.

## SECTION X SAVINGS CLAUSE

These Rule and Regulations No. 2 are expressly made a part of the other Rules and Regulations promulgated by the Public Service Board and, save and except as amended hereby, the remaining provisions of the Public Service Board's Rules and Regulations shall remain in full force and effect.

## SECTION XI EFFECTIVE DATE

These Rules and Regulations No. 2 shall be and become effective from and after their adoption hereby and shall remain in effect until amended or changed by the Public Service Board.

PASSED, APPROVED and ADOPTED at the regular meeting of the Public Service Board of the City of El Paso, Texas, the 12th day of December, 2007, at which a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq.

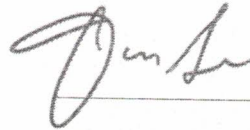
RULES & REGULATIONS NO. 2, SECTION 1.B., ADDED, REVISED, APPROVED & ADOPTED the 23rd day of July 2008, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 2, SECTION 1 (B), ADDED, REVISED, APPROVED & ADOPTED the 9<sup>th</sup> day of January 2019, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 2, SECTION I (A, B, D, E), SECTION II (A), SECTION III (A, B, C) SECTION IV (A, B, C, D, E, F, G, H), SECTION V (A, B, C, D, E, F) SECTION VI (A, B, C, D, E, F) SECTION VII (A, B, C,) SECTION VIII (A, B) SECTION IX AND SECTION X, ADDED, REVISED, APPROVED & ADOPTED at the regular meeting of the Public Service Board of the City of El Paso, Texas, at which a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq on this the 13<sup>th</sup> day of April 2022.

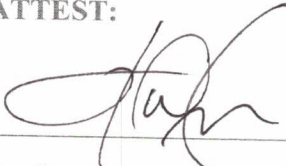
RULES & REGULATIONS NO. 2, SECTION I (B), SECTION II (A)(6), SECTION IV (D)(2)(5)(6)(7), (E)(a)(iii), (E)(b)(i), SECTION V (F) SECTION VI (D)(1), ADDED, REVISED, APPROVED & ADOPTED at the regular meeting of the Public Service Board of the City of El Paso, Texas, at which a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq on this the 14<sup>th</sup> day of February 2024.

**PUBLIC SERVICE BOARD:**



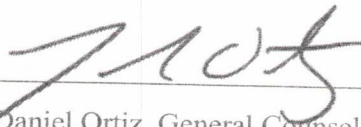
Dr. Ivonne Santiago, Chair

**ATTEST:**



Charlie Intebi, Secretary-Treasurer

**APPROVED AS TO FORM:**



Daniel Ortiz, General Counsel

RULES AND REGULATIONS NO. 3

RULES AND REGULATIONS  
ESTABLISHING ADJUSTED RATES FOR THE  
FURNISHING OF STORMWATER SERVICE  
BY THE EL PASO WATER UTILITIES

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF CHAPTER 552, SUBCHAPTER A OF THE TEXAS LOCAL GOVERNMENT CODE, AS AMENDED (THE ACT), AUTHORIZING THE CITY TO ESTABLISH A MUNICIPAL DRAINAGE UTILITY SYSTEM, AND ORDINANCE 16668, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON JUNE 19, 2007, DECLARING THE DRAINAGE SYSTEM OF THE CITY TO BE A PUBLIC UTILITY AND AUTHORIZING THE PUBLIC SERVICE BOARD TO HAVE COMPLETE AUTHORITY AND CONTROL OF THE MANAGEMENT AND OPERATION OF THE SYSTEM; NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULES FOR THE FURNISHING OF STORMWATER SERVICE WITHIN THE CITY OF EL PASO ARE HEREBY ESTABLISHED.

SECTION I      GENERAL

A.      TABLE OF CONTENTS

The following headings or captions are adopted as the Table of Contents for Public Service Board Rules and Regulations No. 3.

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## B. DEFINITIONS

### Benefited Property:

An improved lot or tract to which service is made available under the establishing Drainage Ordinance and in accordance with applicable Rules and Regulations.

### Best Management Practices (BMPs):

Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to control, prevent, or reduce the discharge of pollutants. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

### Compacted Soil:

Any amount of compaction above the soil's natural state caused by any means. This includes but is not limited to soil that has been compressed by vehicles that have driven over it.

### Delinquent Accounts:

A user of the Utility who has failed to pay the charges promptly when due.

### Detention Pond:

Excavated area that protects against flooding by storing water for a pre-determined period of time. Detention Ponds have an outlet structure.

### Drainage Ordinance:

Ordinance 016668 passed and approved by the City Council of the City of El Paso, Texas on June 19, 2007, authorizing the Public Service Board to have complete authority and control of the management and operation of the stormwater system.

### EPWater:

See the definition of Utility below.

### EPWU:

See the definition of Utility.

### Equivalent Residential Unit ("ERU"):

A unit determined by dividing the impervious square footage of a property by 2,000 square feet.

### Impervious Area:

Any area that has been disturbed from its natural condition in such a way as to reduce the ability of the surface to absorb and infiltrate water into the soil, by regrading placement of any material underlaid by plastic, placement of millings, or any other drivable material. Impervious Areas include, but are not limited to, Compacted Soils, buildings, pavement, parking lots, driveways, sidewalks, and any other man-made structure or surface that is built or laid on the natural surface of the land which has the effect of increasing, concentrating, or otherwise altering stormwater runoff so that flows are increased. Xeriscaped properties and turf are considered pervious.

### Municipal Separate Storm Sewer System ("MS4"):

The system of conveyances (including roads with drainage systems, municipal streets, flood control dams, retention and detention basins, grate and/or curb inlets, curbs, gutters, ditches, man-made channels, arroyos, agriculture drains, storm drains or designated flow paths) owned, operated or controlled by the city and/or the Public Service Board and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

### Non-Residential Property(ies):

Non-Residential Properties shall include all non-residential customer classes including apartments (quadplexes and higher), commercial and industrial customers, and any other class not designated as residential, but excluding those subjects to mandatory exemption under Section 552.053(c) of the Texas Local Government Code.

Probable Maximum Flood (PMF):

The largest flood that could occur at a particular location, usually estimated from the Probable Maximum Precipitation, and where applicable, snow melt, coupled with the worst flood producing conditions in the water shed.

Probable Maximum Precipitation (PMP):

Defined by the National Weather Service as “theoretically, the greatest depth of precipitation for a given duration that is physically possible over a given storm area at a particular geographical location at a certain time of the year”.

Properly Maintained System:

A drainage system must be kept as originally designed and constructed. Examples of a Properly Maintained System include but are not limited to regularly inspected, cleared of debris, trash, silt accumulation and sediment build up; be cleaned and any visible signs of erosion must be repaired.

Retention Pond:

Excavated area that protects against flooding by storing water for an indefinite period of time. Retention ponds do not have an outlet structure. Release of water happens through infiltration and/or evaporation.

Residential Property(ies):

Residential Properties shall include single family, duplex, and triplex properties.

Undeveloped Land:

Property held and maintained in its natural state on which no improvements currently exist.

Utility:

EPWU, EPWater, El Paso Water as used herein, means El Paso Water Utilities, which provides stormwater services through the Municipal Drainage Utility System.

Wholly Sufficient: Land and dedicated engineered stormwater structures owned and operated for the purpose of retaining 100 percent of the volume, with no discharge, of the Probable Maximum Flood, which includes proper allowances for emergency storage and siltation.

## SECTION II ADJUSTED STORMWATER CHARGES

A monthly stormwater fee shall be imposed on each improved parcel within the City of El Paso for services and facilities provided by the Utility, except as provided for by law or by these Rules and Regulations. The stormwater fee shall be based on the developed use of the Benefited Property and its estimated amount of Impervious Area. The adjusted stormwater rates are effective with the March Utility billing cycle. The following charges shall apply for stormwater service provided to property within the City of El Paso:

### A. STORMWATER CHARGE FOR RESIDENTIAL

Residential Properties will be charged a fixed monthly charge, as shown in the following table:

<b>Residential Category</b>	<b>Impervious Area (Square Feet)</b>	<b>Stormwater Monthly Charge</b>
Extra Small	0 – 900	\$3.00
Small	901 – 1,200	\$3.71
Typical	1,201 – 3,000	\$7.42
Large	3,001 – 4,000	\$14.81
Extra Large	> 4,001	\$18.55

Residential Properties may be assigned to the Extra Small, Small, Typical, Large, or Extra Large category using data obtained from the Central Appraisal District, Utility’s GIS database, or any other source deemed reasonable by the Utility.

B. STORMWATER CHARGE FOR NON-RESIDENTIAL

Non-Residential Properties shall include apartments, quadruplexes, commercial, industrial customers, and any other customer class not designated as residential, but excluding those subject to mandatory exemption. Non-Residential Properties shall be charged for their estimated impervious square footage on a per Equivalent Residential Unit ("ERU") basis. The ERUs are calculated by dividing the property's estimated impervious square footage by 2,000 square feet. The monthly charge per non-residential ERU is \$7.55

An example of the monthly stormwater bill for a Non-Residential Property is shown below:

Non-residential impervious square footage	20,000 sq. ft.
Equivalent Residential Unit value	<u>2,000</u> sq. ft.
Equals calculated ERUs	10 ERUs
Monthly charge (10 ERUs x \$7.55/ERU/Mo.)	\$75.50

All social service entities, non-profit agencies, and churches will pay a fee equal to 10% of the approved non-residential fee. This rate will remain in effect until the account is closed. New account holders must apply in writing to EPWU Customer Service to request this reduced fee.

Apartment units with meters classified as residential will be billed individually based on the unit size per residential category (small, typical, or large). If the complex is two or more stories, the charge will be divided among the number of units sharing the same footprint.

The City of El Paso Housing Authority and independent school districts are exempt from stormwater fees in accordance with Section 552.053(e), Texas Local Government Code.

C. IMPERVIOUS AREA DETERMINATION

The Utility has the authority to establish the impervious square footage using the following approaches:

1. An analysis of El Paso Central Appraisal District data on the footprint of the main building and any structural additions such as garages or tennis courts that would increase the impervious footprint of the parcel.
2. A calculation of the impervious square footage using GIS and aerial photography.
3. Detailed and approved building plans provided.
4. Any other source deemed reasonable by the Utility.

The Impervious Area for a property may be updated at any time to reflect improvements made to the property that would either increase or decrease the estimated impervious square footage.

D. STORMWATER-ONLY ACCOUNTS

The Utility may establish stormwater-only accounts for properties that contribute stormwater as a result of their Impervious Area.

SECTION III BILLING FOR STORMWATER

A. MONTHLY BILLING

A stormwater charge shall be billed on the monthly Utility bill. The due date for payment and associated charges for Delinquent Accounts under Section V of Rules and Regulations No. 5 are hereby incorporated by reference as applying to stormwater charges. Discontinuance of service and Delinquent Accounts are addressed further in these Rules and Regulations.

B. RESPONSIBLE PARTY

The monthly charge for stormwater will be billed to the customer established as the responsible party for water service. If the Benefited Property does not receive a monthly Utility bill, the stormwater charge will be the responsibility of the property owner.

C. MULTIPLE METERS

If more than one meter serves a Benefited Property, the Utility will determine the allocation of the charge among the users using any reasonable method, including allocating the charge equally among the users of a Benefited Property.

D. EXEMPTIONS

The following entities or individuals shall be exempt from charges:

1. Any property to which a mandatory exemption under Section 552.053(c) of the Texas Local Government Code applies, including without limitation:
  - a. Property with proper construction and maintenance of a Wholly Sufficient and privately owned drainage system including each of the following elements:
    - (i) Land and dedicated engineered stormwater structures owned and operated for the purpose of retaining 100 percent of the volume, with no discharge, of the Probable Maximum Flood, which includes proper allowances for emergency storage and siltation.
    - (ii) There shall be no discharge of the system into a street, alley, arroyo, creek, river, slough, culvert or other channel that is part of the municipal drainage system.
    - (iii) A post-construction survey of the development must be completed to verify that the improvements were constructed per the approved grading plan and that all runoff is being retained within the development. The post-construction survey must be performed by a registered professional land surveyor, at the expense of the owner.
    - (iv) The facility must have a written maintenance plan effectively documenting policies and procedures designed to ensure that the stormwater system will continue to safely contain the Probable Maximum Flood.
    - (v) The owner must provide documentation required in (i) through (iv) of this Section in the form of engineering reports, surveys, maps, and supporting documentation signed and sealed by a Registered Professional Engineer.
    - (vi) The stormwater Utility engineering staff will review the documentation submitted. If there is insufficient information, the owner will then be responsible to resubmit the required documentation.
    - (vii) The stormwater Utility engineering staff will render a decision regarding the submitted documentation. The decision could include defining all or a portion of the parcel as Wholly Sufficient.
    - (viii) The exemption shall be in effect as long as the owner complies with the requirements as described in (i) through (iv) of this Section.
    - (ix) The stormwater Utility staff retains the right to enter the property to inspect the facilities at any time during normal business hours. If entry is denied, the Wholly Sufficient exemption will not be applicable to the property.
  - b. Property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the

municipality in which the property is located for maintenance.

- c. A subdivided lot, until a structure has been built on the lot and a certificate of occupancy has been issued by the municipality in which the property is located.
2. Any property to which a mandatory exemption under Section 552.053 of the Texas Local Government Code applies, or which is exempt under applicable federal law, including, but not limited to:
  - a. A federal or state agency; and
  - b. A public institution of higher education.

#### E. CREDITS

A credit on the stormwater charges billed may be granted for Non-Residential Properties that have properly implemented stormwater management measures that meet the minimum design standards established by the City of El Paso. A 25% credit will be given after the written application is submitted to the Utility and the Utility verifies that the stormwater pond is properly designed, built and maintained to the design conditions and capacity. At the time of application to receive a credit, the applicant must provide a post-construction survey of the development at the time of the application to verify improvements were constructed per the approved grading plan. The post-construction survey must be performed by a registered professional land surveyor (RPLS), at the expense of the property owner. The credit is not retroactive and will only apply to billing forward from the date of approval from the Utility. The Utility may revoke the credit if the pond is not maintained as designed. Residential Properties are not eligible for credits.

#### SECTION IV DISCONTINUANCE OF SERVICE

The Utility shall have the right, with notice to the customer, to discontinue water service for non-payment of stormwater charges, for violation of any provisions of the Utility's Rules and Regulations or any other lawful rule or regulation of the Utility or the City of El Paso, or for any other action which interferes with providing stormwater service or which creates a danger of contamination to the water system. Provided, however, the Utility shall have the authority to immediately discontinue the customer's service without notice, should any violation of EPWater Rules and Regulations or any other applicable regulations under applicable laws cause an immediate threat to the public health or safety or the environment. Such service shall remain discontinued until all errors are rectified and/or violations have ceased.

#### SECTION V DELINQUENT ACCOUNTS

The Texas Local Government Code, Section 552.050, authorizes a utility to discontinue any utility services it currently provides for failure to pay stormwater charges when due by stating the following: "...*failure of a user of the municipal utilities within the service area to pay the charges promptly when due shall subject such user to discontinuance of any utility services provided by the municipality...*". The schedule for payment and disconnection of water service and all associated charges and fees applicable to delinquent stormwater accounts are as stated in Rules and Regulations No. 5.

#### SECTION VI APPEALS

Customer may follow the processes of Rules and Regulations No. 8 to appeal certain administrative decisions, request an appeal to the Public Service Board, request a variance from the Rules and Regulations or to file complaints regarding service and billing issues and regarding the application of the Rules and Regulations.

#### SECTION VII SEVERABILITY

These Rules and Regulations are part of the other Rules and Regulations of the Public Service Board and persons accepting services agree to comply the appropriate provisions and conditions of all the Rules and Regulations. If any provision, paragraph, section, subsection, sentence, clause or phrase of these Rules and Regulations No. 3 or the application of same to any person or set of circumstances is for any reason invalidated by any court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 3. The remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect.

#### SECTION VIII SAVINGS

These Rules and Regulations are a part of the other Rules and Regulations of the Public Service Board and, save and except as amended hereby, the remaining provisions of the Public Service Board's Rules and Regulations shall remain in full force and effect.

## SECTION IX EFFECTIVE DATE

These Rules and Regulations No.3 shall be and become effective from and after their adoption by the Board and shall remain in effect until amended or changed by the Public Service Board. Changes to any fees or rates resulting from approval of the budget are effective on the 1<sup>st</sup> day of March and shall remain in effect until amended or changed by the Public Service Board

PASSED, APPROVED and ADOPTED, AMENDED STORMWATER RATES at the special meeting of the Public Service Board of the City of El Paso, Texas, this 7th day of May, 2008, and AMENDED DEFINITION OF WHOLLY SUFFICIENT at a regular meeting of the Public Service Board of the City of El Paso, Texas, this the 23<sup>rd</sup> day of July, 2008, at which a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq.

RULES AND REGULATIONS NO. 3, SECTION III(E), AMENDED, APPROVED and ADOPTED this 11<sup>th</sup> day of March, 2009.

RULES AND REGULATIONS NO. 3, SECTION II(B), AMENDED IN 2011 BY ACTION OF THE 81<sup>ST</sup> TEXAS LEGISLATURE.

No action necessary by Public Service Board

RULES AND REGULATIONS NO. 3 SECTION II (A, B), AMENDED, APPROVED, and ADOPTED this 21<sup>st</sup> day of January 2015, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION II (A, B), SECTION III D(a)(vii) AMENDED, APPROVED, and ADOPTED this 13<sup>th</sup> day of January 2016, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION II (A, B), AMENDED, APPROVED, and ADOPTED this 11<sup>th</sup> day of January 2017, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION II (A, B), AMENDED, APPROVED, and ADOPTED this 10<sup>th</sup> day of January 2018, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION I (B), SECTION III (D) (1)(a), (b), (E), AMENDED, APPROVED, and ADOPTED this 9<sup>th</sup> day of January, 2019, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION II (A, B), AMENDED, APPROVED, and ADOPTED this 13<sup>th</sup> day of January, 2021, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION I (A, B), SECTION II (A, B, C, D), SECTION III (A, B, C, D, E), SECTION IV, SECTION V, SECTION VI, SECTION VII AMENDED, APPROVED, and ADOPTED this 12<sup>th</sup> day of January, 2022, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

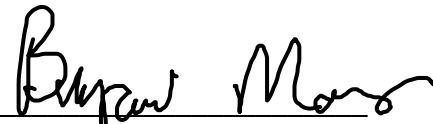
RULES AND REGULATIONS NO. 3 SECTION I (A, B), SECTION II (A, B, E), SECTION III (D, E), SECTION IV, SECTION V, SECTION VI, SECTION VIII, SECTION IX AMENDED, APPROVED, and ADOPTED this 11<sup>th</sup> day of January, 2023, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.


RULES AND REGULATIONS NO. 3 SECTION I (A, B), SECTION II (A, B), APPROVED, and ADOPTED this 14<sup>th</sup> day of February, 2024, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION I (B), SECTION II (A, B), APPROVED, and ADOPTED this 8<sup>th</sup> day of January 2025, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 3 SECTION II (A), APPROVED, and ADOPTED this 14<sup>th</sup> day of January, 2026, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

**PUBLIC SERVICE BOARD:**

  
Bryan Morris, Chair

ATTEST:   
Stefanie Block Uribe - Secretary-Treasurer

**APPROVED AS TO FORM:**

  
Daniel Ortiz, General Counsel

**A RESOLUTION ADOPTING PUBLIC SERVICE BOARD RULES AND REGULATIONS NO. 4 GOVERNING THE MANDATORY SEWER CONNECTION BY WATER SERVICE CUSTOMERS; AND PROVIDING AN EFFECTIVE DATE.**

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**RULES AND REGULATIONS NO. 4**

**RULES AND REGULATIONS  
GOVERNING THE MANDATORY SEWER CONNECTION BY  
WATER SERVICE CUSTOMERS**

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111-1118, REVISED CIVIL STATUTES OF TEXAS, SECTION 214.013 OF THE LOCAL GOVERNMENT CODE, REVISED CIVIL STATUTES OF TEXAS, AND ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON MAY 22, 1952, AND AS THEREAFTER AMENDED, NOW THEREFORE BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF EL PASO:

**SECTION 1.** That Public Service Board Rules and Regulations No. 4, establishing various deposits and charges for furnishing of water and/or sewer service by the El Paso Water Utilities Public Service Board, is hereby established as follows:

**Section 1. Purpose and Policy**

The PSB, as the Regional Water and Wastewater Planner for the area pursuant to Senate Bill 450, 74th Texas Legislature, has a primary responsibility to protect El Paso's groundwater resources for the benefit of all users. The purpose of this Rule is to protect the public health by ensuring proper treatment of sewage, to prevent contamination of groundwater and subsurface soil, and to conserve potable water supplies by treating wastewater and making it available for reuse.

**Section 2. Connection to Sewer System Required**

All real property located within the City of El Paso or its extraterritorial jurisdiction that receives water service from El Paso Water Utilities must be connected to the City's sanitary sewer system if:

- a. use of the property generates any sewage;
- b. the property abuts on an easement or street with a sewer line capable of providing service; and,



- c. the distance from the building to the sewer line does not exceed 150 feet measured perpendicular to the sewer line.

Connection to the sewer system shall be at the expense of the owner and in accordance with applicable Rules and Regulations of the Public Service Board.

**Section 3. Notice of Violation, Termination of Water Service**

Whenever the PSB finds that any owner has violated or is violating these Mandatory Sewer Connection Rules, the PSB will serve upon said owner, by U.S. mail, certified/return receipt requested, written notice of the violation. Within 180 days of the receipt of the notice, the owner shall provide evidence that connection to the City's sewage system has been completed. Failure to connect after notice shall be grounds for termination of water service.

**Section 4. Nuisance**

Use of any property with the City of El Paso or its extraterritorial jurisdiction that generates any sewage without connection to the City's sewage system, where connection is required by this rule, is declared to be a nuisance.

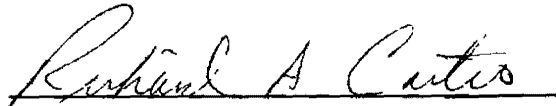
**SECTION 2.** These rules and regulations are a part of the other rules and regulations of the Public Service Board. Persons accepting service agree to comply with the appropriate provisions and conditions of all the rules and regulations. If any provision, section, subsection, sentence, clause, or phrase of these rules and regulations, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of these rules and regulations shall not be affected and all provisions of the rules and regulations are declared to be severable for that purpose.

**SECTION 3.** These rules and regulations are a part of the other rules and regulations of the Public Service Board and save, except as amended hereby, the remaining provisions, sections, sentences, and paragraphs of the remaining Public Service Board's rules and regulations shall remain in full force and effect.

**SECTION 4.** This Rules and Regulations No. 4 shall become effective March 1, 1997, and shall remain in effect until amended or changed by the Public Service Board.

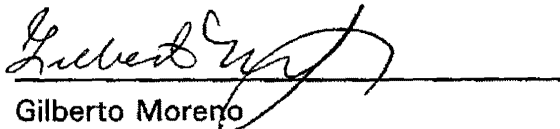
**PASSED AND APPROVED** at regular meeting of the **Public Service Board** of the City of El Paso Texas, this **11th day of December, 1996**, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq.

PUBLIC SERVICE BOARD




Richard A. Castro  
Chair

ATTEST:



Gilberto Moreno  
Secretary-Treasurer

APPROVED AS TO FORM:



Michael Spurlock  
General Counsel

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## RULES AND REGULATIONS NO.5

### RULES AND REGULATIONS ESTABLISHING A RATE FOR THE FURNISHING OF WATER SERVICE BY THE EL PASO WATER UTILITIES

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111- 1118, REVISED CIVIL STATUTES OF TEXAS, AND ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON MAY 22, 1952 NOW THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING WATER RATES SUPERSEDE ALL RATES HERETOFORE FIXED AND ALL ORDINANCES HERETO PASSED WITH REFERENCE TO THE FIXING OF RATES FOR THE FURNISHING OF WATER SERVICE: (KNOWN AS RULES AND REGULATIONS NO.5).

#### SECTION I

A monthly charge consisting of a minimum charge and a commodity charge for water used shall be collected from users of every water service connected to the water system of the El Paso Water Utilities of the City of El Paso, Texas ("Utility"). The minimum charge will include a volume allowance of five hundred cubic feet (5 CCF) for residential customers only. The following charges shall apply:

#### A. MONTHLY MINIMUM CHARGES FOR WATER SERVICE BASED ON THE SIZE OF THE METER

<u>Meter Size</u>	<u>Minimum Monthly Bill</u>
Less than 1" and 1 CCF or less	\$8.27
Less than 1"	\$11.82
1"	\$18.42
1½"	\$31.60
2"	\$38.01
3"	\$75.90
4"	\$113.31
6"	\$171.76
8"	\$294.24
10"	\$565.79

#### B. Water used in excess of the volume allowance included in the minimum charge shall be billed at the following rates:

<u>Block</u>	<u>Volume</u>	<u>Charge Per CCF</u>
Block 1	Over 5 CCF to 150% of AWC* (Residential)	\$3.92
	1 CCF to 150% of AWC* (Nonresidential)	\$3.92
Block 2	Over 150% to 250% of AWC	\$9.26
Block 3	Over 250% of AWC	\$13.24

#### C. AVERAGE WINTER CONSUMPTION (AWC)\*

Average Winter Consumption ("AWC") means the average amount of water used during the most recent December, January, and February billing periods. If the customer's calculated AWC is lower than the class average, then the customer will be assigned the class average AWC by meter size for the respective customer classification. Any unestablished (no history) customer at the time of service will default to the class average AWC by meter size for that customer classification until such time that an AWC can be established.

D. WATER SUPPLY REPLACEMENT CHARGE

The following monthly Replacement Charge shall be collected from users of every service connected to the water system, including Local Government Turf Accounts and Very Large Water Users:

<u>Meter Size</u>	<u>Monthly Charge*</u>
Less than 1"	\$17.49
1"	\$43.80
1 ½"	\$87.58
2"	\$140.15
3"	\$280.15
4"	\$437.79
6"	\$875.58
8"	\$1,628.55
10"	\$3,100.36

\* If the monthly water consumption is 4 CCF or less, the monthly charge for the Water Supply Replacement Charge will not be charged.

- E. Charges for services less than the normal reading cycle shall be calculated in the same manner as a full reading cycle.

F. VERY LARGE WATER USERS

Section 15.13.050 of the City of El Paso Municipal Code, also known as The Water Conservation Ordinance, defines a "Very Large Water User" as any person who uses an average of 100,000 gallons or more per day. Monthly metered water consumption for any Very Large Water User shall be charged in accordance with the following table:

		<u>Charge Per CCF</u>
Block 1	0 CCF to 5,000 CCF	\$4.77
Block 2	5,001 CCF to 15,000 CCF	\$6.49
Block 3	Over 15,000 CCF	\$9.26

The Monthly Minimum Charge based on meter size, as specified in Section I, A of these Rules and Regulations, shall also apply to all Very Large Water Users. There will be no minimum volume allowance included in the Monthly Minimum Charge; all metered use will be charged at the rates listed above.

For existing accounts served by the Utility, daily water use shall be determined each year based on metered water consumption for the twelve-month period ending December 31. Annual water use (in gallons) will be divided by 365 to determine daily water use. Any account determined to have used an average of 100,000 or more gallons per day shall be classified as a Very Large Water User, and the rates contained in this subsection shall apply for the twelve-month period beginning March 1 and ending at the end of February of the following fiscal year. This classification shall apply for the full twelve-month period regardless of actual water use. The procedure for determining a Very Large Water User shall be repeated each year based on annual metered water

use per account for the twelve months ending December 31.

New accounts with an anticipated water use in excess of 100,000 gallons per day will be charged the rates for Very Large Water Users until sufficient data is available for a consecutive twelve-month period.

This data shall then be used to calculate average daily water consumption and determine whether an account meets the definition of a Very Large Water User.

\*This rate does not apply to Local Government Landscape and Irrigation Accounts.

G. LOCAL GOVERNMENT LANDSCAPE AND IRRIGATION RATE

A uniform rate of \$4.77 per hundred cubic feet (CCF) is hereby established for the Local Government Landscape and Irrigation Accounts. Local Government Landscape and Irrigation Accounts shall be established for customers who will use water for irrigation and landscaping only. The Utility has the authority to consider an account as a Local Government Landscape and Irrigation Account.

The following entities will be considered to be a Local Government: any county, municipality, village, town, a common or independent school district, hospital district, or political subdivision of the State of Texas; however, any department, board, or agency of the State of Texas shall be excluded from this definition.

If reclaimed water is available but a Local Government Landscape and Irrigation Account customer does not connect to the reclaimed water system, that customer must pay the rate set forth in this subsection G. Reclaimed water is considered available if the property abuts on an easement or street with a reclaimed water line capable of providing service.

H. BRACKISH AND RECLAIMED WATER RATE

Brackish Water means water containing 1000 mg/L or more of Total Dissolved Solids (TDS) and/or 300 mg/L or more of chlorides.

Except as specified in specific contractual arrangements, the following charges will apply to all reclaimed water delivered to customers:

The Utility will supply Brackish Water at a rate of \$3.92 per CCF.

I. NON-GOVERNMENT LANDSCAPE AND IRRIGATION RATE

A uniform rate of \$9.26 per hundred cubic feet (CCF) is hereby established for all Non-Government Landscape and Irrigation Accounts. Non-Government Landscape and Irrigation Accounts shall be established for customers who will use water for landscaping and turf irrigation only. The Utility has the authority to consider an account as a Non-Government Landscape and Irrigation Account. The Non-Government Landscape and Irrigation rate does not include non-irrigation usage. Non-irrigation usage includes but is not limited to the use of water for swimming pools, fountains, and for human and animal consumption.

J. CONSTRUCTION METER RATES

For all construction meter accounts, a uniform rate equal to the rate established in Section I,B, for Block 2 category is hereby established. Reclaimed water used for construction purposes will be billed at the rates established in Rules and Regulations No. 6, Section X.

K. WATER CONNECTION FEES RELATED TO ANNEXATION FEES Implemented in 1999 (Ordinances 014262, 014200) and 2005

For property subject to annexation fees pursuant to a contract, a water connection fee shall be paid at the time of application for meter installation, including fire line and irrigation/yard services, for each water meter that is connected to the Utility's water system. All water connection fees shall increase 3% annually in accordance with the applicable City of El Paso Ordinance. The current and calculated fees are listed in the tables below.

**1999 Annexation Fee for Eastside**

(Effective 12/1/25 through 11/30/26)				
Meter Size	Water Demand (GPM)	Water	Wastewater	Total
< 1"	15 - 25	\$1,339	\$237	\$1,576
1"	37	\$3,349	\$593	\$3,942
1 1/2"	75	\$6,696	\$1,186	\$7,882
2"	120	\$10,714	\$1,898	\$12,612
3"	240	\$21,428	\$3,796	\$25,224
4"	375	\$33,481	\$5,931	\$39,412
6"	750	\$66,962	\$11,861	\$78,823
8"	1400	\$124,550	\$22,062	\$146,612
10"	2000	\$178,119	\$31,551	\$209,670

**1999 Annexation Fee for Eastside**

(Effective 12/1/26 through 11/30/27)				
Meter Size	Water Demand (GPM)	Water	Wastewater	Total
< 1"	15 - 25	\$1,379	\$244	\$1,623
1"	37	\$3,449	\$611	\$4,060
1 1/2"	75	\$6,897	\$1,222	\$8,119
2"	120	\$11,035	\$1,955	\$12,990
3"	240	\$22,071	\$3,910	\$25,981
4"	375	\$34,485	\$6,109	\$40,594
6"	750	\$68,971	\$12,217	\$81,188
8"	1400	\$128,287	\$22,724	\$151,011
10"	2000	\$183,463	\$32,498	\$215,961

**1999 Annexation Fee for Westside**

(Effective 9/1/25 through 8/31/26)			
Meter Size	Water Demand (GPM)	Water	Total
< 1"	15 - 25	\$1,934	\$1,934
1"	37	\$4,838	\$4,838
1 1/2"	75	\$9,673	\$9,673
2"	120	\$15,476	\$15,476
3"	240	\$30,952	\$30,952
4"	375	\$48,362	\$48,362
6"	750	\$96,723	\$96,723
8"	1400	\$179,905	\$179,905
10"	2000	\$257,284	\$257,284

**1999 Annexation Fee for Westside**

(Effective 9/1/26 through 8/31/27)			
Meter Size	Water Demand (GPM)	Water	Total
< 1"	15 - 25	\$1,992	\$1,992
1"	37	\$4,983	\$4,983
1 1/2"	75	\$9,963	\$9,963
2"	120	\$15,940	\$15,940
3"	240	\$31,881	\$31,881
4"	375	\$49,813	\$49,813
6"	750	\$99,625	\$99,625
8"	1400	\$185,302	\$185,302
10"	2000	\$265,003	\$265,003

**2005 Annexation Fee for Eastside**

(Effective 3/1/25 through 2/28/26)				
Meter Size	Water Demand (GPM)	Water	Wastewater	Total
< 1"	15 - 25	\$1,022	\$592	\$1,614
1"	37	\$2,525	\$1,464	\$3,989
1 1/2"	75	\$5,111	\$2,962	\$8,073
2"	120	\$8,178	\$4,739	\$12,917
3"	240	\$16,356	\$9,478	\$25,834
4"	375	\$25,556	\$14,810	\$40,366
6"	750	\$51,113	\$29,621	\$80,734
8"	1400	\$95,070	\$55,094	\$150,164
10"	2000	\$135,960	\$78,790	\$214,750

**2005 Annexation Fee for Eastside**

(Effective 3/1/26 through 2/28/27)				
Meter Size	Water Demand (GPM)	Water	Wastewater	Total
< 1"	15 - 25	\$1,053	\$610	\$1,663
1"	37	\$2,601	\$1,508	\$4,109
1 1/2"	75	\$5,264	\$3,051	\$8,315
2"	120	\$8,423	\$4,881	\$13,304
3"	240	\$16,847	\$9,762	\$26,609
4"	375	\$26,323	\$15,254	\$41,577
6"	750	\$52,646	\$30,510	\$83,156
8"	1400	\$97,922	\$56,747	\$154,669
10"	2000	\$140,039	\$81,154	\$221,193

L. CITY OF EL PASO FRANCHISE FEE

Effective March 1, 2020, City Council amended Title 15 (Public Service) Chapter 15.12 (Water and Sewer System) of the El Paso City code by adding Section 15.12.015 (Utility Franchise Fee) for the grant of a franchise to the water and sewer utility managed by the Public Service Board for the operation and maintenance of the water and sewer utility system and the assessment of a franchise fee up to \$6,550,000. The City of El Paso' franchise fee is applied to all residential, non-residential, and standby fire protection accounts based on meter size as follows:

<u>Meter Size</u>	<u>Residential Monthly Fee</u>	<u>Non-Residential Monthly Fee</u>	<u>Standby Fire Protection Monthly Fee</u>
Less than 1"	\$1.30	\$1.66	N/A
1"	\$2.79	\$3.56	N/A
1 ½"	\$4.38	\$7.84	\$4.15
2"	\$6.09	\$15.17	\$9.34
2 ½"	N/A	N/A	\$10.17
3"	\$13.01	\$28.61	\$12.55
4"	\$21.70	\$48.27	\$18.40
6"	N/A	\$132.91	\$46.36
8"	N/A	\$212.66	\$72.17
10"	N/A	\$305.75	\$74.92
12"	\$186.51	\$571.56	\$77.79

- M. In the interest of transparency, the President/CEO or designee may determine that customer bills will reflect rate components. Additionally, the President/CEO is expressly authorized to adjust the franchise fee amounts to comply with the franchise fee as the El Paso City Council may amend it from time to time.

SECTION II - Standby Fire Protection Charge

A monthly Standby Fire Protection Charge shall be collected from every user of a connection to the water system for providing Standby Fire Protection services based on the size of the service as follows:

<u>Size of Service</u>	<u>Monthly Charge</u>
1 ½"	\$15.09
2"	\$21.08
2 ½"	\$22.96
3"	\$29.93
4"	\$38.86
6"	\$53.92
8"	\$89.85
10"	\$149.69

All standby fire line services require a bypass detector meter to be installed. Such bypass detector meters shall be accessible to the Utility for meter reading on a monthly basis. Non-fire-related consumption through a standby fire line service is not permissible and shall be charged the current Block 3 water rate per CCF per Section I,(B) of Rules and Regulations No. 5. A fire line testing allowance of 1 CCF or less is considered in the billing assessment. All consumption greater than 1 CCF will be billed at current Block 3 rates.

If the standby fire service is determined to have a leak, which the customer could not have reasonably detected, then the Utility shall allow relief to the customer under Section V of Rules and Regulations No. 5, guidelines below.

If consumption of water through the standby fire line service is due to an actual fire on the premises, only the fixed meter charge will be assessed to the customer, pending written confirmation from the City of El Paso Fire Department.

### SECTION III – Outside City of El Paso Service Charges

All of the aforementioned charges apply to water service to property within the City of El Paso. Where the water connection provides service to property outside the City limits of El Paso, the charge for such service shall be 1.15 times the rates for similar service to customers, whose property is inside the city limits, including the monthly Water Supply Replacement Charge. This section also applies to Esperanza Water customers effective March 1, 2025.

### SECTION IV - Service and Tampering Fees

A \$20.00 trip fee is charged to customers that are flagged for disconnection for non-payment.

A \$25.00 fee is charged to customers to restore services that have been disconnected for non-payment. This fee will be applied to the next billing cycle.

A tampering fee will be charged to any customer found with water service that has been restored by an unauthorized party, where the meter is removed and/or relocated by a person other than Utility personnel, or usage of bypass line and straight connection to service line. Only Utility representatives are authorized to restore water services. This fee may be charged to the current account holder or tampering party where the tampering occurs. All fees and current past due amounts must be paid prior to restoration of services. Tampering fees are as following:

1. Permanent Accounts - \$100.00 for first incident; \$500.00 per subsequent incidents.
2. Construction Account - \$1,000.00 for first incident; \$1,500.00 for second incident; \$2,000.00 per subsequent incidents.

Fire Hydrant Tampering: A water loss fee of \$1,000 will be charged to the Customer or tampering party where unmetered water is taken for a fire hydrant. A \$1,000 fee will be charged to the Customer or tampering party for damages to fire hydrants plus costs related to repair and replacement of parts. A \$2,000 fee will be charged for each fire hydrant tampering occurrence thereafter.

Fee for Meter and/or Box Damaged during Construction – Current account holder will be held liable for the cost of replacing damaged meters and/or meter boxes on construction sites. The service charge for replacing the meter and/or will be the replacement cost plus \$300.00 for field service installation, and administrative services associated with this service.

Insufficient Funds Fee- A \$25.00 fee applies to all returned payments for insufficient funds or other returns by a financial institution. Customers with a history of returned payments may be placed on a “cash only” status at the sole discretion of the Utility based on the account history and credit rating.

### SECTION V– Leak Adjustment Policy

On January 11, 2023, the Public Service Board (PSB) approved the Servline Leak Protection Program (Program), which became effective March 1, 2023, with revisions to be effective on May 1, 2025. This Program will help customers by covering up to \$2,500 of the cost related to excess water consumption reflected in a high-water bill due to a water leak.

All residential and single occupancy non-residential customers with meters sizes of 2” or less, will be enrolled in the leak protection Program and charged a monthly fee of \$1.59 for residential and \$2.31 for non-residential. This Program covers the two (2) highest consumption bills in a three-month consecutive span up to \$2,500 upon the customer providing proof of the leak repair.

Customers who participate in the Program, whose excess water consumption due to a leak exceeds \$2,500 on their water bill, may request assistance from the Utility, and may receive assistance of 50% of the remaining bill balance over the \$2,500 covered by the Program.



Customers will be able to opt out of the program at any time. If a customer opts out:

- Customer has to contact HomeServe and request removal from the Program. The Utility at its sole discretion, will consider a leak adjustment credit for the two (2) highest consumption bills in a three-month consecutive span. Nothing in this Section relieves the customer of the obligation to repair such a leak as required by the Water Conservation Ordinance, Chapter 15.13 of the City of El Paso Municipal Code.
- If the customer fixes the leak and it is confirmed by lower consumption in the month following the alleged leak's repair, the Utility may credit the customer 50% of the excess water consumption on a future bill.

All EPWater customers with meters larger than 2" may be eligible for a utility leak adjustment for a credit of 50% of the water excess consumption.

The amount of water lost will be calculated by using the two highest consecutive months affected by the leak less the average water charges billed over the previous twelve-month period for a credit of the excess water consumption. If the customer has no prior usage history, the Utility may, at its sole discretion, use the previous customer's history.

If any leak adjustment is made, no further adjustments will be made on the same account for 24 months from the date of the adjustment. The Utility may, on an individual basis, allow a customer to make deferred payments for such leaks.

#### SECTION VI—Esperanza Water Rates and Fees

Water rates for Esperanza customers are the same as those for outside city of El Paso customers. See Section III for additional information.

##### Other Miscellaneous Fees:

Residential Trash per bin	\$18.00
Commercial Trash Base	\$40.00
Extra Bins (each)	\$30.00

#### SECTION VII

Rule and Regulations No.5 shall be and become effective from and after their adoption by the Public Service Board and shall remain in effect until amended or changed by the Public Service Board. Changes to any fees or rates resulting from approval of the budget are effective on the 1<sup>st</sup> day of March and shall remain in effect until amended or changed by the Public Service Board.

#### SECTION VIII - SEVERABILITY

These Rules and Regulations are part of the other Rules and Regulations of the Public Service Board and persons accepting service agree to comply with the appropriate provisions and conditions of all of the Rules and Regulations. If any provision, paragraph, section, subsection, sentence, clause or phrase of these Rules and Regulations No. 5 or the application of same to any person or set of circumstances is for any reason invalidated by any court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 5. The remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect.

#### SECTION IX - SAVINGS

These Rules and Regulations are a part of the other Rules and Regulations of the Public Service Board and, save and except as amended hereby, the remaining provisions of the Public Service Board's Rules and Regulations shall remain in full force and effect.

PASSED, APPROVED and ADOPTED the 27<sup>th</sup> day of March, 1991 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTION II REVISED, APPROVED and ADOPTED the 25<sup>th</sup> of September, 1991 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION I-D REVISED, APPROVED and ADOPTED the 12<sup>th</sup> of February, 1992 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION 1-F PASSED, APPROVED and ADOPTED the 24<sup>th</sup> of February, 1993 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION 1-A, 1-B, 1-F AND SECTION III REVISED, APPROVED and ADOPTED the 23<sup>rd</sup> of February, 1994 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION 1-F AND SECTION II REVISED, APPROVED and ADOPTED the 8<sup>th</sup> of March, 1995 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION G AND SECTION H PASSED, APPROVED and ADOPTED the 14<sup>th</sup> of June, 1995 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTIONS I(A), I(B), I(C), I(D), and SECTION III REVISED, APPROVED, and ADOPTED the 28<sup>th</sup> of February, 1996, by the Public Service Board of the City of El Paso.

RULES & REGULATIONS NO. 5, SECTION I PASSED, APPROVED and ADOPTED the 8<sup>th</sup> of May, 1996 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION J PASSED, APPROVED and ADOPTED the 11<sup>th</sup> of December, 1996 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION I (D) and SECTION I, REVISED, APPROVED and ADOPTED the 18<sup>th</sup> of December, 1997 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTIONS I(B), I(F), I(G), I(1), I(J), and I REVISED, APPROVED and ADOPTED the 8<sup>th</sup> of December, 1999 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTIONS I(K) and I(L) PASSED, APPROVED and ADOPTED the 8<sup>th</sup> of December, 1999 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTIONS I(A), I(B), I(F), I(G), I(J), and II REVISED, APPROVED and ADOPTED the 24<sup>th</sup> of January, 2001 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTIONS I(A), I(B), I(D), I(F), I(G), I(J), and II REVISED, APPROVED and ADOPTED the 23<sup>rd</sup> of January, 2002 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTIONS I(L) REVISED, APPROVED and ADOPTED the 13<sup>th</sup> of February, 2002 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTIONS I(A,B,D,F,G,I,J,& K), and Section II, REVISED, APPROVED and ADOPTED the 8<sup>th</sup> day of January, 2003 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTIONS I(A,B,D,F,G,I,J,& K), and Section II, REVISED, APPROVED and ADOPTED the 14<sup>th</sup> day of January, 2004 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION VII, REVISED, APPROVED and ADOPTED the 12<sup>th</sup> day of January, 2005 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTIONS I(J,K,L,M,N), REVISED, APPROVED and ADOPTED the 12<sup>th</sup> day of January, 2005 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTIONS I(J,K,L,M,N), ADDED, REVISED, APPROVED and ADOPTED the 25<sup>th</sup> day of January, 2006 by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTIONS I(A,B,D,F,G,I,J,K), SECTION II, ADDED, REVISED, APPROVED and ADOPTED the 13<sup>th</sup> day of December, 2006, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I(A,B,F,G,I,J,L) AND SECTION II, ADDED, REVISED, APPROVED and ADOPTED the 9<sup>th</sup> day of January, 2008, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I(A,B,C,D,F,G,J,& K),Section II, Section V and Section VI REVISED, APPROVED and ADOPTED the 14<sup>th</sup> day of December, 2011 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I(A,B,D,F,G,J,K,M,N),Section II and Section V REVISED, APPROVED and ADOPTED the 12<sup>th</sup> day of December, 2012 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.5, SECTIONS I(C, J, M, N) REVISED, APPROVED and ADOPTED the 11<sup>th</sup> day of December, 2013 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION I (A,B,D,F,G,J,K,O,P), SECTION II, SECTIONS IV, V, VI, VII, VIII, REVISED, APPROVED and ADOPTED the 10<sup>th</sup> day of December, 2014 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION I (A, B, D, F, G, J, K, O, P), SECTIONS IV, VII, and XI, REVISED, APPROVED and ADOPTED the 13<sup>th</sup> day of May, 2015 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION I (A, B, D, F, G, H I,(g),I,J,K,M,N,O), SECTION II, SECTION IV, SECTION VI, SECTION VII REVISED, APPROVED and ADOPTED the 13<sup>th</sup> day of January, 2016 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 5, SECTION I (A, B, C, D, F, G, I, J, K, O), SECTION II, SECTION IV, SECTION VI REVISED, APPROVED and ADOPTED the 11<sup>th</sup> day of January, 2017 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATION NO. 5 SECTION I (A, B, D, F, G, I, J, K, O), SECTION II, REVISED, APPROVED and ADOPTED the 10<sup>th</sup> day of January, 2018 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATION NO. 5 SECTION I (A, B, C, D, F, G, I, J, K, O), SECTION II, SECTION IV, REVISED, APPROVED and ADOPTED the 9<sup>th</sup> day of January, 2019 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATION NO. 5, SECTION I (A, B, C, G, I, J, K, O), SECTION II, SECTION VI, REVISED, APPROVED and ADOPTED the 8<sup>th</sup> day of January, 2020 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATION NO. 5, SECTION I (A, B, D, E, F, G, H, I, J, K, L, M, N, O), SECTION II, REVISED, APPROVED and ADOPTED the 13<sup>th</sup> day of January, 2021 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATION NO. 5, SECTION I (A, B, C, D, F,G, H, I, J, K, L, M), SECTION II SECTION III, SECTION IV, SECTION V, SECTION VI, SECTION VII, SECTION VIII REVISED, APPROVED and ADOPTED the 12<sup>th</sup> day of January, 2022 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATION NO. 5, SECTION I (K), REVISED, APPROVED and ADOPTED the 9<sup>th</sup> day of March, 2022 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS No. 5 SECTION V, REVISED, APPROVED and ADOPTED the 13<sup>th</sup> day of July 2022 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS No. 5 SECTION I (A, B, C, D, E, F, G, H, I, K, L, M, N), SECTION II, SECTION III, SECTION IV, SECTION V, REVISED, APPROVED and ADOPTED the 11<sup>th</sup> day of January 2023, by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS No. 5 SECTION I (A, B, D, F, G, H, I, K, L), SECTION II, SECTION IV, SECTION V, REVISED, APPROVED and ADOPTED the 10<sup>th</sup> day of January 2024, by the Public Service Board of the City of El Paso, Texas.


RULES & REGULATIONS No. 5 SECTION VI, REVISED, APPROVED and ADOPTED the 14<sup>th</sup> day of February 2024, by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS No. 5 SECTION I (A, B, D, F, G, H, I, K, L), SECTION II, SECTION III, SECTION IV, SECTION V, SECTION VI, SECTION VIII, SECTION IX, REVISED, APPROVED and ADOPTED the 8<sup>th</sup> day of January 2025, by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS No. 5 SECTION V, REVISED, APPROVED and ADOPTED the 12<sup>th</sup> day of March 2025, by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS No. 5 SECTION I (A, B, D, F, G, H, I, K, L), SECTION II, REVISED, APPROVED and ADOPTED the 14<sup>th</sup> day of January 2026, by the Public Service Board of the City of El Paso, Texas.

**PUBLIC SERVICE BOARD:**

  
Bryan Morris, Chair

**ATTEST:**

  
Stefanie Block Uribarri, Secretary-Treasurer

**APPROVED AS TO FORM:**

  
Daniel Ortiz, General Counsel

## RULES AND REGULATIONS NO.6

### RULES AND REGULATIONS ESTABLISHING A RATE FOR THE FURNISHING OF SANITARY SEWER SERVICE BY THE EL PASO WATER UTILITIES

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111-1118, REVISED CIVIL STATUTES OF TEXAS, AND ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON MAY 22, 1952, NOW THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO THAT THE FOLLOWING SEWER SERVICE RATES SUPERSEDE ALL RATES HERETOFORE FIXED AND ALL ORDINANCES HERETO PASSED WITH REFERENCE TO THE FIXING OF RATES FOR THE FURNISHING OF SEWER SERVICE. (KNOWN AS RULES AND REGULATIONS NO. 6).

#### SECTION I

A sewer service charge shall be collected from each user connected to the sewer system of the El Paso Water Utilities of the City of El Paso, Texas ("Utility"). The sewer service charge shall consist of a minimum monthly charge plus a commodity charge based on the water usage as measured by the water meter serving the property or as otherwise provided herein. For residential customers only, a volume of 5 allowance hundred cubic feet (5 CCF) will be included in the minimum charge. The following charges will be assessed:

#### A. MINIMUM MONTHLY SEWER CHARGE FOR CITY WATER CUSTOMERS BASED ON WATER METER SIZE

<u>Meter Size</u>	<u>Minimum Monthly Bill</u>
Less than 1" and 1 CCF or less	\$24.36
Less than 1"	\$34.80
1"	\$80.04
1 ½"	\$170.35
2"	\$214.36
3"	\$473.78
4"	\$729.72
6"	\$1,130.24
8"	\$1,969.46
10"	\$3,802.06

#### B. COMMODITY CHARGE

All customers must pay a commodity charge of \$4.86 per CCF for sewer service. The commodity charge shall be calculated at 90% of actual water \*AWC for all CCF in excess of the volume allowance included in the minimum charge. The minimum and commodity charge will be set through the next February billing cycle.

\*Average Winter Consumption (AWC) is defined in Rules and Regulations No. 5.

C. Until the customer establishes an AWC base, new customers' commodity charges will be calculated using the class average AWC by meter size for their respective class.

D. WASTEWATER CONNECTION FEES RELATED TO ANNEXATION FEES Implemented in 1999  
 (Ordinances 014262, 014200) and 2005 For property subject to annexation fees pursuant to a contract, a water connection fee shall be paid at the time of application for meter installation, including fire line and irrigation/yard services, for each water meter that is connected to the Utility's water system. All water connection fees shall increase 3% annually in accordance with the applicable City of El Paso Ordinance. The current and calculated fees are listed in the tables below.

**1999 Annexation Fee for Eastside**

(Effective 12/1/25 through 11/30/26)				
Meter Size	Water Demand (GPM)	Water	Wastewater	Total
< 1"	15 - 25	\$1,339	\$237	\$1,576
1"	37	\$3,349	\$593	\$3,942
1 1/2"	75	\$6,696	\$1,186	\$7,882
2"	120	\$10,714	\$1,898	\$12,612
3"	240	\$21,428	\$3,796	\$25,224
4"	375	\$33,481	\$5,931	\$39,412
6"	750	\$66,962	\$11,861	\$78,823
8"	1400	\$124,550	\$22,062	\$146,612
10"	2000	\$178,119	\$31,551	\$209,670

**1999 Annexation Fee for Eastside**

(Effective 12/1/26 through 11/30/27)				
Meter Size	Water Demand (GPM)	Water	Wastewater	Total
< 1"	15 - 25	\$1,379	\$244	\$1,623
1"	37	\$3,449	\$611	\$4,060
1 1/2"	75	\$6,897	\$1,222	\$8,119
2"	120	\$11,035	\$1,955	\$12,990
3"	240	\$22,071	\$3,910	\$25,981
4"	375	\$34,485	\$6,109	\$40,594
6"	750	\$68,971	\$12,217	\$81,188
8"	1400	\$128,287	\$22,724	\$151,011
10"	2000	\$183,463	\$32,498	\$215,961

**1999 Annexation Fee for Westside**

(Effective 9/1/25 through 8/31/26)			
Meter Size	Water Demand (GPM)	Water	Total
< 1"	15 - 25	\$1,934	\$1,934
1"	37	\$4,838	\$4,838
1 1/2"	75	\$9,673	\$9,673
2"	120	\$15,476	\$15,476
3"	240	\$30,952	\$30,952
4"	375	\$48,362	\$48,362
6"	750	\$96,723	\$96,723
8"	1400	\$179,905	\$179,905
10"	2000	\$257,284	\$257,284

**1999 Annexation Fee for Westside**

(Effective 9/1/26 through 8/31/27)			
Meter Size	Water Demand (GPM)	Water	Total
< 1"	15 - 25	\$1,992	\$1,992
1"	37	\$4,983	\$4,983
1 1/2"	75	\$9,963	\$9,963
2"	120	\$15,940	\$15,940
3"	240	\$31,881	\$31,881
4"	375	\$49,813	\$49,813
6"	750	\$99,625	\$99,625
8"	1400	\$185,302	\$185,302
10"	2000	\$265,003	\$265,003

**2005 Annexation Fee for Eastside**

(Effective 3/1/25 through 2/28/26)				
Meter Size	Water Demand (GPM)	Water	Wastewater	Total
< 1"	15 - 25	\$1,022	\$592	\$1,614
1"	37	\$2,525	\$1,464	\$3,989
1 1/2"	75	\$5,111	\$2,962	\$8,073
2"	120	\$8,178	\$4,739	\$12,917
3"	240	\$16,356	\$9,478	\$25,834
4"	375	\$25,556	\$14,810	\$40,366
6"	750	\$51,113	\$29,621	\$80,734
8"	1400	\$95,070	\$55,094	\$150,164
10"	2000	\$135,960	\$78,790	\$214,750

**2005 Annexation Fee for Eastside**

(Effective 3/1/26 through 2/28/27)				
Meter Size	Water Demand (GPM)	Water	Wastewater	Total
< 1"	15 - 25	\$1,053	\$610	\$1,663
1"	37	\$2,601	\$1,508	\$4,109
1 1/2"	75	\$5,264	\$3,051	\$8,315
2"	120	\$8,423	\$4,881	\$13,304
3"	240	\$16,847	\$9,762	\$26,609
4"	375	\$26,323	\$15,254	\$41,577
6"	750	\$52,646	\$30,510	\$83,156
8"	1400	\$97,922	\$56,747	\$154,669
10"	2000	\$140,039	\$81,154	\$221,193

## SECTION II

Charges for services less than the normal reading cycle shall be calculated in the same manner as a full reading cycle.

## SECTION III

Sewer services to facilities where all or part of the water supply is obtained from a source other than the Utility system shall be charged on the basis of the actual sewage volume as estimated by the Utility or as measured by a meter installed at the customer's expense, except as provided herein for certain residential properties. The charge for such sewer service shall be \$48.44 per month, plus \$4.86 per hundred cubic feet of the total actual or estimated sewage volume for all users.

## SECTION IV – Deduct Meter

The sewer service charge is based on water consumption, and if a significant portion of the water is not returned to the sanitary sewer system, the user may install a Utility approved meter (deduct meter) to measure the water that does not return to the sewer system. Monthly sewer charges will be calculated using the difference between the water supply meter and the deduct sewer meter. Meter installations as described herein must be made at the user's expense, must be approved for placement, and must be fully accessible to the Utility as needed for readings and functionality checks.

The sewer service fee is \$55.78 per month, plus a fixed monthly charge based on meter size and \$4.86 per hundred cubic feet of sewage.

## SECTION V – Biological Oxygen Demand (“BOD”)

Sewer charges are based on the normal quality (or strength) of sewage. A surcharge shall be added for strengths exceeding the normal limits based upon analysis of samples taken by the Utility in accordance with the Rules and Regulations, and upon the quantities of sewage determined by the same methods used to calculate the regular sewage charge. When such discharge is permitted under the terms and conditions of an existing discharge permit, the surcharge shall be 27 cents for each pound of Biological Oxygen Demand (“BOD”) in excess of 300 parts per million (ppm), plus an additional 29 cents for each pound of suspended solids in excess of 300 ppm. Refer to Rules and Regulations No. 9 for the definition of BOD.

The Utility shall conduct a cost review and make any necessary adjustments to the surcharges to properly reflect the cost to the Utility of treating over strength wastes or as required by the Texas Commission on Environmental Quality or Environmental Protection Agency.

## SECTION VI - Enforcement

Any entity or individual responsible for discharges into the sanitary sewer system that exceeds the normal quality or strength without paying the surcharge set forth under Section V above, shall be subject to the enforcement action set forth in Section 15.12.120-2 of the City of El Paso Municipal Code, as well as any additional enforcement action as set forth in the Public Service Board's Rules and Regulations and the City of El Paso Municipal Code, as they may now read or may hereinafter be amended. Enforcement actions may include the discontinuance of service and pursuing any and all remedies under the law.

## SECTION VII

The following are the permit fees for Wastewater Discharge Permits:

	<u>Permit Fee</u>
Categorical Industries	\$3,925 per year
Non-categorical Industries	\$2,150 per year

Categorical Industries and Non-categorical Industries are terms defined or used in Rules and Regulations No. 9 and under other applicable laws and regulations.

#### SECTION VIII – Outside City Rate

All of the aforementioned charges apply for sewer service provided to customers within the city limits of El Paso. Where the sewer connection provides service to property outside the city limits of El Paso, the charge for such service shall be 1.15 times the rates for similar service to customers whose property is inside the city limits.

#### SECTION IX – Fixture Rate

If a Local Government Landscape and Irrigation Account, as defined in Rules and Regulations No. 5, has a restroom facility, water fountains, or other plumbing fixtures that are isolated from major facilities, the Utility shall charge a flat monthly fee of \$24.97 for every such fixture connected to the sanitary sewer system as determined by the President/CEO or his designee.

#### SECTION X

These Rules and Regulations shall be and become effective from and after their adoption by the Public Service Board and shall remain in effect until amended or changed by the Public Service Board. Changes to any fees or rates resulting from approval of the budget are effective on the 1<sup>st</sup> day of March and shall remain in effect until amended or changed by the Public Service Board.

#### SECTION XI SEVERABILITY

These Rules and Regulations are part of the other Rules and Regulations of the Public Service Board, and persons accepting service agree to comply with the appropriate provisions and conditions of all of the Rules and Regulations. If any provision, paragraph, section, subsection, sentence, clause or phrase of these Rules and Regulations No. 6 or the application of same to any person or set of circumstances is for any reason invalidated by any court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 6. The remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect.

#### SECTION XII SAVINGS

These Rules and Regulations are a part of the other Rules and Regulations of the Public Service Board and, save and except as amended hereby, the remaining provisions of the Public Service Board's Rules and Regulations shall remain in full force and effect.

PASSED, APPROVED and ADOPTED the 27th day of March 1991, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO.6, SECTION 1-C REVISED, APPROVED and ADOPTED the 12th of February, 1992, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO.6, SECTION VI REVISED, APPROVED and ADOPTED the 8th of April 1992, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO.6, SECTION VI REVISED, APPROVED and ADOPTED the 28th of July 1993, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTION 1-A, 1-B, SECTION IX AND SECTION X REVISED, APPROVED and ADOPTED the 23rd of February 1994, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTION III and SECTION IV REVISED, APPROVED and ADOPTED the 25th of May 1994, by the Public Service Board of the City of El Paso, Texas.



RULES AND REGULATIONS NO. 6, SECTION X REVISED, APPROVED and ADOPTED the 27th of February 1995, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO.6, SECTIONS I (A), I (B), and SECTION IV REVISED, APPROVED, and ADOPTED the 28th day of February 1996, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTION III and SECTION XI REPLACED, APPROVED and ADOPTED the 8th of May 1996, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO.6, SECTION I REPLACED, APPROVED and ADOPTED the 11th of December 1996, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTION X REPLACED, APPROVED and ADOPTED the 8th of January 1997, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTIONS I (A), I(B), VIII, and X(A) REVISED, APPROVED, and ADOPTED the 8th day of December 1999, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO.6, SECTION I (D) ADDED, APPROVED, and ADOPTED the 8th day of December 1999, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTIONS I(A), I(B), III, IV, X(A), X(B), and XI REVISED, APPROVED, and ADOPTED the 24th day of January 2001, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO.6, SECTIONS I (A), I (B), III, IV, X (B), and XI, REVISED, APPROVED, and ADOPTED THE 23rd day of January 2002, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO.6, SECTIONS I (D) REVISED, APPROVED, and ADOPTED the 13th day of February 2002, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTIONS I (A & B), III, IV, V, VII, X (A&B), and XI, REVISED, APPROVED and ADOPTED the 8th day of January 2003, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO.6, SECTIONS I (A & B), III, IV, X (A&B), and XI, REVISED, APPROVED and ADOPTED THE 14<sup>th</sup> day of January 2004, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO.6, SECTION I (D), I (E) ADDED, REVISED, APPROVED and ADOPTED the 25th day of January 2006, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO.6, SECTION I (A), I (B), SECTION III, SECTION IV, SECTION X(A) ADDED, REVISED, APPROVED and ADOPTED the 13th day of December 2006, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTION I (A) & (B), SECTION III, SECTION IV, SECTION X (A) & (B) AND SECTION XI, REVISED, APPROVED and ADOPTED the 9th day of January 2008, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTION I (A) & (B), SECTION III, SECTION IV, SECTION X(A)&(B) AND SECTION XI, REVISED, APPROVED and ADOPTED the 9th day of January 2008, by the El

Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTION I (A) & (B), SECTION III, SECTION IV, SECTION X(A)&(B) AND SECTION XI, REVISED, APPROVED and ADOPTED the 14th day of December 2011, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTION I (A),(B),(C),(D),(E), SECTION III, SECTION IV, SECTION X (A) & (B) AND SECTION XI, REVISED, APPROVED and ADOPTED the 12th day of December 2012, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTION I (B), SECTION X (A) REVISED, APPROVED, AND ADOPTED THE 11th day of December 2013, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTION III, SECTION IV, SECTION X, SECTION XI, REVISED, APPROVED AND ADOPTED THE 10<sup>TH</sup> day of December 2014, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTION III, SECTION IV, SECTION X, SECTION XI, REVISED, APPROVED AND ADOPTED THE 13<sup>TH</sup> day of January 2015, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTION I (A, B), SECTION III, SECTION IV, SECTION X (A,B), SECTION XI, REVISED, APPROVED AND ADOPTED THE 13<sup>TH</sup> day of January 2016, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTION I (A, B, D), SECTION III, SECTION IV, SECTION V, SECTION X (A,B), SECTION XI REVISED, APPROVED AND ADOPTED THE 11<sup>TH</sup> day of January 2017, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 6, SECTION I (A,B), SECTION III, SECTION IV, SECTION X (A,B), SECTION XI, REVISED, APPROVED AND ADOPTED the 10<sup>th</sup> day of January 2018, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO 6. SECTION I (A,B), SECTION III, SECTION IV, SECTION X (A,B), SECTION XI, REVISED, APPROVED AND ADOPTED the 9<sup>th</sup> day of January 2019, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO 6. SECTION V, REVISED, APPROVED AND ADOPTED the 14<sup>th</sup> day of August 2019, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO 6. SECTION I (A, B), SECTION III, SECTION IV, SECTION X, SECTION XI, REVISED, APPROVED AND ADOPTED the 8<sup>th</sup> day of January 2020, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO 6. SECTION V, SECTION VII, REVISED, APPROVED AND ADOPTED the 12<sup>th</sup> day of February 2020, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO 6. SECTION I (A, B), SECTION III, SECTION IV, SECTION X (A, B), SECTION XI, REVISED, APPROVED AND ADOPTED the 13<sup>th</sup> day of January 2021, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO 6. SECTION I (A, B, D), SECTION III, SECTION IV, SECTION V, SECTION VII, SECTION X, SECTION XI, SECTION XII, SECTION XIII REVISED, APPROVED AND ADOPTED the 12<sup>th</sup> day of January 2022, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO 6. SECTION I (A, B, C, D, E), SECTION II, SECTION III, SECTION IV, SECTION V, SECTION VI, SECTION VII, SECTION VIII, SECTION IX, SECTION X, SECTION XI, SECTION XII REVISED, APPROVED AND ADOPTED the 11<sup>th</sup> day of January 2023, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO 6. SECTION I (A, B, D), SECTION III, SECTION IV, SECTION IX, REVISED, APPROVED AND ADOPTED the 10<sup>th</sup> day of January 2024, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO 6. SECTION I (A, B, D), SECTION III, SECTION IV, SECTION IX, SECTION X, SECTION XI, SECTION XII, REVISED, APPROVED, AND ADOPTED the 8<sup>th</sup> day of January 2025, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO 6. SECTION I (A, B, D), SECTION III, SECTION IV, SECTION IX, REVISED, APPROVED, AND ADOPTED the 14<sup>th</sup> day of January 2026, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

**PUBLIC SERVICE BOARD:**

  
Bryan Morris, Chair

**ATTEST:**

  
Stefanie Block Uribarri, Secretary-Treasurer

**APPROVED AS TO FORM:**

  
Daniel Ortiz, General Counsel

RULES AND REGULATIONS NO. 7

RULES AND REGULATIONS ESTABLISHING VARIOUS DEPOSITS AND  
CHARGES FOR FURNISHING OF WATER, RECLAIMED  
WATER, AND/OR SEWER SERVICE  
BY THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111-1118M, REVISED CIVIL STATUTES OF TEXAS, AND ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON MAY 22, 1952; AS AMENDED, NOW, THEREFORE BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING DEPOSITS AND CHARGES FOR WATER, RECLAIMED WATER, AND/OR SEWER SERVICE ARE HEREBY ESTABLISHED AND SHALL SUPERSEDE ALL DEPOSITS AND CHARGES PREVIOUSLY SET: (KNOWN AS RULES AND REGULATIONS NO. 7).

SECTION I      GENERAL

Notwithstanding anything in this Rule to the contrary, this Rule shall not be construed to affect voluntary annexation agreements made pursuant to the laws of the state of Texas.

A.      TABLE OF CONTENTS

The headings or captions on the following page are adopted as the Table of Contents for Public Service Board Rules and Regulations No. 7.

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B. DEFINITIONS

As used in these rules and regulations the following terms shall have the following meanings:

Backflow:

The flow of water or other liquids, mixtures or substances into the distributing pipes of a potable supply of water from any sources other than its intended source.

Backflow Prevention Assembly(ies):

An assembly that has been manufactured in full compliance with the American Water Works Association ("AWWA") Standards C510 and C511 and is listed by the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California. Approved assemblies shall include an air gap, a reduced pressure assembly, a reduced pressure principle detector assembly, a double check assembly, and a pressure vacuum breaker, each of which is designed for a specific application, and any of which serve to protect the public water supply from contamination originating at the Customer's premises.

Back Siphonage:

Back Siphonage is the conditions where negative pressure in a Potable Water pipe induces Backflow through a Cross Connection.

Boundary lines:

A water or sewer pipeline located in a dedicated public right of way which fronts on property held by different ownership on opposite sides of the right of way.

Charges:

As applied herein, the fees charged for services by the Utility are not included in the monthly connection charge and commodity charge.

Commercial:

Any property that is not Residential and not classified as Industrial. This may include, but not limited to: Apartment complexes, mobile home parks, offices, buildings intended to accommodate commerce, services and places of employment, construction accounts, etc.

Construction Water:

Water supplied by the Utility through a temporary metered service.

Cross Connection:

Any connection or arrangement, physical or otherwise, between a Potable Water supply or device, through which it may be possible for non-potable, used, unclean, polluted, or contaminated water or other substances, to enter into any part of such Potable Water system under any condition, including reduced or negative pressure.

CCN:

Certificate of Convenience and Necessity issued by the Texas Commission on Environmental Quality (TCEQ) to a Utility or water supply and/or Sewer Service corporation, as those terms are defined in the Texas Water Code, as to prerequisite to render retail water and/or Sewer Service directly to the public.

Customer(s):

An individual water and/or sewer user or users who are included in the Utility billing files.

Deposit:

A one-time payment made at the time of application for service to be held without interest to guarantee payment of charges.

Developer: a person, entity, or governmental entity undertaking the platting, division, or improvement of land that require the provision of water and sewer services. The term "Developer" is intended to include the terms "subdivider".

EPWater: See the definition of Utility below.

EPWU: See the definition of Utility below.

Friction Loss:

Water pressure (or flow generating energy) lost by water flowing in a conduit (pipe) as the result of drag producing disturbances between the moving water molecules and the pipe walls.

Frontage:

The length of the boundary of a parcel of land, a lot, or a site which abuts a dedicated street.

Industrial:

Any property used for manufacturing, assembling, production of goods, etc.

Line Extension:

The water, Reclaimed water, and/or sewer line which is required to be connected to the existing water/Reclaimed water/sewer water/reclaimed water/sewer service to a property, including pipeage installed in a right-of-way which is contiguous or noncontiguous to a property.

Outside City Customers:

All Customers of the Utility whose property to be served is outside of the corporate limits of the City of El Paso.

Out-of-City Service Policies (Policies):

Policies governing extension of Water Service and Sewer Service outside the corporate limits of the City of El Paso but both within El Paso County, and Hudspeth County: A written policy adopted by the Public Service Board by their Resolution on August 28, 1991.

Panhandle Lot(s):

A lot, because of inherent limitation, lacking Frontage except for access provided by way of a narrow projection of the lot to the street.

Potable Water:

Water satisfactory for drinking, culinary and domestic purposes and meeting the regulatory requirements of applicable public health authorities as supplied through the EPWU water system.

PSB:

Public Service Board. The Board of Trustees created by Ordinance 752, which is the governing body of and has the complete authority and control of management and operation of the EPWU (Utility).

Reclaimed Water:

Wastewater which has been highly treated to a condition suitable for irrigation, industrial uses and for other non-potable use and which meets the regulatory requirements of the Texas Commission on Environmental Quality.

Reclaimed Water Master Plan:

A facilities plan developed by the Utility that identifies properties to be economically served with Reclaimed Water.

Reclaimed Water Service:

A property is deemed to have Reclaimed Water Service available if a qualifying Reclaimed Water main is in place in the public right-of-way adjacent and contiguous to the property. Reclaimed Water Service is subject to availability and an application for Reclaimed Water Service may be denied based on lack of available Reclaimed Water and competing demand by existing Customers.

Reclaimed Water Service Connection:

The pipes, fittings and appurtenances connected to the Utility's Reclaimed Water line and extending to or beyond the property line of a Customer. The installation of all Reclaimed Water Service connections will be performed by the Utility or at the direction of the Utility and all such connections shall be inspected and approved by qualified Utility personnel.

Reclaimed Water Service Connection Charge:

A non-refundable payment to the Utility for costs associated with installation of a service line, meter and appurtenances.

Refund(s):

Monies to be paid by the Utility to a Customer who has advanced payment for capital facilities in accordance with conditions stated in these Rules and Regulations No. 7.

Refund Rate:

Cost per foot of an 8-inch water or sewer main applied to refunds on main lines larger to 8-inch in diameter with conditions stated in Sections II (G) and Section III (E).

Residential:

Any property that is solely used as single-family, duplex or triplex residence.

Sewer Service Connection Charge:

A non-refundable payment to the Utility for costs associated with installation of a service line and appurtenances.

Sewer Service:

A property is deemed to have sewer service available if a qualifying sewer collector line is in place in the public rights-of-way, PSB or utility easements adjacent and contiguous to the property.

Sewer Service Lateral(s) - Customer:

The pipes, fittings and appurtenances within the property connected to the Sewer Service Lateral – EPWU or to the Utility's sewer collector lines located within PSB or utility easement. This Lateral allows the Customer's Wastewater (sewage) to drain (or be pumped, if necessary) from the Sewer Service Lateral – Customer into the Sewer Service Lateral – EPWU or into the Utility's Wastewater collection and treatment (sewer) system.

Sewer Service Lateral(s) - EPWU:

The pipes, fittings and appurtenances connected to the Utility's sewer collector line and extending within the public Dedicated Rights-of-Way up to the clean out or property line. This lateral allows the Customer's Wastewater (sewage) from the Sewer Service Lateral-Customer to drain (or be pumped, if necessary) into the Utility's Wastewater collection and treatment (sewer) system.

Sewer Service Tap:

The connection point at which the Sewer Service Lateral-Customer or Sewer Service Lateral-EPWU connects to the public main line.

Standby Fire Protection Service Charge:

A charge to be established by contract with the Utility for a service connection to a property for fire suppression purposes only, in accordance with the requirements of Rules and Regulations No. 5.

Subdivision(s):

Subdivision(s) shall be defined in the City of El Paso Municipal Code.

Time Payment Contract:

A promissory note executed between a Customer and the Utility governing payment of Charges associated with Rules & Regulations No 7.

TCEQ:

Texas Commission on Environmental Quality

TXDOT:

Texas Department of Transportation



Utility:

EPWU, EPWater or El Paso Water Utilities, as used herein means El Paso Water Utilities, the City of El Paso's publicly owned water and sewer agency located in and serving the people of El Paso County, Texas.

Water:

Water satisfactory for drinking, culinary and domestic purposes and meeting health regulatory requirements of applicable public health authorities as supplied through the EPWU water system.

Water Service(s):

A property is deemed to have water service available if a qualifying water main is in place in the public rights-of-way, PSB or utility easement adjacent and contiguous to the property.

Water Service Lateral - Customer:

That point in the Customer's water supply system beyond the sanitary control of the El Paso Water Utilities, generally considered to be the outlet end of the water meter box or the bonnet box (Fire lines).

Water Service Lateral -EPWU:

The pipes, fittings, valves, meters and appurtenances which are connected to the water main in the street and extending to, or beyond, the property line of a Customer. The installation of all Water Service Laterals - EPWU will be performed by the Utility or at the direction of the Utility and all such connections shall be inspected by qualified Utility personnel.

Water Service Connection Charge(s):

A non-refundable payment of the Utility for costs associated with installation of a service line, meter and appurtenances.

Yard Meter:

A meter that is used solely for irrigation purposes.

C. NEUTRAL GENDER

When the context requires, all nouns and pronouns in the masculine gender shall also include the feminine gender.

SECTION II WATER SERVICE DEPOSITS AND CHARGES

A. MONTHLY CHARGES AND COMMODITY CHARGES

Monthly charges and commodity charges for Water Service shall be in accordance with Rules and Regulations No. 5.

B. WATER BILL DEPOSIT

1. Amount of Deposit

A Deposit shall be collected from all users of the Utility's water lines and systems of the as a condition of service at the time of the user's application for Water Service from the Utility, as follows:

a.	Single-family residence	\$75.00
b.	Duplex residence	\$150.00
c.	Triplex residence	\$225.00
d.	Commercial establishment	\$150.00
e.	Industrial	\$500.00
f.	Construction account	\$300.00

2. Conditions of Deposit

If a Customer's credit history is unfavorable, the Utility may require a deposit in excess of the scheduled amount, based on the total of the two highest monthly bills on file. The bill Deposit will be applied to the final bill. Any excess Deposit will be refunded at the end of service. Deposits do not earn interest, and no Customer shall be entitled to interest on Deposits.

C. WATER SERVICE CONNECTION CHARGES

1. Description and Amount of Charges

The Water Service Connection Charge is a non-refundable payment to the Utility for tapping the street main, installing a service line from the street main to a location behind the curb (if the service is located on a paved street), or to some safe and suitable location (if not on a paved street), and installing a meter box and appropriate fittings. The service connection shall be limited to one-half the diameter of the street main when the main is supplied from only one direction, except that connections for fire line services may be the full size of the street main. No service connections shall be made to street mains having a nominal diameter greater than 12 inches. The Water Service Connection Charge shall be as follows:

<b>Meter Size</b>	<b>Domestic Meter</b>	<b>Yard Meter</b>
Less than 1"	\$4,380	\$4,800
1"*	\$10,735	\$6,045
1-1/2"	\$16,430	\$11,640
2"	\$16,738	\$13,410
3"	\$28,940	\$26,993
4"	\$29,855	\$27,750
6"	\$31,555	\$25,010
8"	\$34,430	\$30,110

Water Services 1-1/2" and larger require a bypass; the cost for the bypass is included in the Water Service Connection Charge noted on the above table.

<b>Fireline Services</b>	
<b>Meter Size</b>	<b>Fee</b>
2 1/2"	\$12,610
**3"	\$18,070
4"	\$11,705
6"	\$13,640
8"	\$15,835
10"	\$23,273

\*\*These services are installed with 4" diameter pipe. Customer may install reducer. Vaults are not required for fire line services, except for DCDA's if approved by the Cross-Connection Control Manager. Fire line services shall have a meter installed by the Customer on the bypass. EPWater must be allowed access to all meters on a monthly basis to obtain readings for billing purposes.

<b>Standpipe Services</b>	
<b>Meter Size</b>	<b>Connection Fee</b>
1-1/2"	\$17,900
2"	\$18,040
3"	\$22,370
4"	\$22,340
6"	\$24,030
8"	\$26,140

Minimum air gap separation equal to twice the diameter of the pipe with a 1" minimum is required for all standpipe services.

Water Service installations that require horizontal boring across a Dedicated Right-of-Way, as defined in Rules and Regulations No.1, will be required to pay boring fees in addition to the Water Service Connection Charge.

<b>Boring Fees</b>	
<b>Meter Size</b>	<b>Boring Fee</b>
3/4"	\$15,000
1"	\$15,000
1-1/2"	\$15,000
2"	\$15,000
3"	\$20,000
4"	\$20,000
6"	\$25,000
8"	\$25,000
10"	\$25,000

Water Service Connection Charges for properties located outside of the corporate limits of the City of El Paso and outside the corporate limits of the Village of Vinton will carry an additional cost to cover the El Paso County Road Cut Fee as follows:

- A. Road Inspection & Maintenance Fees (RIM)-All road cuts in County Rights-of-Way (ROW):
  - 1. Unpaved ROW \$100.00
  - 2. Pothole (Each) \$150.00
  - 3. Paved ROW (75 ft.<sup>2</sup> or less) \$250.00
  - 4. Paved ROW (over 75 ft.<sup>2</sup>) \$400.00
- B. Road Entry & Access Permit Fees (REAP)-Road cuts that disturb more than 300 square feet:
  - 1. Unpaved ROW (Per yd.<sup>2</sup>) \$1.93
  - 2. Asphaltic Pavement Cost (Per yd.<sup>2</sup>)
    - a. Residential & Collector Streets
      - i. 100 yd.<sup>2</sup> or less \$6.50
      - ii. over 100 yd.<sup>2</sup> \$5.20
    - b. Arterial & Other Streets
      - i. 100 yd.<sup>2</sup> or less \$7.65
      - ii. Over 100 yd<sup>2</sup> \$6.12

3. Concrete pavement Cost (Per Yd.<sup>2</sup>)
  - a. Concrete Road Pavement
    - i. 100 yd.<sup>2</sup> \$11.51
    - ii. Over 100 yd.<sup>2</sup> \$9.21
  - b. Concrete Driveways & Sidewalks \$5.68

Water Service Connection Charges for properties located outside of the corporate limits of the City of El Paso and within the corporate limits of the Village of Vinton will carry an additional cost to cover the Village of Vinton's Streets and Maintenance Fee as follows:

1. Temporary Traffic Control – Duration less than 3 days \$17
2. Temporary Traffic Control – Duration 3-15 days \$50
3. Temporary Traffic Control – Duration 16-30 days \$160
4. Temporary Traffic Control – For each month after first 30 days \$90
5. Temporary Traffic Control – Lane/sidewalk rental (After expiration permit) \$100
6. Paving Cut Permit \$69

2. Limits of Water Service Connection

Payment of the Water Service Connection Charge and other applicable charges provided herein entitles the applicant to service at the meter. The Customer shall be solely responsible for the payment of all costs related to extending service from the meter to the property to be served, including without limitation construction and maintenance costs.

3. Requirements for Customer Service Extension

The separation between a Water Service Laterals-EPWU and a sanitary Sewer Service Laterals-EPWU from the property line to the water or sanitary sewer mains shall be as outlined in the City of El Paso's Plumbing Code. Customer service Line Extensions (by the applicant) for Water Service from the property line to the building or project of use shall conform to the City of El Paso Plumbing Code and any requirements promulgated by the City of El Paso Health Department. Water Service Laterals-EPWU are not allowed to be constructed parallel to public Dedicated Rights-of-Way or easements; only perpendicular extensions to public Dedicated Rights- of-Way or easements are allowed. Extension shall be made only on the property on which the service application has been made and the appropriate Charges paid. Absent written approval by EPWU, no Water Service and/or sanitary Sewer Service shall extend through property owned or intended to be sold to different individuals or entities than those listed on the service application.

4. EPWU Inspection Fee: An inspection fee of \$100 shall be charged to the Customer for the initial acceptance test performed by the Utility on containment Cross Connection control assemblies. Inspections by the Utility shall be scheduled between the hours of 8 a.m. and 4 p.m. Monday through Friday, excluding holidays.

D. STANDBY FIRE PROTECTION SERVICE

1. Private Fire Lines and Hydrants:

Fire hydrants needed to provide standby fire protection for new development or redevelopment directed by the City of El Paso Fire Department shall be paid by the applicant. Standby Fire Protection Service shall be available to property when the following conditions have been satisfied: (1) all other Water Service Charges and deposits required for the property have been paid; (2) the fire protection system is completely separated from the system providing domestic or other water to the property; (3) the total cost of the connection to the Utility's main, including valves, lines, detector checks, boxes and paving repair has been paid; (4) the Customer has executed a contract with EPWU agreeing to pay a monthly Standby Fire Service Charge pursuant to Rules and Regulations No. 5, Section II: and (5) no extension of a main is required to provide service other than that required for domestic service.

Standby Fire Protection Service will be disconnected by the Utility when the detector check indicates a consistent use of water in the standby fire system.

2. Public Fire Hydrants:

Costs related to public fire hydrants required to provide Standby Fire Protection Service for new development or redevelopment shall be paid by the applicant after approval by the Utility. The applicant must also enter into a Development Agreement or Limited Scope Development Agreement with EPWU. EPWU will pay costs related to public fire hydrants required to provide Standby Fire Protection Service to existing developments inside the City limits found to be inadequately protected based on applicable studies by the City of El Paso Fire Department and not due to redevelopment.

E. CONSTRUCTION WATER SERVICE

1. Construction Water Service

Construction Water service may be furnished by the Utility through a metered temporary Water Service to fill water tank wagons or other construction vehicles such as street sweepers, where, in the opinion of the Utility, it is not practical at the time of installation to furnish permanent services and where, in the opinion of the Utility, an appropriate location for a standpipe and an adequate water supply exists. A positive air gap or other approved Backflow Prevention Assemblies shall be maintained at all times of operation. The Customer will pay the estimated costs for the installation and removal of the connection in advance and will also pay for the water used in accordance with Rules and Regulations No. 5, as well as all costs related to repairs or maintenance of the connection. The connection may be removed by the Utility: (1) at the end of ninety (90) days; (2) when the construction is complete; or (3) at any time the connection is operated in such a fashion as to require removal at the discretion of the Utility. The Utility may limit or prohibit the use of water by a construction service when necessary to maintain adequate pressure in the system or as may be required due to a water emergency declared under the mandatory Water Conservation Ordinance located in Chapter 15 of the City of El Paso Municipal Code.

2. Fire Hydrant Meters

- a. Customers will be charged for Construction Water drawn through fire hydrant meters and must pay for the water used in accordance with Rules and Regulations No. 5.
- b. Fire hydrant meters, which have a locking device and built-in Backflow prevention, will be installed and removed by Utility personnel.
- c. The fire hydrant meter deposit is \$2,000. There will be one deposit fee per meter. Only one fire hydrant meter will be allowed within a 2,000-foot radius. Deposits and fees may not be transferred from one project to another.
- d. A water loss fee of \$1,000 will be charged to the Customer for each occurrence where unmetered water is taken from a fire hydrant, where the Customer tampers with the meter or fire hydrant valve, or where the fire hydrant meter is removed and/or relocated by other than Utility personnel. A \$2,000 fee will be charged for each occurrence thereafter.
- e. Readings will be taken monthly from the fire hydrant meter. Consumption will be billed monthly.
- f. All other unbilled water and charges will be deducted from the deposited amount. Charges in excess of the deposit must be paid before the project will be accepted into the Utility system. Any excess deposit amounts will be promptly refunded to the Customer.
- g. The Utility's Planning and Development Section will issue the forms and procedures necessary to implement these charges, rates, rules, and regulations.
- h. Costs to replace damaged, stolen, or lost fire hydrant meters will be charged to the Customer of record for the meter. The charge will be the replacement cost of the fire hydrant meter.

F. LINE EXTENSION CHARGES

1. Line Extension Charges for Small Tracts

- a. A Customer or Customers desiring Water Service to a small tract must pay the cost of the lines required to reach their property.
- b. When the property to be served is not adjacent to an existing line from which service lines can be extended, the Customer shall pay the total cost of the off-site or approach main required to reach the property to be served and may be eligible for Refunds in accordance with Rules and Regulations No.7, Section II (G).

2. Line Extension Charges for Other Areas

- a. The Line Extension charge for Water Service to new Subdivisions and all other areas shall be the total cost of the lines, appurtenances and permits required to serve the property as determined by the Utility. This cost shall include furnishing and installing all lines, valves, manholes, paving repair and other required appurtenances. Additionally, lines in all Dedicated Rights-of-Way to the property, including boundary streets, shall be included as part of the cost. Off-Site Facilities, as defined in Rules and Regulations No.1, or approach mains that are necessary to provide service shall also be included as part of the cost. The Customer or Developer may also be required to pay to construct reservoirs, pumping stations, and other facilities that are required to adequately serve the area. Payment and Refunds for such costs will be as provided for in Rules and Regulations No.7, Section II (G) and (H). No street shall be approved to be paved until lines required in that street have been installed by the adjacent owner who desires the paving. If the required pipe size to service the proposed development is larger than 8-inches, the Utility may participate in the cost of the pipe as provided for in Rules and Regulations No.7, Section II(G)(1).
- b. Payment of all of the charges provided for herein shall be made prior to making any expenditures of Utility funds or making any connection to the system.

G. REFUNDS

The Customer or Developer shall be entitled to a Refund if he/she is required to construct or pay to construct water lines larger than 8-inches in size. Contracts providing for Refunds must be executed between the Utility and the Customer or Developer due the Refund prior to the construction of the facilities. No refund shall be made unless such contract has been duly and timely executed. The amount to be refunded to the Customer or Developer shall be determined as provided for below:

1. Refunds on Lines Larger Than 8 inches in Diameter

The Refunds on lines that are larger than 8-inches in size shall be based on the difference between the cost of an 8-inch line and the actual cost of the line installed. The price of the 8-inch line shall be the length of the pipe installed multiplied by the current Refund Rate of \$80.62. Refunds will be paid by the Utility upon completion of facilities constructed by the Customer or Developer and final acceptance by the Utility.

H. SPECIAL DEPOSITS FOR OFF-SITE EXPANSION FACILITIES

1. Deposit Amounts

The Customer or Developer shall be responsible for paying the total cost of design and construction of any water facilities that are not within his/her area of service if such facilities are required to provide adequate service to his/her property. Improvements of this type are referred to as Off-Site Facilities as defined Rules and Regulations No.1. Facilities of this type shall be constructed with the capacity deemed necessary by the Utility to support future development. If the funds have not been appropriated in the current or previous years' budgets for the specific facilities that are required for service to the property, then the total cost of these facilities shall be paid by the Customer or Developer who first requested the service, as an up-front infrastructure improvements deposit (Special Deposit). In addition, the requested area must be contiguous to existing development and water infrastructure.

2. Refund Amounts

A refund amount shall be established by the Utility such that the Customer or Developer will have paid costs of infrastructure improvements roughly proportionate to the proposed development in accordance with Texas Local Government Code, Section 212.904. A refund contract will be executed between the Customer or Developer and the Utility, which will provide for the refund of either a portion or all of the costs reflected in the Special Deposit.

No interest will be paid on Special Deposit. In no instance shall the Utility refund more than the original cost of the facilities constructed and paid for by the Customer or Developer.

I. CONSTRUCTION BY CUSTOMER

1. Conditions of Construction by Customer

To satisfy the provisions of Rules and Regulations No. 7, Section II (F) a Customer or Developer may construct, or contract with others to construct, water mains required to serve his/her Subdivision or area in accordance with the plans and specifications reviewed and approved by the Utility, provided all of the following conditions are fully satisfied:

- a. The Developer or Customer shall post an acceptable Performance Bond with the Utility, in accordance with Texas Local Government Code, Section 212.073, to ensure completion of the project on all such projects where the Utility's contribution exceeds \$100,000 or the amount under Texas Local Government Code, Section 212.073, as it may be amended, setting the dollar amount at which performance bonds are required on municipal contracts; and
- b. The total cost of constructing all lines and appurtenances within and adjacent to the Subdivision or area to be served is paid by the Customer or Developer without requesting Refunds or Utility participation in the cost related to lines smaller than 8-inches. This cost does not include fire hydrants and service connections; and
- c. The Developer or Customer executes an agreement with the Utility which states (1) the actual cost by each item of the work being done; (2) who will perform the work; and (3) that the firm doing the work is an independent contractor and will hold the City of El Paso, the PSB and the Utility harmless from any and all damages or claims, which arise from the performance of the work and will purchase adequate insurance to cover this indemnity. Proof of insurance coverage to fully protect the Utility shall be furnished to the Utility by the Developer or his agent in amounts required on similar Utility contracts; and
- d. The Developer and/or the Developer's Surety on a required Performance Bond accept(s) the responsibility for the repair and maintenance of the facilities which are installed under the Developer Agreement for a period of 365 days after acceptance by the Utility.

2. Final Acceptance by the Utility

Upon completion, the Developer shall provide the Utility with a letter stating that the mains have been completed, that all related bills have been fully paid, and requesting the Utility to assume ownership. No permanent services will be connected until a final acceptance letter has been provided by the Utility.

Upon completion of the work in accordance with the plans and specifications and the above conditions, the Utility, through its Chief Technical Officer, shall provide a letter of final acceptance to the Developer.

J. CONSTRUCTION WITHIN EASEMENTS

It is the Utility's intent to construct water mains in public Dedicated Rights-of-Way. Water mains will not be constructed within easements except when the Utility specifically requests or authorizes such construction. Utility easements shall be of sufficient width, accessible and of proper topography to permit construction and maintenance. The Utility shall not be required to accept easements for service which do not meet the above-mentioned requirements. No building or permanent structure shall be constructed except for paving or landscaping and other similar facilities determined by the Utility to be acceptable in the PSB or utility easement.

When service is desired for more than six ( 6 ) water meters to one ( 1 ) tract of land not separated by Dedicated Right-of-Way, and when the actual buildings to be served are more than 100 feet from a Dedicated Right-of-Way, service may be obtained at a closer location to the buildings on the Customer's property, provided that the Customer: (1) furnishes the Utility with a valid easement for the lines necessary to provide service at the desired location; (2) agrees to hold the Utility, the PSB and the City of El Paso harmless from damages which may be caused by the existence of lines in said easement; and (3) the Customer pays the total cost of the lines required in said easement plus the normal Line Extension Charges for lines constructed or to be constructed in the Dedicated Rights-of-Way adjacent to the property.

Where the Utility determines that the location or design of the development creates more danger of damage to the lines or facilities than the usual development of this type, the Customer shall only be provided with service if he/she agrees to hold the Utility, the PSB and the City of El Paso harmless from any such damages which may occur.

K. ENGINEERING

1. Developer/Customer Engineered Water Plans

The Developer or Customer's engineered water plans must meet TCEQ and EPWU requirements and the plans must be submitted to EPWU for written approval prior to commencing any work. Water Line Extensions shall be designed from the point of connection to an existing EPWU owned water main to the farthest property line from the point of connection, so that the proposed main extends along the entire Frontage of the property to be served. The water main shall be sized (minimum 8-inch diameter) with sufficient capacity that will enable future service to properties located upstream/downstream of the property to be served. Water mains shall be designed and constructed with the intent of avoiding the creation of dead end mains by looping the water system. Developers/Customers shall submit one complete set of Subdivision improvement plans for approval, including boundaries, grading plans, street profiles and topography which have been approved by the City of El Paso and/or County of El Paso. The Developer shall submit a hard copy and/or electronic media compatible with the Utility's Computer-Aided Design (CAD) system. The Utility will use these as a basis for the design of other extensions and other facility installations.

The Developer or Customer is not required and shall not submit their own plans if any capital improvement infrastructure, master plan land studies, or any on-site oversized facilities are required to serve any areas adjacent to the Subdivision.

The Utility will provide review of design drawings prepared by consulting engineers on behalf of Developers/Customers. The applicant/Developer/Customer will be charged a fee equal to two percent (2%) of the total estimated construction costs for these services, and full payment of this amount shall be due at the time of execution of the Development Agreement.

Limited scope development agreements for new fire hydrants and/or fire hydrant relocations will be charged a design review fee of \$500.00. The full payment of this amount shall be due at the time of execution of the limited scope development agreement.

2. Field Surveys and Inspections

Field engineering services by the Utility shall consist only of staking out the water and sewer mains and appurtenances, and inspection of related construction work to assure compliance with Utility standards.



3. Conditions for Construction

The Developer shall have the streets graded to within 6-inches of subgrade with curbs installed before water and sewer main construction begins. If, by prior agreement, no curbs are installed, then the Developer must have an adequate number of street centerline or off-set stakes or markers placed so that field stakeout for the water and sewer mains can be conveniently made.

The Developer must respond timely to and to bear the cost of correcting any subsequent problem which may arise due to delayed installation of curbs and gutters or changes in grade. This shall apply to the Developer regardless of whether lots are subsequently sold to other parties.

L. BACKFLOW PREVENTION ASSEMBLY VIOLATIONS

1. The following shall be grounds for discontinuation of Water Service to a Customer's property: Willful removal or bypassing of any Backflow Prevention Assembly or dual check valve; falsification of test reports (or known submittal of falsified test reports or allowing falsified test reports to be submitted by others); obtaining water from a fire hydrant in violation of Cross Connection control requirements; allowing uncontrolled Cross Connections to exist; connection of a fire protection system to a normal water service; or failure to cooperate in the installation, maintenance, testing or inspection of Backflow Prevention Assemblies as required by the Utility's Cross Connection Control Program and/or these Rules and Regulations. The Utility may require the installation of an air gap separation from the public water supply as a condition precedent to reconnection/reinstatement of Water Service. Water Service shall not be restored until such conditions are corrected to the satisfaction of the Utility.
2. Discontinuation of Water Service may be summary, immediate, and without written notice whenever, in the judgment of the Utility, such action is necessary to protect the public water supply or the safety of the public.

M. PREMISES WITH PRIVATE WELLS

Customers with premises having private wells who wish to connect to the public water supply shall have the following two options:

1. Agree to permanently abandon use of the private wells by plugging the well, prior to connecting to the public water supply, in accordance with Utility procedures and TCEQ requirements; or
2. Agree to completely and permanently sever the private well from the premises water supply system in accordance with Utility procedures, prior to connecting to the public water supply and Customer shall install an approved Backflow prevention assembly at the Water Service connection.

N. FIRE HYDRANT TESTING

In the event that the Utility is requested to test a fire hydrant, for the design of fire suppression systems or other reasons, in accordance with AWWA standards, the charge shall be as follows: Effective March 1, 2009, that rate shall be \$1,500.

O. TIME PAYMENT OF CHARGES (PROMISSORY NOTE)

Charges associated with Rules & Regulations No. 7, Section II (C) (1, 4) and Water Service Connection Charges with the installation of service required for individually-owned single family Residential property, that are adjacent to an existing main line or new proposed main line from which service can be provided, may be paid in monthly installments over a period of time not to exceed twenty-four (24) months under a Promissory Note granted by the Utility at a simple interest rate of six percent (6%) per annum, on a 360 day basis. The note will be filed as a lien against the property. The interest rate, duration of months, any other fees required and/or associated with the installation of service and/or payment terms may be adjusted at the discretion of the Utility before or subsequent to the effective date of these Rules. Should the maker of the Promissory Note be found in default of the Promissory Note, the Utility shall issue a notice of default and all principal, accrued interest and filing charges shall be declared immediately due. An amended lien, if necessary, may be filed against the property for these additional amounts should the maker of the Note fail to pay this

full amount after notice of default. The Utility may use any other means available to it under the law or in equity to collect the delinquent Charge(s) and/or other costs incurred as a result of the default, including reasonable attorneys' fees.

A processing charge of \$60.00 per Promissory Note shall be added to the cost of all Promissory Notes for the handling of the payments in the manner prescribed herein, which includes the cost of filing a Time Payment Contract and the subsequent lien release in the El Paso County Clerk's office. The processing charge may not be financed as part of the Promissory Note but, rather, will be paid in full at the time application thereof is made.

Any one person or applicant shall be entitled to only one such Time Payment Contract.

Monthly payments will begin 30 calendar days after the effective date of the Time and Payment Contract. Monthly payments under this arrangement shall be made simultaneously with the payment of the water bill, and payment of the water usage Charge shall not be accepted unless the Promissory Note payment is also made. Failure to pay the monthly payment to the Promissory Note shall result in the discontinuance of the Water Service in the same manner and at the same time as failure to pay the water usage charge.

### SECTION III SEWER SERVICE DEPOSITS AND CHARGES

#### A. MONTHLY CHARGES

Monthly Charges for Sewer Service shall be in accordance with Rules and Regulations No. 6.

#### B. SEWER BILL DEPOSIT

##### 1. Amount of Deposit

A Deposit shall be collected from all users of the Utility sewer lines and systems as a condition of service at the time of application for Sewer Service from the Utility, as follows:

a. Single-family residence	\$75.00
b. Duplex residence	\$150.00
c. Triplex residence	\$225.00
d. Commercial establishment	\$150.00
e. Industrial	\$500.00
f. Construction account	\$300.00

##### 2. Conditions of Deposit

If a Customer's credit history is unfavorable, the Utility may require a Deposit in excess of the scheduled amount, based on the total of the two highest monthly bills on file. The bill Deposit will be applied to the final bill. Any excess Deposit will be refunded at the end of the service. Deposits do not earn interest and no Customer shall be entitled to interest in Deposits.

#### C. SEWER SERVICE CONNECTION CHARGE

##### 1. General Description

The Sewer Service Lateral-EPWU shall extend (or be caused to extend) and connect to the outlet in the public line when one has been provided. If no connecting outlet was provided in the public line, the Utility will connect the Sewer Service Lateral-EPWU to the public line. In either case, the Customer shall be responsible for all work and costs required to excavate and uncover the public line, backfill and compact the trench, and repave the surface. No Charge will be made by the Utility for this connection when the Customer has provided the service line. The separation between a Water Service Lateral-EPWU and a Sanitary Sewer Service Lateral-EPWU from the property line to the water or sanitary sewer mains shall be as outlined in the City of El Paso's Plumbing Code. Sewer Service Lateral-EPWU are not allowed to be constructed parallel to public Dedicated Rights-of-Way or easements; only perpendicular extensions to the public Dedicated Rights-of-Way or easements of Sewer Services are allowed. No connection shall be made to a sewer interceptor line of a diameter 18-inches or greater. Absent written approval by EPWU, no Water Service and/or sanitary Sewer Service shall extend through property owned or intended to be sold to different individuals or entities than those listed on the service application.

2. Amount of Sewer Connection Charge

When the Utility has provided a Sewer Service Lateral-EPWU from the sewer main to the pavement edge, a Sewer Service Connection Charge will be made. This Charge is a non-refundable payment to the Utility for tapping the main, installing the Sewer Service Lateral-EPWU from the main to a location behind the curb or edge of the pavement, and repaving the street. The Sewer Service Connection Charge shall be \$890.00. The Sewer Service Lateral-EPWU shall be installed in accordance with the City of El Paso Plumbing Code and located at the center of the property lot, unless otherwise requested by the Customer.

D. LINE EXTENSION CHARGES

1. Line Extension Charges for Small Tracts

- a. A Customer or Customers desiring sanitary Sewer Service must pay for all costs related to extending the lines required to reach their property.
- b. When the property to be served is not adjacent to an existing line from which service lines can be extended, the Customer shall pay for the total cost of the off-site or approach main required to reach the property to be served. The Customer may be eligible for Refunds in accordance with Rules and Regulations No. 7, Section III(E).

2. Line Extension Charges for Other Areas

- a. The Line Extension Charge for Sewer Service to new Subdivisions and all other areas shall be the total cost of the lines, appurtenances, and permits required to serve the property as determined by the Utility. This cost shall include furnishing all lines, manholes, paving repair, and other required appurtenances. Additionally, lines in all dedicated streets that are adjacent to the property, including boundary streets, shall be included as part of the cost. Off-site Facilities, as defined in Rules and Regulations No. 1, or approach mains that are necessary to provide service shall also be included as part of the cost. The Customer or Developer may also be required to pay to construct lift stations, force mains, and other facilities that are required to adequately serve the area. Payment and Refunds for such facilities will be as provided for in Rules and Regulations No. 7, Sections III (E) and (F). No street shall be approved for paving until the lines required in that street have been installed by the adjacent owner who desires the paving. The Utility may participate in the cost of lines larger than 8-inches in size. If the required pipe size to service the proposed development is larger than 8-inches, the Utility may participate in the cost of the pipe as provided for in Rules and Regulations No. 7, Section III (E) herein.
- b. Payment of all of the Charges provided for herein shall be made prior to making any expenditures of Utility funds or making any connection to the system.

E. REFUNDS

1. General

The Customer or Developer shall be entitled to a refund if he/she is required to construct or pay to construct sewer lines larger than 8-inches in size. Contracts providing for Refunds must be executed between the Utility and the Customer or Developer due the refund prior to the construction of the facilities. No refund shall be made unless such contract has been duly executed. The amount to be refunded to the Customer or Developer shall be determined as provided below in Section 2.

2. Refunds for Lines Larger Than 8 inches in Diameter

The Refunds on lines that are larger than 8-inches in size shall be based on the difference between the cost of an 8-inch line and the actual cost of the line installed. The price of the 8-inch line shall be the length of the pipe installed multiplied by the current Refunds Rate of \$59.92. Refunds will be paid by the Utility upon completion of facilities constructed by the Customer and final acceptance by the Utility.

F. SPECIAL DEPOSITS FOR OFF-SITE FACILITIES

1. Deposit Amounts

The Customer or Developer shall be responsible for paying the total cost of design and construction of any sewer facilities that are not within his/her area of service if such facilities are required to provide adequate service to his/her property. Improvements of this type are referred to as Off-Site Facilities as defined in Rules and Regulations No.1. Facilities of this type shall be constructed with the capacity deemed necessary by the Utility to support future development. If the funds have not been appropriated in the current or previous year's budgets for the specific facilities that are required for service to the property, then the total cost of these facilities shall be paid by the Customer or Developer who first requested the service, as an up-front infrastructure improvements deposit (Special Deposit). In addition, the requested area must be contiguous to existing development and sewer infrastructure.

2. Refund Amounts

A refund amount shall be established by the Utility such that the Customer or Developer will have paid costs of infrastructure improvements roughly proportionate to the proposed development in accordance with Texas Local Government Code, Section 212.904. A refund contract will be executed with the Customer or Developer which will provide for the refund of a portion, or all of the costs reflected in the Special Deposit.

No interest will be paid on Special Deposit. In no instance shall the Utility refund more than the original cost of the facilities constructed and paid for by the owner or Developer.

G. CONSTRUCTION BY CUSTOMER

1. Conditions of Construction by the Customer

To satisfy the provisions of Rules and Regulations No.7, Section III(D) a Customer or Developer may construct or contract with others to construct sewer mains required to serve his Subdivision or area in accordance with the plans and specifications reviewed and approved by the Utility, provided all of the following conditions are fully satisfied:

- a. The Developer or Customer shall post an acceptable Performance Bond with the Utility in accordance with Texas Local Government Code, Section 212.073, to ensure completion of the project on all such projects where the Utility's contribution exceeds \$100,000 or the amount, Texas Local Government Code, Section 212.073 as it may be amended, above which performance bonds are required on such municipal contracts.
- b. The total cost of constructing all lines and appurtenances within and adjacent to the Subdivision or area to be served is paid by the Customer or Developer without requesting Utility participation or Refunds.
- c. The Developer or Customer executes an agreement with the Utility which states the actual cost by item of the work being done, who will perform the work and that the firm doing the work is an independent contractor and will hold the City of El Paso, the PSB and the Utility harmless from any and all damages or claims which may arise from the performance of the work and will purchase adequate insurance to cover this indemnity. Proof of insurance coverage to fully protect the Utility shall be furnished by the Customer or Developer or his agent in amounts required on similar Utility contracts.
- d. The Customer or Developer and/or the Customer's Surety or Developer's Surety on the Performance Bond accept the responsibility for the repair and maintenance of the facilities which are installed under a Developer Agreement for a period of 365 days after acceptance by the Utility.

2. Final Acceptance by the Utility

Upon completion, the Developer shall provide the Utility with a letter stating that the lines have been completed and all bills paid and request the Utility to assume ownership. No permanent services will be connected until the final acceptance letter has been provided by the Utility.

Upon completion of the work in accordance with the plans and specifications and the above conditions, the Utility, through its Chief Technical Officer, shall provide a letter of final acceptance to the Developer.

H. CONSTRUCTION WITHIN EASEMENTS

It is the Utilities intent to construct sewer mains in public Dedicated Rights-of-Way. Sanitary sewer mains will not be constructed within easements except when the Utility specifically requests and authorizes such construction. Utility easements shall be of sufficient width, accessible, and of proper topography to permit construction and maintenance. The Utility shall not be required to accept easements for service which do not meet the above-mentioned requirements. No building or permanent structure shall be constructed, except for paving or landscaping and other similar facilities determined by the Utility to be acceptable in the PSB or utility easement.

When service is desired for more than six (6) separate sewer connections on one (1) tract of land not separated by public Dedicated Rights-of-Way and when the actual buildings to be served are more than 100 feet from a public Dedicated Rights-of-Way, service may be obtained at a closer location to the buildings on the Customer's property provided that the Customer: (1) furnishes the Utility with a valid easement for the lines necessary to provide service at the desired location; (2) agrees to hold the Utility, PSB and the City of El Paso harmless from damages which may be caused by the existence of lines in said easement; and (3) the Customer pays the total cost of the lines required in said easement plus the normal Line Extension Charges for lines constructed or to be constructed in the streets adjacent to the property.

Where the Utility determines that the location or design of the development creates more danger of damage to the lines or other facilities than the usual development of this type, the Customer shall only be provided with service if he/she agrees to hold the Utility, the PSB and the City of El Paso harmless from any such damage which may occur.

I. ENGINEERING

1. Developer/Customer Engineered Sanitary Sewer Plans

Developer or Customer's engineered sanitary sewer plans must meet TCEQ and EPWU requirements, and the plans must be submitted to EPWU for written approval prior to commencing any work. Sanitary sewer main extensions shall be designed from the point of connection to an existing EPWU-owned sanitary sewer manhole or to a proposed manhole on an existing sanitary sewer main to the farthest property line from the point of connection so that the proposed main extends along the entire Frontage of the property to be served. The sewer main shall be designed with sufficient depth, size (minimum 8-inch diameter) and slope ready for future extensions of the main that will enable service to properties located upstream of the property to be served. If a proposed sewer main crosses an existing or proposed water main and TCEQ requirements or EPWU's design standards require that the sewer main be upgraded to a higher pressure rating the pipe shall extend from manhole to manhole. Developers/Customers shall submit one complete set of Subdivision improvement plans for approval, including boundaries, grading plans, street profiles, and topography which have been approved by the City of El Paso and/or El Paso County. The Developer or Customer shall submit a hard paper copy and/or electronic media compatible with the EPWU's Computer-Aided Design (CAD) system. EPWU will use these as a basis for the design of other extensions and other facility installations.

Developer or Customer is not required and shall not submit their own plans if any capital improvement infrastructure, master plan land studies, or any on-site oversized facilities are required to serve any areas adjacent to the Subdivision.

The Utility will provide a review of design drawings prepared by consulting engineers on behalf of a Developer/Customer. The applicant/Developer/Customer will be charged a fee equal to two percent (2%) of the total estimated construction costs for these services, and full payment of this amount shall be due at the time of execution of the development agreement.

Limited scope development agreements for new manholes and/or manhole services connection will be charged a design review fee of \$500.00. The full payment of this amount shall be due at the time of execution of the limited scope development agreement.

2. Field Surveys and Inspections

Field engineering services by the Utility shall consist only of staking out the water and sewer mains and appurtenances and inspection of related construction work to assure compliance with Utility standards.

3. Conditions for Construction

The Developer/Customer shall have the Dedicated Right-of-Way graded to within 6 inches of subgrade with curbs installed before water and sewer main construction begins. If, by prior agreement, no curbs are installed, then the Developer/Customer must have an adequate number of street centerline or off-set stakes or markers placed so that field stakeout for the water and sewer mains can be conveniently made.

The Developer/Customer must respond timely to and to bear the cost of correcting any subsequent problem which may arise due to delayed installation of curbs and gutters or changes in grade. This will apply to the Developer/Customer regardless of whether lots are subsequently sold to other parties.

J. TIME PAYMENT OF CHARGES (PROMISSORY NOTE)

Charges associated with Rules & Regulations No 7, Section III C (2) and Sewer Service Connection Charges with the installation of service required for individually-owned single-family residential properties that are adjacent to an existing main line or new proposed main line from which service can be provided, may be paid in monthly installments over a period of time not to exceed twenty-four (24) months under a Promissory Note granted by the Utility at a simple interest rate of six percent (6%) per annum, on a 360-day basis. The Promissory Note will be filed as a lien against the property. The interest rate, duration of months, any other fees required and/or associated with the installation of service and/or payment terms may be adjusted at the discretion of the Utility before or subsequent to the effective date of these rules, accrued interest, and filing charges, shall be declared immediately due. An amended lien, if necessary, may be filed against the property for these additional amounts should the maker of the Promissory Note fail to pay this full amount after notice of default. The Utility may use any other means available to it under the law to collect the delinquent charge(s) or other costs incurred as a result of the default, including reasonable attorneys' fees.

A processing charge of \$60.00 per Promissory Note shall be added for handling payment in the manner prescribed herein, which includes the cost of filing a Time Payment Contract and the subsequent lien release in the County Clerk's office. The processing charge may not be financed as part of the Promissory Note but, rather, will be paid at the time application thereof is made.

Anyone person or applicant shall be entitled to only one such Time Payment Contract.

Monthly payments will begin 30 calendar days after effective date of the Time Payment Contract. Monthly payments under this arrangement shall be made simultaneously with the payment of the water bill, and payment of the water usage charge shall not be accepted unless the Note payment is also made. Failure to pay the monthly payment to the Promissory Note shall result in the discontinuance of the Water Service in the same manner and at the same time as failure to pay the water usage charge.

## SECTION IV RECLAIMED WATER SERVICE DEPOSITS AND CHARGES

### A. MONTHLY CHARGES AND COMMODITY CHARGES

Monthly Charges and Commodity Charges for Reclaimed Water Service shall be in accordance with Rules and Regulations No. 6.

### B. RECLAIMED WATER BILL DEPOSIT

#### 1. Amount of Deposit

A Deposit shall be collected from all users of the Utility's Reclaimed Water lines and systems as a condition of service at the time of the user's application for Reclaimed Water Service from the Utility, as follows:

a. Single family residence	\$ 75.00
b. Duplex residence	\$150.00
c. Triplex residence	\$225.00
d. Commercial establishment	\$150.00
e. Industrial	\$500.00
f. Construction account	\$300.00

#### 2. Conditions of Deposit

If a Customer's credit history is unfavorable, the Utility may require a Deposit in excess of the scheduled amount, based on the total of the two highest monthly water bills on file. The bill Deposit will be applied to the final bill. Any excess Deposit will be refunded at the end of the service. Deposits do not earn interest, and no Customer is entitled to interest on Deposits.

### C. RECLAIMED WATER SERVICE CONNECTION CHARGES

#### 1. Description and Amount of Charges

The Reclaimed Water Service Connection Charge is a non-refundable payment to the Utility for tapping the street main, installing a service line from the street main to a location behind the curb (if the service is located on a paved street), or to some safe and suitable location (if not on a paved street) and installing a meter box and appropriate fittings. For users identified in a Reclaimed Water Master Plan with existing Yard Meter(s), the Reclaimed Water Service Connection Charge will be waived based on a "one Reclaimed Water meter for one Yard Meter of equal size" basis. If a Reclaimed Water meter larger than the existing Yard Meter is installed, the user will pay the connection charge price difference between the Yard Meter and the larger Reclaimed Water meter. Properties not identified in a Reclaimed Water Master Plan will be charged according to Section II C (1).

#### 2. Limits of Reclaimed Water Service Connection

Payment of the Reclaimed Water Service Connection Charge and other applicable Charges provided herein entitles the applicant to service at the meter. The extension into the property to be served shall be entirely at the Customer's expense for construction and maintenance in accordance with Rules and Regulations No.12.

#### 3. Requirements for Customer Service Extension

The property related to the Customer requested service extension (by the applicant) of lines for Reclaimed Water Service from the property line to the building or project of use, shall conform to the City of El Paso Plumbing Code, City of El Paso, and the County of El Paso requirements, PSB Rules and Regulations No. 12, and TCEQ regulations. Extension shall be made only on the property on which the service application has been made and the appropriate Charges paid.

### D. CONSTRUCTION RECLAIMED WATER SERVICE

Construction Reclaimed Water service may be furnished by the Utility through a metered temporary Water Service to fill water tank wagons for construction purposes where, in the opinion of the Utility, it is not practical at the time of installation to furnish permanent services and where, in the opinion of the Utility, an appropriate location for a standpipe and an adequate Reclaimed Water supply exist. A positive air gap or other approved Backflow Prevention Assembly shall be maintained always of operation. The Customer

will pay the estimated cost of installation and removal of the facility in advance and will agree to pay for the Reclaimed Water used in accordance with Rules and Regulations No. 6, Section X, plus all costs of any necessary repairs or maintenance of the facility. The connection may be removed by the Utility at the end of 90 days or at any time the facility is operated in such a fashion as to become, in the opinion of the Utility, a nuisance or when the construction is complete. In accordance with the Texas Commission on Environmental Quality rules, once Reclaimed Water has been carried in a vessel, it may never be used for Potable Water carriage again. Each distribution vehicle and facility using Reclaimed Water shall meet identification and posting requirements in Rules and Regulations No. 12. The Customer will be responsible for preventing runoff of Reclaimed Water from the site.

E. REFUNDS

Refunds will be made in accordance with Rules and Regulations No. 7, Section II(G) and Section III(E).

F. SPECIAL DEPOSITS FOR OFF-SITE EXPANSION FACILITIES

Special deposits will be made in accordance with Rules and Regulations No. 7, Section II(H) and Section III(F).

G. CONSTRUCTION BY CUSTOMER

To be made in accordance with Rules and Regulations No. 7, Section II(I) and Section III(G).

H. CONSTRUCTION IN EASEMENTS

To be made in accordance with Rules and Regulations No. 7, Section II(J) and Section III(H).

I. ENGINEERING

Will be done in accordance with Rules and Regulations No. 7, Section II(K) and Section III(I).

SECTION V SEVERABILITY

These Rules and Regulations are part of the other Rules and Regulations of the PSB, and persons accepting service agree to comply with the appropriate provisions and conditions of all of the Rules and Regulations. If any provision, paragraph, section, subsection, sentence, clause, or phrase of these Rules and Regulations No. 7 or the application of same to any person or set of circumstances is for any reason invalidated by any court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 7. The remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect.

SECTION VI SAVINGS

These Rules and Regulations are a part of the other Rules and Regulations of the Public Service Board and, save and except as amended hereby, the remaining provisions of the PSB's rules and regulations shall remain in full force and effect.

SECTION VII EFFECTIVE DATE

These Rules and Regulations No. 7 shall be and become effective from and after their adoption hereby and shall remain in effect until amended or changed by the PSB. Changes to any fees or rates resulting from approval of the budget are effective on the 1<sup>st</sup> day of March and shall remain in effect until amended or changed by the Public Service Board.

PASSED, APPROVED and ADOPTED this 9th day of December 1992, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 7, SECTIONS II(C)1, II(C)2, II(F)2, II(G), II(G)4, II(K)1, III(C)2, 111(0)2 AND 111(1)1, REVISED, APPROVED and ADOPTED this 24th day of February 1993.

RULES AND REGULATIONS NO. 7, SECTION III(H), REVISED, APPROVED and ADOPTED this 8th day of September 1993.

RULES AND REGULATIONS NO. 7, SECTION IV ADDED, SECTIONS IV, V, and VI RENUMBERED,



APPROVED and ADOPTED this 13th day of March 1996.

RULES AND REGULATIONS NO. 7, SECTIONS II(8)(1), II(C)(1), II(C)(2), II(C)(S), II(K)(1), II(L)(1), II(L)(2), II(M)(1), II(M)(2), II(8)(1), III(C)(2), and II(1)(1) ADDED or MODIFIED, APPROVED and ADOPTED this 11th day of December, 1996.

PASSED, APPROVED, and ADOPTED this 28th day of July 1999, with substantial changes, by the Public Service Board.

RULES AND REGULATIONS NO. 7, SECTION II(E), SECTION III(1)(1), AND SECTION III(1)(2) REVISED, APPROVED and ADOPTED this 26th day of April 2000.

RULES AND REGULATIONS NO. 7, SECTION II (C)(1a), II(F)(2), II(K), SECTION III(0)(2), AND SECTION III (1) (1) REVISED, APPROVED, and ADOPTED this 13th day of December 2006.

RULES AND REGULATIONS NO.7, SECTION I (General) ADDED; SECTION I(A) TABLE OF CONTENTS: SECTION II-(F)(2) REVISED; SECTION I(B)(Definitions) REVISED; SECTION II (B)(2), II(C), II(E) (1), II(H)(1) & (2), SECTION III(F)(1) & (2), AND SECTION IV(D), REVISED, APPROVED and ADOPTED this 9th day of January 2008.

RULES AND REGULATIONS NO.7, SECTION II (C)(1a), II(C)(2), II(C)(S), II(K)(2), II(K)(3), II(K)(4), II(K)(S), II(N), SECTION II(C)(2), AND SECTION III(1)(3), ADDED. REVISED, APPROVED and ADOPTED this 11th day of February 2009.

RULES AND REGULATIONS NO.7, SECTION II (C)(5), (F)(4d), II(K)(1), II(K)(2), II(K)(3), III(D)(4d), III(1)(1), III(1)(2), III(1)(3), SECTION II(C)(2), AND SECTION III(1)(3), ADDED, REVISED, APPROVED and ADOPTED this 17th day of December 2009.

RULES AND REGULATIONS NO. 7, SECTION II (B), II(C)(1a), II(C)(2), II(C)(3), II(C)(4), II(F)(1), II(F)(2), II(F)(2c), II(F)(2d), II(F)(2e), II(F)(2f), II(F)(2g), II(F)(3a), II(F)(3b), II(F)(4a), II(F)(4b), II(F)(4d), II(G), II(G)(1), II(G)(2), II(G)(3), II(1)(1c), II(K)(1), II(K)(2), II(K)(3), III(8)(1), III(0)(1), III(0)(2), III(D)(2c), III(D)(2d), III(D)(2e), III(D)(2f), III(D)(2g), III(D)(3a), III(D)(3b), III(D)(4a), III(D)(4b), III(D)(4d), III(E)(2), III(E)(3), III(E)(4), III(1)(1), III(1)(2), III(1)(3), III(1)(4), III(1)(5), IV(B)(1), ADDED, REVISED, APPROVED and ADOPTED this 8th day of December, 2010.

RULES AND REGULATIONS NO.7, SECTION II (E)(2c), II(E)(2d), REVISED, APPROVED and ADOPTED this 14th day of December 2011.

RULES AND REGULATIONS NO.7, SECTION II (C)(1b), REVISED, APPROVED and ADOPTED this 12th day of December 2012.

RULES AND REGULATIONS NO.7, SECTION II(C)(1a), II(C)(1b), (6), II(F)(5), II(K)(3), SECTION III (C), III (1)(3), REVISED, APPROVED and ADOPTED this December 11th, 2013.

RULES AND REGULATIONS NO.7, SECTION II(C)(1a), II(C)(2), II(C)(4), II (F)(2), SECTION III (C)(2), III (D) (2), REVISED, APPROVED and ADOPTED this 12th day of March 2014.

RULES AND REGULATIONS NO.7, SECTION II C (1,3), D, G(2,3), K(3), SECTION III C(1), REVISED, APPROVED and ADOPTED this December 10th, 2014.

RULES AND REGULATIONS NO. 7 SECTION II C(1),F(2,5), K(1,2), SECTION III C(2), I(1,2), REVISED, APPROVED AND ADOPTED this January 10, 2018.

RULES AND REGULATIONS NO. 7 SECTION II C(1), REVISED, APPROVED ADOPTED this October 10, 2018.

RULES AND REGULATIONS NO. 7 SECTION II C(1), E(2)(e), I(2), SECTION III E(2), ADDED. REVISED, APPROVED, ADOPTED this 9th day of January 2019.

RULES AND REGULATIONS NO. 7 SECTION I (A, B), SECTION II B(1f), C(1), E(2 e,f,g,h,i), F(2,5), K(1) and SECTION III B(1f), C(2), D(1,2), I(1), SECTIONS IV B(1f) ADDED. REVISED, APPROVED, ADOPTED this 8<sup>th</sup> day of January 2020, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 7 SECTION I (A, B), SECTION II, B (2), C (2, 3, 4), D (1,2), E (1), (2)(c,d,e,f,g,h), F (1)(a,b,c), (2) (a,b,c), G(1. 2), H (1,2), I(1) (a, b, c, d, e ), (2), J, K (1, 2,3), L (1,2) M, O, SECTION III, B (2), C (1,2) D(1)(a,b), (2)(a,b,c), E(1,2, 3), F(2), G(1)(c) (2), H, I (1,2,3), J, SECTION IV, B (2), C(1,2), D, E, F, G, H , I, SECTION V, SECTION VI, SECTION VII ADDED. REVISED, APPROVED, ADOPTED this 13<sup>th</sup> day of January 2021, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 7 SECTION I (A, B, C), SECTION II (A, B, C, D, E, F, G, H, I, J, K, L, M, N, O), SECTION III (A, B, C, D, E, F, G, H, I, J), SECTION IV (A, B, C, D, E, F, G, H, I), SECTION V, SECTION VI, SECTION VII ADDED. REVISED, APPROVED, ADOPTED this 12<sup>th</sup> day of January 2022, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 7 SECTION I (A, B), SECTION II (C(1), E(1, 2) F, G(1), H(1), I(1), K(1), M, N, O), SECTION III (D(2), E, F, G, I, J), SECTION IV (C, E, F, G, H, I), SECTION V, SECTION VI, SECTION VII ADDED, REVISED, APPROVED, ADOPTED this 11<sup>th</sup> day of January 2023, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

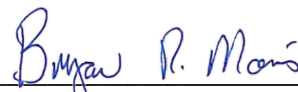
RULES AND REGULATIONS NO. 7 SECTION II (C(1), F (1)(c), F (2)(b), G(1), I(1), K(1), SECTION III (D(c), (D)(2)(b), E (2), G (1)(c), I (1), REVISED, APPROVED, ADOPTED this 10<sup>th</sup> day of January 2024, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 7 SECTION I (B), SECTION II (K)(1), SECTION III (I)(1) REVISED, APPROVED, ADOPTED this 14<sup>th</sup> day of February 2024, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 7 SECTION I (B), SECTION II (B, C, G), SECTION III (B, C, D, E, I, J), SECTION IV (C, D), SECTION V, REVISED, APPROVED, ADOPTED this 8<sup>th</sup> day of January 2025, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 7 SECTION II (C, G(1)), SECTION III (E(2)), REVISED, APPROVED, ADOPTED this 14<sup>th</sup> day of January 2026, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

**PUBLIC SERVICE BOARD:**

  
Bryan Morris, Chair

**ATTEST:**

  
Stefanie Block Uribarri, Secretary-Treasurer

**APPROVED AS TO FORM:**

  
Daniel Ortiz, General Counsel

## RULES AND REGULATIONS NUMBER 8

### RULES AND REGULATIONS REGARDING ADMINISTRATIVE APPEALS, APPEALS TO THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD OF TRUSTEES, VARIANCES, AND COMPLAINTS

BY THE AUTHORITY GRANTED TO THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD PURSUANT TO CITY OF EL PASO ORDINANCE NUMBER 752, PASSED AND ADOPTED MAY 22, 1952, ET SEQ AND PURSUANT TO CHAPTER 1502, SECTION 1502.071 OF THE TEXAS LOCAL GOVERNMENT CODE, AND THE LAWS OF THE STATE OF TEXAS, BE IT RESOLVED BY THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, TEXAS THAT THE FOLLOWING RULES AND REGULATIONS SHALL IN ALL INSTANCES GOVERN THE RIGHT OR RIGHTS REGARDING ADMINISTRATIVE APPEALS, APPEALS TO THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD, VARIANCES AND COMPLAINTS OF ANY CUSTOMER OF THE EL PASO WATER UTILITIES.

#### SECTION 1. SCOPE, PURPOSE AND POLICY:

This Rules and Regulations No. 8 of the El Paso Water Utilities Public Service Board ("Utility") is hereby adopted to provide a fair and equitable opportunity for persons to appeal certain decisions of the Utility's President/CEO, or his or her designee; to request an appeal to the El Paso Water Utilities Public Service Board; to request variances from the Rules and Regulations of the Utility, and to file complaints and receive resolution thereof with the Utility, regarding service and billing issues and regarding application of the Rules and Regulations of the Utility.

Rules and Regulations No. 8 is meant to provide an appeal process for an individual customer, person or company, which may be affected by a decision or Rule and Regulation. Rules and Regulations No. 8 is not, never has been and shall not be interpreted in any case to provide a means for a customer or his or her representative or attorney to challenge the overall management policies or governance decisions of the El Paso Water Utilities Public Service Board of Trustees or the President/CEO.

For purposes of this Rule and Regulation a "person" is defined as a customer of the Utility, an individual, corporation, organization, government or governmental subdivision or agency, business, business trust, partnership, association or other legal entity. An appeal must be submitted in written form to the President/CEO.

#### SECTION 2. ADMINISTRATIVE APPEALS

Prior to any appeal to the El Paso Water Utilities Board of Trustees a person as defined herein shall make his or concern or complaint concerning, rates, charges and/or Rules and Regulations in writing to the Vice President for Strategic, Financial and Management Services at 1154 Hawkins Blvd., El Paso, Texas 79925. An example of such a complaint would be an inquiry or complaint

regarding the interpretation of the Rules and Regulations or the individual application of charges established by the Utility.

- a. Customers desiring to make inquiry or complaint by telephone or in person should initially contact the Utility Customer Service Department or the Utility Department that administers the Rule and Regulation the subject of their objection. For example, if the inquiry or complaint is regarding a billing question, then he or she should contact the Utility Customer Service Department and ask to speak to a customer service representative. If the inquiry or complaint concerns a development action, plan or program, he or she should contact the Utility Development Engineering Service Department. If the inquiry is a storm water question, he or she should contact the Utility Storm Water Engineering Division. Such complaints received in writing shall be investigated by the Utility officials designated by the President/CEO and a written response will be provided to the customer regarding the determination of the Utility within forty-five (45) days of the investigation.
- b. Should a customer not receive a satisfactory explanation and/or resolution of his or her concerns, questions or complaint, he or she should submit that fact in writing to the Vice President for Strategic, Financial and Management Services of the Utility and request an Administrative Hearing. The Utility will schedule an Administrative Hearing with the customer and/or his representative or attorney within thirty (30) days of receipt of the written notice to the Utility of an unsatisfactory resolution to his or her concern. The Administrative Hearing will be conducted during normal business hours at the offices of the Utility before an Administrative Committee consisting of not more than three (3) supervisory employees of the Utility as appointed by the President/CEO. After the Administrative Hearing, the Chair of the Administrative Committee will notify the customer in writing of the determination of the Administrative Committee within thirty (30) days of the conclusion of the hearing itself.
- c. In an instance where the customer has followed the administrative process provided for herein and has determined that the Utility has not satisfactorily resolved his or her concerns as a result of the Administrative Hearing; then, in that event, the customer may request in writing to the President/CEO an appeal to the El Paso Water Utilities Public Service Board of Trustees. Such request will be processed in accordance with this Rule and Regulation Number 8.

### SECTION 3. APPEALS TO THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD OF TRUSTEES.

#### A. APPLICABILITY.

1. A person may appeal certain decisions, as described in this Rule and Regulation, of the President/CEO to the Utility's Public Service Board of Trustees in accordance with the procedures outlined in this Rule and Regulation.

2. This Rule and Regulation applies only to decisions of the President/CEO regarding the following:
  - a. Customer billing disputes
  - b. Suspension, termination or disconnection of service for non-payment, hazardous conditions, an illicit discharge, or for any other reason the President/CEO is authorized to suspend, terminate, or disconnect service under these Rules and Regulations;
  - c. Denial of service;
  - d. Denial of a permit or authorization issued by the President/CEO on behalf of the Utility;
  - e. Application of a fee or charge;
  - f. Impervious cover determinations; and,
  - g. Administrative penalties or fines.
3. The Chair of the Utility's Public Service Board of Trustees, or his or her designee, will review the request for an appeal hearing as submitted to the President/CEO and determine if the request meets the requirements of this Rule and Regulation. If the request meets the requirements of this Rule and Regulation, the Chair in his or her sole discretion, will set a hearing on the appeal on the next available and regularly-scheduled Utility Board meeting (or in the discretion of the Chair, at a Special Utility Board meeting). The Utility will notify the appellant in writing of the date and time for the appeal hearing before the Utility Board, and the amount of time that will be allowed for the appellant to present his or her or its appeal to the Utility Board.
4. At the appeal hearing, the appellant, or the appellant's authorized attorney or other representative, may appear before the Utility Board and present the appeal. If the appellant or his or her representative does not appear before the Utility Board, appellant's appeal will be decided by the Utility Board on the basis of the written appeal and any materials or information provided by the President/CEO or other Utility staff. The Utility Board will not consider any written materials of the appellant that are not submitted to the Utility Board at least five (5) business days prior to the appeal hearing. The Utility Board may request input or additional information from the President/CEO or other Utility staff, and may confer with its attorney in executive session as provided for in the Texas Open Meetings Act. The Utility Board, by majority vote in open session, may affirm the decision of the President/CEO, modify, limit or condition the President/CEO's decision if the

Utility Board concludes that the President/CEO's decision is not consistent with the applicable Rules and Regulations of the Utility, or may defer final decision on the appeal to allow the person to seek a variance, if available, and as provided by this Rule and Regulation.

5. If the appellant is unable to appear at the date and time designated for the hearing on the appeal, the appellant or the appellant's authorized attorney or representative, may request in writing a continuance. The continuance request must be received by the Chair at least twenty-four (24) hours before the meeting of the Public Service Board of Trustees at which the hearing is to be heard. The Chair will grant the appellant's first written request for continuance upon timely receipt of the request. At the Chair's sole discretion, the Chair may grant or deny any additional continuance requests made after the first continuance request has been granted. If a continuance is granted, the Chair will reschedule the appeal hearing for a subsequent Utility Board meeting and have the appellant notified in writing of the date and time for the appeal hearing.
6. Prior to an appeal hearing, the Chair, in his or her sole discretion, reserves the right to reschedule or continue an appeal hearing to another meeting of the Utility Board. The Utility Board at a meeting on which the appeal hearing is set may, by majority vote, continue an appeal hearing to another meeting of the Utility Board.
7. Except as provided by Rules and Regulations No. 16, Section XIV, the decision of the Utility Board on an appeal is final and non-appealable further.

#### SECTION 4. VARIANCES

##### A. APPLICABILITY.

The El Paso Water Utilities Public Service Board may authorize, in specific cases, a variance from the requirements of the Rules and Regulations of the Utility if in the Utility Board's determination, the variance is not contrary to the public interest; will not compromise or threaten to compromise the public health, safety or welfare; will not result in unreasonable public expense or cost to the Utility; will not create or threaten to create a nuisance or potential nuisances, public or private; is not in conflict with the El Paso City Code or Charter, or other applicable law or policy; and/or due to special circumstances or conditions, a literal enforcement of the Rules and Regulations would result in unnecessary hardship to the variance applicant; and the requested variance otherwise would be consistent with the spirit and purpose of the Rules and Regulations from which the variance is sought and substantial justice is done. This Section 3 of this Rule and Regulation does not apply to variances under Rules and Regulations No. 17.

B. Procedure.

1. To request a variance as provided for by this Section, the variance applicant must submit the request in writing to the Vice President, Strategic, Financial and Management Services of the Utility at 1154 Hawkins Boulevard, El Paso, Texas 79925. The request must include the following:
  - a. The name, address, billing address (if applicable), email address (if applicable), and telephone number of the person making the request for the variance.
  - b. A listing of the specific numbers, sections and paragraphs of the Rules and Regulations from which the variance is sought;
  - c. A statement describing why the variance is being requested, including but not limited to, showing (i) there is good and sufficient cause for the variance, (ii) the applicant will suffer unnecessary hardship if the variance is denied, (iii) no other rule, regulation, or law precludes the variance requested, and (iv) the public interest and public health, welfare and safety will be protected; and,
  - d. A check or money order for fifty dollars (\$50.00) made out to the El Paso Water Utilities for the non-refundable administrative costs of review of the requested variance.
2. A request for a variance under this Rule and Regulation may be submitted with and be considered at the same time that an appeal under Section 2 of this Rule and Regulation is considered.
3. Within forty-five (45) days after receipt of a variance request, the Utility Board will hold a public hearing on the request. The President/CEO will give written notice of the public hearing for the variance by mail to the person requesting the variance, at the address as stated in the application, and by posting notice of the appeal in the El Paso Water Utility's Public Service Board's meeting agenda, in accordance with the Texas Open Meetings Act.
4. Utility's Board will act on the request for a variance no later than the next regularly scheduled Utility Board meeting following the public hearing, provided that the next regularly scheduled Utility Board meeting is at least five (5) business days after the public hearing. The Utility Board may act on the request at an earlier Utility Board meeting after the close of the public hearing. In acting on the request for a variance, the Utility Board may by order adopted by the Utility Board:
  - a. Approve the request for a variance.

- b. Approve the request for a variance with modifications or special conditions that the Utility Board deems necessary or appropriate to further the purpose and objectives of the Rules and Regulations and Utility practice and policy, and that is in the public interest, including, but not limited to, limiting the time for which the variance is effective; or
  - c. Deny the request for a variance.
- 5. Unless otherwise provided by the order granting the variance, the Utility Board's decision on the variance is effective immediately. Unless otherwise provided by the Rules and Regulations, by the City of El Paso Code or Charter, or by other applicable law, there shall be no right to an appeal of the decision of the Utility Board on a variance request. All decisions by the Utility Board on a variance request are final.
  - 6. No variance granted by the Utility Board shall be considered to set a precedent for the Utility or establish a Utility practice or policy unless so stated by the Utility Board in its written order.

#### SECTION 5. COMPLAINTS GENERALLY

A person may make a complaint to the Utility in person, in writing, or by telephone. Complaints received will be investigated by the Utility personnel designated by the President/CEO, and a written response will be provided to the complainant regarding the results of the investigation unless a verbal response is considered sufficient by the person. Unless provided by the person in writing, complaints will be informally reviewed and investigated with a written or verbal response provided. Unless further allowed for by Sections 2 or 3 of this Rule and Regulation, there is no right of appeal recognized for a decision of the President/CEO regarding the results of a general complaint investigation.

#### SECTION 6. SEVERABILITY CLAUSE

If any provision of this Rules and Regulations Number 8 or the application of this Rule to any person or under any set of circumstances is, for any reason, found to be void by a court of competent jurisdiction and authority, that provision shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Rules and Regulations Number 8 or any other of these Rules and Regulations.

#### SECTION 7. SAVINGS.

This Rules and Regulations Number 8 is part of the other Rules and Regulations of the El Paso Water Utilities Public Service Board and, save and except as amended hereby, the remaining provisions of the Rules and Regulations shall continue and remain in full force and effect.



#### SECTION 8. REPEALER CLAUSE

The provisions of this Rule and Regulation shall be cumulative of all other Rules and Regulations governing or regulating the same subject matter as that covered herein; provided, however, that all prior Rules and Regulations inconsistent or in conflict with any of the provisions of this Rule and Regulation Number 8 are hereby expressly repealed to the extent that such inconsistency is apparent. This Rule and Regulation Number 8 shall not be construed to require or allow any act that is prohibited by any other Rule and Regulation of the Utility. All Rules and Regulations shall be construed harmoniously in every case.

#### SECTION 9. EFFECTIVE DATE

This Rule and Regulation Number 8 shall be and become effective from and after its adoption by the Utility's Public Service Board, and shall remain in effect until amended or modified by the action of the Utility's Public Service Board.


PASSED, APPROVED AND ADOPTED this 23<sup>rd</sup> day of May, 1979.

RULES AND REGULATIONS NO. 8, SECTION II, REVISED, APPROVED AND ADOPTED this 9<sup>th</sup> day of December, 1992.

RULES AND REGULATIONS NO. 8, HEADING, SECTION I, SECTION II, REVISED, APPROVED AND ADOPTED this 12<sup>th</sup> day of December, 2007.

RULES AND REGULATIONS NO. 8 REVISED COMPLETELY, APPROVED AND ADOPTED this 13<sup>th</sup> day of May, 2015.


#### **EL PASO WATER UTILITIES PUBLIC SERVICE BOARD**

  
Richard T. Schophoerster, PhD, P.E.  
Chair

ATTEST:

  
Terri Garcia  
Secretary/Treasurer

APPROVED AS TO FORM:

  
Robert D. Andron  
General Counsel

## RULES AND REGULATIONS NO. 9

### RULES AND REGULATIONS GOVERNING THE DISCHARGE OF WASTEWATER INTO EL PASO'S WASTEWATER SYSTEM

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111-1118, REVISED CIVIL STATUTES OF TEXAS, THE TEXAS WATER CODE, EL PASO MUNICIPAL CODE §15.12.010, AND ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, ON MAY 22, 1952, AS AMENDED; NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO THAT THE FOLLOWING RULES FOR GOVERNING THE DISCHARGE OF WASTEWATER INTO EL PASO'S WASTEWATER SYSTEM ARE HEREBY ESTABLISHED AND SHALL SUPERSEDE THE RULES AND REGULATIONS PREVIOUSLY ADOPTED FOR DISCHARGE OF WASTEWATER; KNOWN AS RULES AND REGULATIONS NO. 9.

THAT, PUBLIC SERVICE BOARD RULES AND REGULATIONS NO. 9, GOVERNING THE DISCHARGE OF WASTEWATER INTO EL PASO'S WASTEWATER SYSTEM, ARE HEREBY AMENDED BY ADOPTING NEW RULES AND REGULATIONS NO. 9, WHICH SUPERSEDE AND REPLACE THE EXISTING RULES AND REGULATIONS NO. 9, AND WHICH SHALL READ AS FOLLOWS:

#### SECTION I      TABLE OF CONTENTS

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## SECTION II      GENERAL PROVISIONS

### A.      PURPOSE AND POLICY

These Rules and Regulations of the Public Service Board (PSB), together with applicable provisions of PSB Rules and Regulations No. 1, No. 5, and No. 6, set forth the uniform requirements for the discharge by any person of wastewater into El Paso's wastewater system. The purposes of this Rules and Regulations No. 9 are as follows:

1. To protect the health and safety of PSB employees and of the citizens of El Paso.
2. To prevent the introduction of pollutants into El Paso's wastewater system which will interfere with the operation of the system or contaminate the sludge it produces.
3. To prevent the introduction of pollutants into El Paso's wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere, or otherwise be incompatible with the system.
4. To improve the ability of the system to reclaim wastewater and sludge for beneficial use.
5. To achieve compliance with TPDES Permit conditions, sludge use and disposal requirements and other federal or state laws.
6. To provide equitable distribution of the cost of improvements to, operation and maintenance of El Paso's wastewater system.

B. DEFINITIONS AND ABBREVIATIONS

The following abbreviations, when used in this rule, shall have the designated meanings as follows:

BOD

Biochemical Oxygen Demand

BMP

Best Management Practices

C.F.R.

Code of Federal Regulations

EPA

United States Environmental Protection Agency

mg/L

Milligrams per liter

NPDES

National Pollution Discharge Elimination System

POTW

Publicly Owned Treatment Works

PSB

Public Service Board. The Board of Trustees created by Ordinance 752, which is the governing body of and has the complete management and control of the EPWU (Utility).

SIU

Significant Industrial User

T.A.C.

Texas Administrative Code

TCEQ

Texas Commission on Environmental Quality

TPDES

Texas Pollutant Discharge Elimination System

TSS

Total Suspended Solids

U.S.C.

United States Code

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Rules and Regulations No. 9, shall be defined as and have the following meanings:

Act or "the Act"

The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et. seq.*

Aboveground Storage Tank

A non-vehicular device (including any associated piping) that is made of non-earthen materials; located on or above the surface of the ground, or on or above the surface of the floor of a structure below ground, such as mineworking, basement, or vault; and designed to contain an accumulation of regulated substances.

#### Approval Authority

The director in an NPDES State with an approved State pretreatment program and the appropriate Regional Administrator in a non-NPDES State or NPDES State without an approved State pretreatment program.

#### Authorized Representative

A responsible corporate officer, if the Industrial user submitting a report required under Section 40 C.F.R. § 403.12 (b), (d), and (e) is a corporation. A responsible corporate officer means:

- (1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
- (2) The manager of one or more manufacturing, production or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (3) By a general partner or proprietor if the Industrial User submitting the reports required by 403.12(b), (d), and (e) is a partnership, or sole proprietorship respectively.
- (4) By a duly authorized representative of the individual designated in paragraph 403.12(l)(1) or (l)(2) if:
  - a. The authorization is made in writing by the individual described in paragraph 403.12(l)(1) or l(2);
  - b. The authorization specifies either an individual or position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position having overall responsibility for environmental matters for the company; and
  - c. The written authorization is submitted to the Control Authority.
- (5) If an authorization under paragraph 403.12(l)(3) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

#### Best Management Practices

The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of the MS4 and waters of the United States. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials.

#### Biochemical Oxygen Demand (BOD)

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20o Celsius expressed as a concentration.

#### Categorical Pretreatment Standard or Pretreatment Standard

Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Clean Water Act (33 U.S.C. 1347), which applies to Industrial Users, including the prohibitive discharge limits established pursuant to 40 C.F.R. § 403.5. Local limits shall also be considered Pretreatment Standards.

#### Categorical Standards

National Categorical Pretreatment Standard.

#### City or El Paso

The City of El Paso, Texas, or the City Council of El Paso, Texas.

#### Composite Sample

a collection of individual samples obtained at regular intervals, usually every one or two hours during a 24-hour time span. Each individual sample is combined with the others in proportion to the rate of flow when the sample was collected, or at consistent intervals of time regardless of rate of flow.

#### Control Authority

El Paso Water Utilities-Public Service Board as the publicly owned treatment works (POTW) with an approved pretreatment program.

#### Daily Discharge

Discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.

#### Daily Maximum Limit

The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

#### Discharge

The introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c) or (d) of the Act.

#### Environmental Protection Agency

The United States Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

#### Free Product

A regulated substance in its free-flowing, non-aqueous liquid phase at standard conditions of temperature and pressure (e.g, liquid not dissolved in water).

#### Grab Sample

This is a sample taken from a wastestream over a period of time not to exceed fifteen (15) minutes.

#### Hazardous Substance

Any substance defined or listed in the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), §101(14)(42 U.S.C. §9601, *et seq.*), and which is not regulated as a hazardous waste under the Federal Solid Waste Disposal Act, Subtitle C (42 U.S.C. §6921, *et. seq.*).

#### Hazardous Waste

Any waste regulated under the Federal Resource Conservation and Recovery Act (RCRA) as listed hazardous waste in 40 C.F.R. 261, Subpart D, or as a characteristic waste as per 40 C.F.R., Subpart C.

#### Industrial User

A source of indirect discharge.

#### Industrial Wastewater

Liquid and water-carried non-domestic solid, gas and liquid wastes from dwellings, commercial buildings, and industrial facilities, whether treated or untreated, together with any groundwater, surface water or stormwater that may be present.

#### Interference

A discharge, which alone or in conjunction with a discharge or discharges from other sources, both: inhibits or disrupts a POTW, its treatment processes or operations, or its sludge processes, use or disposal; and, therefore is a cause of a violation of any requirement of a POTW's TPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of wastewater sludge use or disposal in compliance with the following

statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

National Pollutant Discharge Elimination System Permit (NPDES)

A permit issued pursuant to Section 402 of the Clean Water Act (33 U.S.C. 1342). The National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States.

New Source

- a. Any building, structure, facility or installation (facility) from which there is, or may be, a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section provided:
  - (i) the facility is constructed at a site at which no other source is located; or
  - (ii) the facility totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (iii) the production or wastewater generating processes of the facility are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, shall be considered.
- b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new facility meeting the criteria of paragraphs (a)(ii) or (iii) above but otherwise alters, replaces or adds to existing process or production equipment.
- c. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
  - (i) Begun, or caused to begin, as part of a continuous onsite construction program any placement, assembly or installation of facilities or equipment; or significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or,
  - (ii) Entered into a binding contractual obligation for the purchase of facilities or equipment intended for use in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

Pass-through

A discharge which exits a POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's TPDES permit, or corresponding State permit (including an increase in the magnitude or duration of a violation); or which causes a violation of a State Water Quality Standard.

Person

Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

Petroleum Substance

Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

pH

The measure of relative acidity or alkalinity of a solution and is defined as the negative logarithm (base 10) of the

hydrogen ion concentration.

Pollutant

Any dredged spoil, solid waste, incinerator residue, sewage, garbage, wastewater sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Pretreatment or Treatment

This is the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 C.F.R. § 403.6(d).

Pretreatment Requirements

Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an Industrial User.

Producer

This is a person or entity that produces liquefied wastes which are transported for disposal by Waste Haulers and includes residential, commercial or industrial producers.

Public Service Board (PSB)

The Public Service Board of the City of El Paso, Texas acting on its own behalf or through the authorized acts of the El Paso Water Utilities (EPWU) which is charged with the day-to-day operation of El Paso's wastewater system, or by EPWU's designated representative.

Publicly Owned Treatment Works (POTW)

A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292), and operated by the PSB. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Significant Industrial User (SIU)

Significant Industrial User means:

- (a) All industrial users subject to Categorical Pretreatment Standards under 40 C.F.R. § 403.6 and 40 C.F.R. Chapter I, Subchapter N; and
- (b) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
- (c) Contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
- (d) Is designated as such by the Control Authority as defined in 40 C.F.R. § 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 C.F.R. § 403.8(f)(6)).

Slug Load

Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, local limits or Permit conditions.

Standard Industrial Classification (SIC) Code

A standard series of four-digit codes created by the U.S. government in 1937 for categorizing business activities.

State

State of Texas.



Storm Water

Any flow occurring during or following any form of natural precipitation and resulting from such precipitation including snowmelt.

Texas Pollutant Discharge Elimination System

Permit issued by the TCEQ under the provisions of Section 402 of the Clean Water Act and Chapter 26 of the Texas Water Code.

Total Suspended Solids

The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by filtering.

Underground Storage Tank

Any one or combination of underground tanks and any connecting underground pipes used to contain an accumulation of regulated substances, the volume of which, including the volume of the connecting underground pipes, is ten percent or more beneath the surface of the ground.

User

A source of indirect discharge.

Vehicle

A mobile receptacle or device in which or by which waste may be transported upon public streets, highways or roadways.

Wastewater

Liquid and water carried industrial or domestic solid, gas or liquid wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, together with any groundwater, surface water and storm water that may be present.

Wastewater System or System

El Paso's POTWs owned and operated through the Public Service Board.

C. ADMINISTRATION

El Paso Water Utilities, under the direction of its President/CEO and acting through its employees and agents, is hereby authorized to administer this Rules and Regulations No. 9, and to take all steps necessary to implement them. Unless explicitly stated otherwise, references to the Public Service Board in this Rules and Regulations No. 9 shall include El Paso Water Utilities.

SECTION III GENERAL SEWER USE REQUIREMENTS

A. PROHIBITED DISCHARGE STANDARDS

1. No User shall discharge or cause to be discharged into El Paso's wastewater system any pollutant or wastewater except in conformity with this Rules and Regulations No. 9, the requirements of the Act, the General Pretreatment Regulations in 40 C.F.R. Part 403, and applicable state laws. Significant Industrial Users (see Section IV) must obtain a discharge permit from the PSB prior to any discharge. All other Users must notify the PSB of the nature and characteristics of their wastewater prior to commencing their discharge to determine if a discharge permit is required. If a permit is not required, the User must enter into a wastewater service contract with the PSB prior to any discharge.
2. No User may discharge or cause to be discharged into the wastewater system any pollutant or wastewater that will cause Pass-through or Interference. In addition, a User may not introduce the following substances into the wastewater system:
  - a. Any liquids, solids or gases, which by reason of their nature or quantity are, or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion; or which have a closed-cup flashpoint of less than 60° Celsius.

- b. Solid or viscous substances in such quantities and/or qualities that may obstruct flow in the system resulting in interference, such as, but not limited to: grease, garbage with particles greater than 1 centimeter in any dimension, animal guts or tissues, paunch manure, bones, hair, hides, fleshings, entrails, blood, feathers, ashes, cinders, sand, mud, lime, stone dust, marble dust, metal, glass, straw, shavings, grass clippings, rags, grains, hops, paper, wood, plastics, grinding or polishing wastes or substances which may solidify or become viscous at temperatures between 0° Celsius and 60° Celsius.
- c. Petroleum substances, whether emulsified or not, in excess of 100 mg/L.
- d. Any wastewater having a pH less than 5.5 or greater than 10.5, or wastewater having any other corrosive property capable of causing significant damage or hazard to structures, equipment, and/or personnel of the system.
- e. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters at the effluent end of the system, or to exceed a limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.
- f. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to physically prevent reasonably safe and/or tolerable human and/or mechanical entry into the sewers for inspection, maintenance and repair purposes.
- g. Any substance which may cause the system's effluent or any other product of the system such as residues, sludge, or scum, to be unsuitable for normal landfill disposal, land application reclamation or beneficial use, or to interfere with the reclamation process where the system is pursuing a reuse and reclamation program. In no case, shall a substance discharged to the system cause the system to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 or Section 503 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, or State criteria applicable to sludge management and/or disposal methods being used including Chapter 312 of the Texas Administrative Code.
- h. Any substance that will cause the system to violate its TPDES and/or State Disposal System Permit or the receiving water quality standards or an applicable Total Maximum Daily Load (TMDL) as established by the EPA or the TCEQ.
- i. Any wastewater having a temperature that will inhibit biological activity in a treatment plant resulting in Interference, but in no case wastewater with a temperature at the introduction into a treatment plant that exceeds 40° Celsius.
- j. Any pollutants, including oxygen-demanding pollutants (BOD, etc.) released at a flow and/or pollutant concentration that will cause Interference to the system. In no case shall a slug load have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average daily concentration, quantities, or flow during normal operation.
- k. Trucked, drummed, containerized or hauled wastes or pollutants except as specified in these Rules and Regulations No. 13.
- l. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits as permitted by the most current Federal or State regulations.

- m. Any pollutants which result in the presence or formation of toxic gases, vapors or fumes within the system in a quantity that may cause acute workers' health and safety problems.
- n. Stormwater, surface water, groundwater, roof run-off, subsurface drainage and unpolluted wastewater unless specifically authorized by Wastewater Discharge Permit.
- o. Sludges, screenings or other residues from the pretreatment of industrial wastewater including but not limited to the solid or liquid contents of sand, grit or grease traps.
- p. Wastewater causing, either alone or in conjunction with other sources, the POTW effluent to fail a toxicity or biomonitoring test.
- q. Detergents, surfactants, surface-active agents or other substances that may cause foaming in the POTW.
- r. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW or at any point in the POTW or more than 50 percent of the Lower Explosive Limit of the meter.
- s. Mercury in excess of the minimum analytical level as specified in Procedures to implement the Texas Surface Water Quality Standards January 2003.

Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged into the POTW except as allowed by the Wastewater Discharge Permit.

#### B. LOCAL LIMITS

1. The following pollutant limits are established to protect against pass-through and/or interference. No person shall discharge or cause discharge into the wastewater system of any pollutant or wastewater in violation of the local limits listed below. These limits are based on either flow-proportional or time-proportional composite samples or grab samples where composite samples are not possible or practical. The limits apply at the point where the wastewater is discharged to the POTW. All concentrations are for the "total" pollutant.

<u>Pollutant</u>	<u>Daily Average Limit (mg/L)</u>	<u>Instantaneous Limit (mg/L)</u>
Arsenic	0.11	0.22
Benzene	--	1.93
Cadmium	0.11	0.22
Chromium	1.22	2.44
Copper	1.75	3.50
Cyanide	1.08	2.16
Lead	0.66	1.32
Mercury	0.0002	0.0002
Molybdenum	0.15	0.30
Nickel	1.04	2.08
Selenium	0.24	0.48
Silver	0.83	1.66
Zinc	3.73	7.46
Total dissolved solids	5,448.0	10896.0

2. No user shall discharge or cause to be discharged into the wastewater system any pollutant or wastewater containing any of the following:
  - a. Fat, grease, oil or wax of vegetable origin in excess of 100 mg/l unless otherwise allowed by Wastewater Discharge Permit.
  - b. Wastewater containing dye, dye waste or any other coloring agent resulting in a wastewater color

concentration in excess of 300 ADMI units.

- c. The following limits are established for BTEX compounds and are based on grab samples:

<u>Pollutant</u>	<u>Units</u>	<u>Concentration</u>
Toluene	mg/L	17.0
Ethyl benzene	mg/L	16.0
Xylene	mg/L	17.0

- d. Biochemical Oxygen Demand (BOD) in excess of 300 mg/L.

3. The PSB may develop Best Management Practices (BMPs) by rule or in individual Wastewater Discharge Permits to help implement Local Limits and other Pretreatment Standards in addition to or in lieu of numerical local limits where numeric limits are infeasible or impractical, and to protect against interference and pass through as appropriate to meet the requirements of the Clean Water Act. Such BMPs shall be considered local limits and pretreatment standards. This includes categorical standards that have BMPs or pollution prevention alternatives and/or local limits and/or other pretreatment standards.
4. The PSB reserves the right to amend this Rules and Regulations No. 9 at any time to establish more stringent local limits as necessary to satisfy the purposes as set forth in Section II.A. Industrial, commercial, and residential streams shall be evaluated in establishing local limits.
5. The PSB shall comply with public participation requirements of 40 C.F.R. § 403.8(f)(vii) in enforcement of these pretreatment requirements.
6. Implemented numeric limits and BMPs for target pollutants will be evaluated to insure they will result in meeting calculated maximum allowable headworks loadings.
7. Estimates of reduction in loading resulting from BMPs, numeric limits, or Best Management Practices, or a combination, for affected sectors will be verified for target pollutants by sampling where BMPs have been implemented.

#### C. FEDERAL

1. The categorical pretreatment standards found at 40 C.F.R. Chapter I, Subchapter N, Parts 405 through 471 are hereby incorporated.
  - a. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the PSB may impose equivalent concentration or mass-based limits in accordance with 40 C.F.R. § 403.6(c).
  - b. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the PSB shall impose an alternate limit using the combined wastestream formula in 40 C.F.R. § 403.6(e).
  - c. An Industrial User may obtain a variance from a categorical pretreatment standard if the Industrial User can prove, pursuant to the procedural and substantive provisions in 40 C.F.R. § 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
  - d. An Industrial User may obtain a net gross adjustment to a categorical standard in accordance with 40 C.F.R. § 403.15.
2. No Industrial User subject to a Categorical Standard or to a state discharge limitation shall discharge into the wastewater system or cause any pollutant or wastewater to be discharged into the wastewater system in

violation of that standard or limitation.

3. After the promulgation of a Categorical Standard or state limitation, and upon expiration of any compliance grace period, the Categorical Standard or state limitation, if more stringent than limitations imposed on Industrial Users under this Rules and Regulations No. 9, automatically supersedes and replaces those limitations. Industrial Users which become subject to a Categorical Standard are subject to the reporting requirements at 40 C.F.R. § 403.12.

D. STATE

[This section is reserved.]

E. DILUTION

Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no Industrial User shall ever increase the use of process water, or in any other way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with the specific pollutant limitations contained in the Categorical Standards, or in any local limit or standard promulgated by the PSB or the State of Texas.

F. PRETREATMENT OF WASTEWATER

1. Industrial Users shall provide wastewater treatment as necessary to comply with this Rules and Regulations No. 9 and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set forth in this Rules and Regulations No. 9 within the time-frame specified by EPA, the State or the PSB, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the Industrial User's expense. At the request of the PSB, detailed plans describing such facilities and operating procedures shall be submitted to the PSB for review and shall be deemed acceptable before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the Industrial User of the responsibility to modify such facilities as necessary to produce a discharge acceptable to the PSB under the provisions of its Rules and Regulations.
2. Whenever deemed necessary, the PSB may require users to restrict their discharge during peak flow periods, designate certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sanitary wastestreams from industrial wastestreams and such other conditions as may be necessary to protect the POTW and determine the Industrial User's compliance with the requirements of this Rules and Regulations No. 9.
3. The PSB may require an Industrial User to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
4. Industrial Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection device.
5. No Industrial User shall discharge or cause to be discharged into the wastewater system any pollutant or wastewater containing grease, oil, sand or any flammable wastes (including, but not limited to, restaurants, food processing plants, garages, service stations, machine shops and factories), except through a suitable grease, oil, and sand interceptor. No such interceptor shall be required for private living quarters or dwelling units. The Industrial User shall be responsible for the installation, proper operation and maintenance of the interceptor and the lawful disposal of the accumulated waste.
6. Any User discharging wastewater generated in a photo processing process shall be subject to pretreatment requirements. The PSB shall follow the Code of Management Practice (CMP) for Silver Dischargers to determine requirements on a site-specific basis. The CMP, finalized in 1995 by the Silver Coalition and the Association of Metropolitan Sewer Association (AMSA) provides recommendations on technology, equipment and management practices for controlling silver discharges from facilities that process photographic materials. Copies of the document can be obtained through the National Association of

Photographic Manufacturers (NAPM) at: 550 Mamaroneck Avenue, Suite 307, Harrison, New York 10528-1612. The document is also available at <http://www.silvercouncil.org>.

7. No User shall bypass their pretreatment facility without prior written authorization of the PSB.

G. COMPLIANCE WITH DISCHARGE PROHIBITIONS

Any facility required to pretreat their wastewater to achieve compliance with this Rules and Regulations No. 9 shall be provided, operated, and maintained at the Industrial User's expense. Industrial Users planning to build or install such facilities after the effective date of this Rules and Regulations No. 9 must submit plans and operation procedures acceptable to the PSB prior to construction or installation of the facilities. The review of such plans and operating procedures will in no way relieve the Industrial User of the responsibility of modifying the facility as necessary to produce an effluent acceptable to the PSB under the provisions of this Rules and Regulations No. 9. Any significant changes in existing pretreatment facilities or methods of operation shall be reported to and be acceptable to the PSB prior to the Industrial User's initiation of the changes.

H. BLOCKAGE OR OVERFLOW OF SANITARY SEWER

Any user discharging solids, viscous substances or other prohibited material as described in Section III.A.2.b. of this Rules and Regulations No. 9 into the sanitary sewer system and found to be responsible for obstructing wastewater flow or resulting in blockage or sanitary sewer overflow will be responsible for the expense incurred by the PSB during the clearing of the affected line as well as any damage to public or private property.

I. ACCIDENTAL DISCHARGES AND SLUG CONTROL

Each Industrial User shall provide protection from accidental discharge of prohibited materials or other substances regulated by these Rules and Regulations No. 9. Each SIU shall be evaluated to determine whether an accidental discharge/slug discharge control plan, or other action to control slug discharges, is needed at the time status as a SIU is determined, or within a year of being designated significant. The PSB may require any Industrial User to develop, submit for approval and implement such a plan. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or Industrial User's own cost and expense. Review and approval of such plans and operating procedures shall not relieve the Industrial User from the responsibility to modify the Industrial User's facility as necessary to meet the requirements of this Rules and Regulations No. 9. Alternatively, the PSB may develop such a plan for any Industrial User. An accidental discharge/slug control plan shall address, at minimum, the following:

1. A description of discharge practices including non-routine batch discharges.
2. A complete inventory and description of stored chemicals.
3. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents and/or measures and equipment necessary for emergency response.

J. ACT OF GOD DEFENSE

Where an Industrial User can establish in municipal or state court that an event that would otherwise be a violation of this Rules and Regulations No.9 or its Wastewater Discharge Permit was caused solely by an act of God, war, strike, riot, or other catastrophe, the event shall not be considered a violation.

SECTION IV INDUSTRIAL WASTEWATER DISCHARGE PERMITS

A. GENERAL

All SIUs proposing to connect to or to discharge any pollutant or wastewater into the wastewater system shall first obtain a wastewater discharge permit from the PSB. SIUs with an existing permit on the effective date of this Rules and Regulations No. 9 may continue to discharge under the terms of such permit until it expires or is modified or terminated. The PSB may require other Industrial Users to obtain wastewater discharge permits as necessary to carry out the purposes of this Rules and Regulations No. 9. Any violations of the terms and conditions of a Wastewater

Discharge Permit shall be deemed a violation of this Rules and Regulations No. 9 and subjects the wastewater discharger to the sanctions enumerated in this Rules and Regulations No. 9. Obtaining a Wastewater Discharge Permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

B. PERMIT APPLICATION

1. To obtain a permit, Industrial Users shall complete and file a permit application on a form prescribed by the PSB at least ninety (90) days prior to the time that they desire to connect to the system or to begin discharging into it. Industrial Users seeking to renew a permit must file a renewal application at least ninety (90) days prior to the expiration of the existing permit. The filing of a renewal application extends an existing permit until such time as the application for renewal is acted upon.
2. The application may require the following information:
  - a. Name, address, and location, (if different from the address);
  - b. SIC code number;
  - c. Wastewater constituents and characteristics as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA in 40 C.F.R. § 136;
  - d. Time and duration of contribution;
  - e. Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
  - f. Site plans, floor plans, mechanical and plumbing plans showing all sewers, sewer connections, and appurtenances by the size, location and elevation and points of discharge;
  - g. Description of activities, facilities and plant processes on the premises including all chemicals and materials that are or could be intentionally or accidentally discharged into the wastewater system;
  - h. Where known, the nature and concentration of any pollutants in the discharge which are limited by any local, state, or national Pretreatment Standards, and a statement regarding whether or not the pretreatment standards can be met on a consistent basis and if not, what additional operation and maintenance and/or additional pretreatment is required;
  - i. If additional pretreatment and/or operation and maintenance modifications will be required to meet a Pretreatment Standard; the shortest schedule by which the Industrial User could provide such additional pretreatment;
  - j. Each product produced by type, amount, process or processes and rate of production;
  - k. Type and amount of raw materials processed (average and maximum per day);
  - l. Number and type of employees, and hours of operation of plant and proposed or actual hours of operation;
  - m. Any other information as may be deemed necessary by the PSB to evaluate the permit application.
3. The application shall include the certification statement found in 40 C.F.R. § 403.6(a)(2)(ii).
4. After receiving a complete application, the PSB may issue a permit subject to the terms and conditions provided herein. Incomplete or inaccurate applications will not be processed.
5. The PSB will evaluate the data furnished by the User or prospective User and may require additional

information. Within thirty (30) days of receipt of a complete application, the PSB will determine whether or not to issue a wastewater discharge permit. The PSB may deny any application.

C. PERMIT CONDITIONS

A Wastewater Discharge Permit shall include such conditions as are deemed reasonably necessary by the PSB to accomplish the purpose of these regulations. Wastewater Discharge Permits shall be expressly subject to the PSB Rules and Regulations and all other applicable requirements of federal and state law. Permits shall contain, at minimum, the following information:

1. A statement that indicates the permit duration.
2. A statement that the permit is not transferable without prior notification to the PSB in accordance with the Rules and Regulations.
3. Limits on the wastewater constituents and characteristics.
4. Reporting and record-keeping requirements.
5. A statement of applicable civil and criminal penalties for violation of pretreatment standards or reporting requirements.
6. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
7. Requirements for installation and maintenance of facilities for inspection and sample collection.
8. Specifications for monitoring programs that may include sampling locations, frequency of sample collection, number, types and standards for tests and testing procedures.
9. Compliance schedule(s) where necessary for installing technology that will allow users to meet applicable pretreatment standards and requirements.
10. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the PSB and affording the PSB access thereto.
11. Requirements for notification of the PSB of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.
12. Requirements for notification of slug discharges. The Industrial User must provide notification immediately of changes that occur at the facility affecting the potential for slug discharge, thereby allowing the need for a slug discharge control plan or other actions to prevent such discharges, to be reevaluated.
13. Requirements for the installation of pretreatment technology, pollution control or construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
14. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated or non-routine discharges.
15. Requirements for the development and implementation of plans to minimize waste to reduce the amount of pollutants discharged to the POTW.
16. Other conditions as deemed appropriate by the PSB to insure compliance with all applicable laws and regulations, including best management practices based on applicable Pretreatment Standards, local limits, state, or local requirements; including to provide protection against interference and pass through, in lieu



of numeric limits where numeric limits are infeasible or impractical or in addition to numeric limits to meet the requirement of the Clean Water Act.

D. PERMIT DURATION

A Wastewater Discharge Permit shall be issued for a specified time period either in months or a year(s) but not to exceed a total five (5) years from the effective date of the permit, at the discretion of the PSB. Each Wastewater Discharge Permit will indicate a specific date upon which it will expire.

E. PERMIT MODIFICATION

A permit may be modified by the PSB, after notice to the permittee and opportunity for a hearing, for any of the following reasons:

1. Upon request of the permittee, provided that discharges under the modified permit would not create a violation of any existing applicable requirement, standard, law, rule or regulation or policy of the PSB.
2. To address material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance and were not contemplated by PSB at the time of permit issuance and which justify permit conditions that are different than those in the existing permit.
3. To incorporate any properly promulgated new or revised federal, state or local regulation where appropriate.
4. When the PSB receives new information, not available at the time of permit issuance, which justifies permit conditions different than those in the existing permit or which indicates that the discharge poses a threat to the POTW, POTW personnel or the receiving waters.
5. Upon a change in the POTW status that requires either a temporary or permanent reduction or elimination of the authorized discharge.
6. Violation of any term and/or condition of the permit.
7. Misrepresentation or failure to fully disclose all relevant facts in the permit application or in any required report.
8. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 C.F.R. §403.13.
9. To correct typographical or other errors in the permit.
10. For other just cause as necessary to achieve the purposes of these Rules and Regulations.
11. To incorporate, revise, or revoke new or existing best management practices.

F. PERMIT TRANSFER

A wastewater discharge permit is issued to a specific User at a specific facility. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed facility.

G. PERMIT COST

The fees for wastewater discharge permits will be as established by the PSB as set forth in Rules and Regulations No. 6. Fees for permit renewal shall be equivalent to the permit fee. Permit fees are non-refundable.

H. PERMIT APPEAL

The PSB shall provide notice of the issuance of a Wastewater Discharge Permit. The User may petition, in writing, the Pretreatment Manager to reconsider the terms and conditions of a permit within ten (10) days of notice of issuance. Failure to submit a timely petition for review shall be deemed to be a waiver of all administrative appeals. In its notice of appeal, the User must indicate the permit condition objected to, the reasons for the objection and the

alternative condition, if any, the User seeks to place in the permit. If the Pretreatment Manager denies the petition or if the Pretreatment Manager fails to act within ten (10) days, the request for reconsideration shall be deemed to be denied. The User may petition, in writing, the PSB to reconsider the terms and conditions of the permit and the Pretreatment Manager's denial within twenty-one (21) days of the notice of issuance of the permit. If the PSB fails to act within sixty-one (61) days from the notice of issuance, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a permit, not to issue a permit or not to modify a permit by the PSB shall be considered final administrative actions. The effectiveness of the Wastewater Discharge Permit shall not be stayed pending appeal.

I. PERMIT REVOCATION

The PSB may revoke a Wastewater Discharge Permit for good cause including, but not limited to, the following reasons:

1. Failure to notify the PSB of significant change to the characteristics of wastewater prior to the changed discharge.
2. Failure to provide prior notification to the PSB of changed conditions pursuant to this Rules and Regulations No. 9.
3. Misrepresentation or failure to fully disclose all relevant facts in the permit application.
4. Falsification of required reports.
5. Tampering with PSB monitoring equipment.
6. Refusing the PSB timely access to the facility premises and records.
7. Failure to meet effluent limitations.
8. Failure to pay recommended penalties.
9. Failure to meet compliance schedule milestones.
10. Failure to provide advanced notice of transfer of User ownership.
11. Violation of any pretreatment standard or requirement or any terms of the Wastewater Discharge Permit or the Rules and Regulations, including but not limited to failure to meet Best Management Practices based on applicable Pretreatment Standards, local limits, state, or local requirements or a violation of the BOD limits noted in the Permit and this Rules and Regulations No. 9.

SECTION V INTERJURISDICTIONAL AGREEMENTS

If another municipality or user contributes wastewater to the POTW, an interjurisdictional agreement shall be established to facilitate implementation of requirements under the Pretreatment Program and to insure compliance with Pretreatment Standards.

SECTION VI REPORTING AND MONITORING

A. REQUIRED REPORTS

Industrial users shall self-monitor and submit to the PSB the reports described below. Reports shall include the certification statement in 40 C.F.R. § 403.6(a)(2)(ii) and shall be signed:

- ◆ for a corporation, by a responsible corporate officer as defined in 40 C.F.R. § 403.12(1)(I);
- ◆ for a partnership or sole proprietorship, by a general partner or the proprietor; or
- ◆ by an authorized representative of the persons described in a) and b) above, as defined in 40 C.F.R.

§ 403.12(1)(3). Reports shall be deemed submitted on the date postmarked.

1. Baseline Monitoring Reports Within 180 days of the effective date of a Categorical Standard, industrial users subject to such Standard and currently discharging to or scheduled to discharge to the wastewater system shall submit to the PSB a report that contains the information listed under 40 C.F.R. § 403.12(b)(1)-(7). New sources and sources that become industrial users subsequent to the promulgation of an applicable Categorical Standard, shall be required to submit to the PSB, at least 90 days before commencing their discharge, a report containing the information listed at 40 C.F.R. § 403.12(b)(1)-(5).
2. Compliance Reports Industrial Users subject to any Categorical Standard shall also submit to the PSB the compliance reports required by 40 C.F.R. § 403.12(c)(3), (d), (e) and (h). Reports on continued compliance for categorical and noncategorical significant industrial users shall include information required by 40 C.F.R. § 403.12(g).
3. Notice of Potential Problem Industrial Users shall notify the PSB immediately of any discharge by them that could adversely affect one or more of El Paso's POTWs, including any slug loadings, as defined at 40 C.F.R. § 403.5(b).
4. Notice of Changed Discharge All Industrial Users shall promptly notify the PSB in advance of any substantial change in the volume or character of pollutants in their discharge. The Industrial User must provide notification immediately of changes that occur at the facility affecting the potential for slug discharge, thereby allowing the need for a slug discharge control plan or other actions to prevent such discharges, to be reevaluated.
5. Industrial Users not subject to Categorical Standards Industrial Users not subject to a Categorical Standard shall submit to the PSB at least once every six months (on dates specified by the PSB) a description of the nature, concentration, and flow of the pollutants in accordance with 40 C.F.R. § 403.12 (h). The samples and analysis required for these reports may be performed by the PSB in lieu of the Industrial User. The Industrial User will not be required to submit the reports where the PSB collects all of the information required.
6. Reporting of Violations If any samples collected and analysis performed by an Industrial User indicates a violation of the Industrial User's discharge permit, the Industrial User must notify the PSB within 24 hours of becoming aware of the violation. The Industrial User must also repeat the sample collection and analysis and submit the results of the repeat analysis within 30 days of becoming aware of the violation. The Industrial User is not required to resample if, (1) The PSB collects samples from the Industrial User at a frequency of at least once per month, or (2) The PSB collects samples from the Industrial User between the time when the User collected the first sample and the time when the User receives the results of analysis. This reporting requirement does not apply to violations of limits for BOD and TSS.
7. Self Monitoring Report Users shall collect samples of wastewater discharge for self-analysis and shall submit that information along with other information in a report as required in their Wastewater Discharge Permit by the PSB. The PSB may, upon agreement with the User, conduct self-monitoring in lieu of the User at a cost to be set on a case-by-case basis. If the PSB conducts monitoring in lieu of the SIU, the PSB shall perform required repeat sampling and analysis for the parameter violated within 30 days of becoming aware of a violation. If violations continue, the User may be required to also monitor.
8. Compliance Schedule Reports As required in the Compliance Schedule, users operating under a Compliance Schedule may be required to submit reports necessary to evaluate compliance with the schedule. If additional treatment, best management practice and/or O&M are required to meet Pretreatment Standards, the shortest schedule by which the user will provide such additional treatment and/or O&M must be provided. The Compliance Schedule Reports are due no later than fourteen (14) days following each milestone date in the schedule.
9. Other Reports Industrial Users shall perform such other monitoring and submit such other reports as required by the PSB by permit or otherwise, including documentation associated with Best Management Practices and results of monitoring obtained using procedures prescribed in 40 C.F.R. § 403.12(g)(5) for

regulated pollutants at the location designated for monitoring in addition to required monitoring.

**B. RECORDKEEPING REQUIREMENTS**

1. Any User required to monitor and/or report its discharges by this Rules and Regulations No. 9, or its Wastewater Discharge Permit shall maintain and make available for inspection and copying all records of all information obtained pursuant to any monitoring activities required by the rule and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, including documentation associated with Best Management Practices that is necessary to determine the compliance status of the User. Such records shall include the following for all samples taken:
  - a. The date, exact place, method, and time of sample collection and the name(s) of the person or persons taking the samples;
  - b. The dates of analysis;
  - c. The person who performed the analyses;
  - d. The analytical techniques/methods used; and
  - e. The results of such analyses.
2. Any User subject to the reporting requirements established in this section shall retain for a minimum of three (3) years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the EPA, the State, or the PSB. This period of retention shall be extended during the course of any unresolved litigation involving the User or when requested by the EPA, the State, or the PSB.
3. Any person who knowingly makes any false statement on any report or other document required by this permit or falsifies, tampers with or knowingly renders any monitoring device or method inaccurate shall be subject to civil and criminal penalties and/or imprisonment.

**C. COMPLIANCE MONITORING**

Unless otherwise indicated by the PSB, all sampling and analysis required by this Rules and Regulations No. 9 or by permit shall be performed in accordance with the procedures under 40 C.F.R. § Part 136.

**D. MINIMUM DETECTION LIMITS**

Detection limits used during analysis shall be low enough to demonstrate compliance with applicable limits. The detection limits specified are those limits achieved on analysis and not the method detection limit nor the instrument detection limit. Failure to use detection limits low enough to demonstrate compliance may result in an automatic exceedance and may be subject to enforcement actions under Section V.II., herein.

**E. MONITORING FACILITIES**

1. The PSB may require the Industrial User to provide facilities to allow collection of samples and measurement of flow of any discharge point and/or internal drainage system located on private property. This facility should normally be situated on the User's premises, but the PSB may, when such a location would be impractical or cause undue hardship to the User, allow the facility to be constructed in a street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
2. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the User.

3. Whether constructed on public or private property, the facilities used for sample collection and monitoring shall be provided in accordance with all applicable local construction standards and specifications. Construction of such facilities located within the User's property is subject to local Plumbing Code.
4. Facilities located on private property shall be operated and maintained at the Industrial User's expense.

F. INSPECTION AND SAMPLING BY THE PSB

EPA, the TCEQ, and the PSB may inspect the facilities of any Industrial User and take samples of its discharge at the designated discharge points without advance notice. The User may request and shall be provided a portion of any sample taken provided there is adequate sample available. Persons or occupants of the premises where wastewater is created or discharged shall allow EPA, the TCEQ, and/or the PSB or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sample collection, examination of records, or the performance of any of their duties. EPA, the TCEQ, and the PSB shall have the right to set up on the User's property such devices as are necessary to monitor compliance. Where a User has security measures in force that require proper identification and clearance before entry is granted, necessary arrangements shall be made so EPA, the TCEQ, and/or the PSB will be permitted to enter upon presentation of suitable identification, without delay, for the purpose of performing their specific responsibilities.

G. CONFIDENTIAL INFORMATION

User information and data obtained from reports, questionnaires, applications, permits, monitoring programs and inspections shall be made available by the PSB in accordance with the Texas Public Information Act. Information or data submitted to the PSB is without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the PSB that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time the information or data is submitted. Each page shall also be stamped "confidential" by the User at the time the information is submitted. When requested and demonstrated by the User that such information should be held confidential, the portions of a report that might disclose trade secrets shall not be made available for inspection by the public but shall be made immediately available upon request to governmental agencies for use related to the TPDES program or pretreatment program and in enforcement proceedings involving the Person or User submitting the report. Information regarding constituents and characteristics of wastewater shall not be recognized as confidential.

H. NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE

1. In accordance with 40 C.F.R §403.12(p), any Industrial User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director and the Texas Commission on Environmental Quality, in writing, of any discharge into the POTW of a substance which, if otherwise disposed, would be a hazardous waste under 40 C.F.R. § 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. § 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the Industrial User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section V.A.4. of this Rule. This requirement does not apply to pollutants already reported by users subject to categorical pretreatment standards.
2. Dischargers are exempt from the requirements of Section V.H.1. during a calendar month in which discharge is no more than fifteen (15) kilograms of hazardous wastes unless the wastes are acute hazardous wastes as specified in 40 C.F.R. § 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as

specified in 40 C.F.R. § 261.30(d) and 261.33(e) requires a one-time notification.

3. In the case of new regulations under Section 3001 or RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the PSB, the EPA Regional Waste Management Division Director and the Texas Commission on Environmental Quality of the discharge of such substance within ninety (90) days of the effective date of such regulations.
4. In the case of any notification made under Section V.A.4., the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
5. This provision does not create a right to discharge any substance not otherwise permissible for discharge by this ordinance, a permit issued thereunder, or any applicable federal or state law.

#### SECTION VII STORAGE TANKS

The regulations within this section are applicable to both Underground and Aboveground Storage Tank systems storing hazardous substances and petroleum substances as prescribed by Texas Water Code, Chapter 26, Subchapter I.

- A. Owners and operators and their agents, contractors and designees of underground and aboveground storage tanks shall comply with applicable regulations under TCEQ 30 T.A.C. Chapter 334 and 40 C.F.R. Part 261.
- B. Owners and operators of underground and aboveground storage tank systems shall report suspected releases to the PSB immediately upon discovery.
- C. Discharge of free product or any wastewater containing free product to the sanitary sewer system in excess of 100 mg/L is prohibited in accordance with Section III.A., herein.
- D. Discharge of purge water from monitoring wells is prohibited except with the prior written authorization of the PSB. Such authorization shall not be unreasonably withheld, and shall be based upon assessment, sample collection and analysis conducted by the owner/operator or his designee. A nonrefundable fee of \$250 shall be payable to the PSB to process the request.
- E. Discharge of wastewater generated during internal cleaning, repairing, relining, or hydrostatic testing of tanks shall be prohibited without prior written authorization of the PSB. Such authorization shall not be unreasonably withheld and shall be based upon assessment and sample collection and analysis conducted by the owner/operator or his designee. In addition, the PSB shall consider the effect of the discharge on the wastewater collection system and the feasibility of alternatives to discharge to the sanitary wastewater collection system. Assessment and sample collection and analysis are the responsibility of the owner or his designee. A non-refundable fee of \$250 shall be payable to the PSB to process the request.
- F. Wastewater generated during soil and/or groundwater remediation is prohibited from discharge into the wastewater system. Such waste shall be otherwise discharged in accordance with applicable state and federal regulations.

#### SECTION VIII ENFORCEMENT

##### A. NOTICE OF VIOLATION

1. Whenever the PSB believes that any person or permittee has violated or is violating this Rules and Regulations No. 9 and/or a wastewater permit or order issued hereunder, the PSB may serve (either personally or by registered or certified mail) upon such person or permittee a written notice stating the nature of the alleged violation. The recipient of an alleged violation notice must respond in writing to the PSB within fifteen (15) working days from the date of receipt of such notice.
2. Should the recipient of a notice alleging violation fail to respond to the PSB in writing within the initial fifteen (15) working day response period, the recipient or permittee shall be deemed to have admitted to responsibility for the violation.

3. The person or permittee responding to receipt of an alleged violation notice shall file written response in the most applicable of the following forms:

a. Should the person or permittee admit his or her responsibility for the alleged violation, the person or permittee shall submit a letter report to the PSB that:

(i) If the nature of the violation of either the permit or this Rule involves a discharge that is prohibited herein, submit a report containing information regarding the time, date, location, cause, source, quantity, quality and concentration of the discharge or disposal and the corrective measures actually taken by the person or permittee to recover or neutralize the discharge, self-reporting notices submitted to any state, federal or other agencies having jurisdiction, and actions to be taken by the person or permittee to prevent any similar recurrent discharges.

(ii) If the nature of the violation of either the permit or this Rule involves an administrative or procedural non-compliance, the letter report shall contain information regarding corrective measures and time schedules the person or permittee has adopted to assure expeditious and continued compliance.

b. Should the person or permittee deny his or her responsibility for the alleged violation, the person or permittee must submit a letter report to the PSB explaining why responsibility is being contested.

B. CONSENT ORDER

The PSB may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action(s) to be taken by the User to correct the noncompliance within a period of time specified by the document.

C. SHOW CAUSE HEARING

The PSB may order a User that has violated, or continues to violate, any provision of these Rules and Regulations No. 9, a Wastewater Discharge Permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the PSB and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by certified mail return receipt requested at least ten (10) days prior to the hearing. Such notice may be served on any representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

D. COMPLIANCE ORDER

Whenever the PSB finds that any User has violated or continues to violate any provision of this Rules and Regulations No. 9, or a permit or order issued thereunder, or any other pretreatment standard or requirement, the PSB may issue an order to the User directing that the User come into compliance within a specified period of time. If the User does not come into compliance within the time provided, sewer and/or water service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances be installed and properly operated. Compliance Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including additional self-monitoring, and the adoption of management practices designed to minimize the amount of pollutants discharged to the wastewater system. A Compliance Order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a Compliance Order relieve the User of liability for any violation, including any continuing violation. Issuance of a Compliance Order is not required before the PSB may take any other enforcement action authorized herein.

E. CEASE AND DESIST ORDER

When the PSB finds that a User had violated, or continues to violate, any provision of this Rules and Regulations No. 9, a Wastewater Discharge Permit or order issued hereunder, or any other pretreatment standard or requirement, or that the User's past violations are likely to recur, the PSB may issue an order to the User directing it to cease and desist all such activity and comply with all requirements immediately; and, take such appropriate remedial or preventive action as may be needed to properly address a continuing or imminent violation, including halting

operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

F. EMERGENCY SUSPENSIONS

1. The PSB may suspend the wastewater treatment and/or water service and/or wastewater permit of a User without prior notice whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the wastewater system, or the environment. The PSB may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the wastewater system, or that presents or may present an endangerment to the environment.
2. Any User notified of a suspension of its wastewater treatment and/or water service and/or its wastewater permit shall immediately stop or eliminate its discharge. In the event a User fails to comply voluntarily with the suspension order, the PSB shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the wastewater system, and receiving streams, or endangerment to any individuals. The PSB may allow the User to recommence its discharge when the endangerment has passed, unless termination proceedings are initiated against the User.
3. Any User notified of a suspension for the reasons noted in Section VI.F.1. above shall submit a detailed written statement describing the causes of the harmful discharge and the measures taken to prevent any future occurrence to the PSB within fifteen (15) calendar days of receipt of the notice.
4. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

G. TERMINATION OF SERVICE

In addition to the provisions of this rule, any User who violates the following conditions is subject to termination of either water service or wastewater service or both. Such User will be notified of the proposed termination and be offered an opportunity to show cause under Section VII.C. of this rule why the proposed action should not be taken. Exercise of this option by the PSB shall not be a bar to, or a prerequisite for, taking any other action against the User.

1. Violation of a Wastewater Discharge Permit condition.
2. Failure to accurately report the wastewater constituents and characteristics of its discharge.
3. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
4. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring or collection of samples.
5. Violation of pretreatment standards, including required applicable best management practices.

H. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The PSB shall publish at least annually in a newspaper(s) of general circulation that provides meaningful public notice in El Paso, Texas, a list of all Users who, during the previous twelve (12) months, were significantly noncompliant with applicable pretreatment standards. For purposes of this provision, a significant violation will be as defined in 40 C.F.R. 403.8 (f)(2)(viii).

I. SURCHARGE

Users shall be subject to a surcharge as provided in Rules and Regulations, No. 6, Section V.

J. TERMINATION OF PERMIT

A permit may be terminated by the PSB for the following causes. Users will be notified in advance of the proposed termination of their permit. Users may request a hearing as provided in Section VI.K.:



1. Violation of permit conditions.
2. Failure to accurately report the constituents and characteristics of the wastewater discharged.
3. Failure to report significant changes in operations or wastewater constituents and characteristics.
4. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling.
5. A determination that the User's discharge endangers human health or the environment and can only be regulated to acceptable levels by permit termination.
6. Failure to pay required fees, surcharges, or penalties.

K. HEARING BY THE PSB

1. Any User adversely affected by an action taken pursuant to this Rules and Regulations No. 9, or the terms of a discharge permit, is entitled to a hearing by the PSB upon filing with the PSB a written request within fifteen (15) days of the action, or of receipt of notice thereof, whichever is earlier. This section supersedes the provisions in PSB Rules and Regulations, No. 8, Section II, as they apply to Users of the wastewater system.
2. Filing of a request for a hearing will automatically stay the action, except for action taken pursuant to the emergency suspension authority.
3. The PSB may itself conduct the hearing and take the evidence or may designate any of its members or any officer or employee of the PSB as the hearing officer. The hearing officer may take any of the following actions:
  - a. Issue notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
  - b. Take the evidence.
  - c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the PSB for action thereon.
4. At any hearing held pursuant to this Rules and Regulations No. 9, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.
5. After the PSB has reviewed the evidence, it may issue such orders or take such actions as are authorized herein.
6. The PSB or a designated hearing officer shall have the power to issue subpoenas to compel the attendance of witnesses or the production of evidence. A subpoena may be issued at the request of an El Paso Water Utilities employee or attorney, at the request of a representative of a User. The subpoena power shall extend to any pre-hearing conference or other preliminary proceeding.

L. JUDICIAL RELIEF

Despite any other provisions contained in this rule, the legal counsel for the PSB is hereby authorized to seek and proceed with legal action and/or equitable remedies against any person or permittee believed to be violating or have violated this Rule and Regulation No. 9 and/or federal or state laws governing water quality, industrial wastewater pretreatment, and hazardous or non-hazardous liquid waste transportation over which the PSB has enforcement authority. A legal proceeding prosecuted under this rule does not constitute a waiver by the PSB of any right the city may have to join in a legal action originating from an alternative source of law.

The PSB may commence such actions for appropriate legal and/or equitable relief in courts having proper

jurisdiction and may seek civil penalties and any other legal or equitable relief available under common law or any other applicable local, state, or federal code or statute.

M. CRIMINAL PENALTIES

A conviction for violation of this rule shall constitute a Class C Misdemeanor unless other controlling authority identifies it as a higher level misdemeanor or a felony. A person convicted of a violation of this division shall be fined a minimum amount of not less than \$50 per violation and a maximum of not more than the highest lawful amount allowed for such violation. Each violation of a particular section of this rule shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this rule. A culpable mental state is not required to prove an offense under this rule. The PSB designated representative is hereby authorized to designate qualified EPWU personnel to serve notices of violations of this section and take all necessary action to file a complaint with the municipal prosecutor's office.

N. CIVIL PENALTIES

A civil penalty in an amount not to exceed two thousand (\$2,000.00) per violation of this rule may be imposed. Each violation of a particular section of this rule shall constitute a separate offense, and each day such an offense continues shall be considered a new violation for purposes of enforcing this Section. A culpable mental state is not required to prove an offense under this ordinance.

O. REMEDIES NONEXCLUSIVE

The remedies provided for in this rule are not exclusive. The PSB may take any, all, or a combination of these actions against a noncompliant user. Enforcement of pretreatment regulations will generally be in accordance with the PSB's Enforcement Response Plan. However, the PSB may take other action against any User when the circumstances warrant. Further, the PSB may take more than one enforcement action against any noncompliant User.

SECTION IX MISCELLANEOUS

A. SEVERABILITY

If any provision, paragraph, word, or section of this Rules and Regulations No. 9, is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, or sections shall not be affected and shall continue in full force and effect.

B. NOTICES

Unless otherwise provided, all notices, applications and reports required by this Rules and Regulations No. 9, shall be submitted to:

Pretreatment Manager  
El Paso Water Utilities  
1154 Hawkins Blvd.  
El Paso, Texas 79925

PASSED, APPROVED, and ADOPTED the 13th of June, 1990 by Unanimous vote of the Public Service Board.

SECTION III-7 AND SECTION V-8 REVISED, APPROVED, and ADOPTED this 13th day of March, 1991.

PASSED, APPROVED, and ADOPTED this 27th day of October, 1993, with substantial changes, by the Public Service Board.

PASSED, APPROVED, and ADOPTED this 24th day of February, 1999, with substantial changes, by the Public Service Board.

RULES AND REGULATIONS NO. 9, SECTIONS II.B., III.B.1., III.H., III.J., V.A.5., V.D., V.F., VII.N., and miscellaneous grammatical changes ADDED or MODIFIED, APPROVED, and ADOPTED this 10th day of January, 2007.

RULES AND REGULATIONS NO. 9, SECTIONS II.B., III.A.2.s., III.B., VII.H., and miscellaneous grammatical changes ADDED or MODIFIED, APPROVED AND ADOPTED this 27th day of January, 2010.

RULES AND REGULATIONS NO. 9, SECTIONS II. B. and C., SECTION III. B.2 d. and F.1., SECTION IV. A. and D., SECTION IV.I. 11., SECTION V. G., SECTION VII. A.1., 2. ,3. a and b, and K., ADDED or MODIFIED, PASSED, APPROVED AND ADOPTED this 14<sup>th</sup> Day of August, 2019.

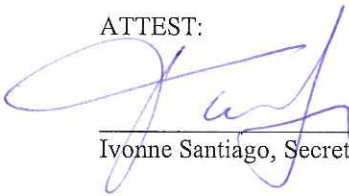
RULES AND REGULATIONS NO. 9, SECTION I, SECTIONS II. B., SECTION III. B. 3. 4. 5. 6. and 7., SECTION III. I., SECTION IV.C. 12. and 16., SECTION IV. E. 11., SECTION IV. I, 11., SECTION V., SECTION VI. A. 2., 4., 7., 8., 9., SECTION VI. B. 1. and 3., SECTION VIII.G. 5., ADDED or MODIFIED, PASSED, APPROVED AND ADOPTED this 12<sup>th</sup> Day of February 2020, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

PUBLIC SERVICE BOARD

A large, stylized blue ink signature of Christopher Antcliff, written over a horizontal line.

Christopher Antcliff,, Chair

ATTEST:

A blue ink signature of Ivonne Santiago, written over a horizontal line.

Ivonne Santiago, Secretary-Treasurer

APPROVED AS TO FORM:

A blue ink signature of Lee Ann B. Koehler, written over a horizontal line.

Lee Ann B. Koehler, General Counsel

## RULES AND REGULATIONS NO. 10

### RULES AND REGULATIONS ESTABLISHING THE INVESTMENT POLICY FOR THE PUBLIC SERVICE BOARD

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111-1118, REVISED CIVIL STATUTES OF TEXAS, THE PUBLIC FUNDS INVESTMENT ACT, CHAPTER 2256 TEXAS GOVERNMENT CODE, AND ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON MAY 22, 1952, AND AS THEREAFTER AMENDED, NOW, THEREFORE BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF EL PASO:

THAT PUBLIC SERVICE BOARD REVIEWED THE INVESTMENT POLICY ESTABLISHED IN RULES & REGULATIONS NO. 10 ARE HEREBY AFFIRMS AND ADOPTS RULES & REGULATIONS NO. 10, WHICH SHALL READ AS FOLLOWS:

#### SECTION I TABLE OF CONTENTS

The following headings or captions are adopted as the Table of Contents for Public Service Board Rules and Regulations No. 10.

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## SECTION II POLICY

It is the policy of the El Paso Water Utilities that, giving due regard to the safety and risk of investment, all available funds shall be invested in conformance with State and Federal Regulations, applicable Bond Ordinance requirements (specifically the Public Funds Investment Act, Texas Government Code, Chapter 2256, the “Act”), to define, adopt and review a formal investment strategy and policy.

In accordance with Chapter 552, Subchapter C of the Texas Local Government Code, the City of El Paso established the El Paso Municipal Drainage Utility System under the auspices of the El Paso Water Utilities Public Service Board with the complete authority and control of the management and operation of the System vested in the Board. The Board will establish a drainage utility fund. All drainage utility fees shall be deposited as collected and received into this fund and shall be used exclusively for the drainage services set forth under the Act, including but not limited to those services referenced in Local Government Code Section 552.044(2). The revenues collected from drainage utility fees must be segregated and completely identifiable from other City or Board accounts. Any investments made of such funds shall be in accordance with the Texas Public Funds Investment Act and the Investment Policy of the El Paso Water Utilities Public Service Board as may be amended from time to time.

Management responsibility for the investment program is hereby delegated to the PSB Audit, Finance, and Investment Committee, which shall establish written procedures for the operation of the investment program consistent with this Investment Policy. The PSB Audit, Finance, and Investment Committee shall be made up of three Public Service Board Members designated by the Board, the President/CEO, the General Counsel, Vice President, Chief Financial Officer, Assistant Chief Financial Officers, Fiscal Operations Manager, and the Treasury Manager.

Effective cash management is recognized as essential to good fiscal management. Aggressive cash management and effective investment strategy development will be pursued to take advantage of interest earnings as viable and material revenue to all PSB funds. The PSB portfolio shall be designed and managed in a manner responsive to the public trust and consistent with these Rules and Regulations. Investments shall be made with the primary objectives of:

- Preservation of capital;

- Safety of PSB funds;
- Maintenance of sufficient liquidity;
- Maximization of return within acceptable risk constraints; and,
- Diversification of investments.

### SECTION III PURPOSE

#### A. FORMAL ADOPTION

This Investment Policy is authorized by the Public Service Board.

#### B. SCOPE

This Investment Policy applies to all of the investment activities of the PSB. These Rules and Regulations establish guidelines for: (1) who can invest PSB funds; (2) how PSB funds will be invested; and, (3) when and how a periodic review of investments will be made. In addition to these Rules and Regulations, bond funds (as defined by the Internal Revenue Service) shall be managed by their governing ordinance and all applicable State and Federal Law. These funds are accounted for in the PSB Comprehensive Annual Financial Report and include Operating Funds, the General Bond Reserve Funds, the Interest and Sinking Funds, and various Improvement & Construction Funds.

#### C. INVESTMENT STRATEGY

The PSB shall annually review and adopt its Investment Policy and strategies. The PSB attempts to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, with the exception of debt service reserve funds, the PSB will not directly invest in securities maturity more than three (3) years from the date of purchase; however, the above described obligations, certificates, or agreements may be collateralized using longer dated investments. The composite portfolio will have a weighted average maturity of one (1) year or less. This dollar weighted average maturity will be calculated using the stated final maturity dates of each security. The investment strategy must describe the investment objectives for each particular fund according to the following objectives:

- Investment suitability;
- Preservation and safety of principal;
- Liquidity;
- Diversification;
- Yield; and,
- Public Trust
- Marketability of the investment if the need arises to liquidate the investment before maturity.

### SECTION IV INVESTMENT OBJECTIVES

#### A. SAFETY OF PRINCIPAL

The primary objective of all investment activity is the preservation of capital and the safety of principal in the overall portfolio. Each investment transaction shall seek to ensure first that capital losses are avoided, whether they are from securities defaults or erosion of market value. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit and interest rate risk.

- Credit Risk - The PSB will minimize credit risk, the risk of loss due to failure of the security issuer backer, by:
  - Limiting investments to the safest types of securities
  - Pre-qualifying the financial institutions and broker/dealers with which the PSB will do

- business
  - Diversifying the investment portfolio so that potential losses on individual securities will be minimized.
- Interest Rate Risk - The PSB will minimize the risk that the market value of securities in the portfolio will fall due to changes in general interest rates, by:
  - Structuring or laddering the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
  - Investing operating funds primarily in shorter-term securities, money market mutual funds or similar investment pools.

B. MAINTENANCE OF ADEQUATE LIQUIDITY

The investment portfolio will remain sufficiently liquid to meet the cash flow requirements that might be reasonably anticipated. Liquidity shall be achieved by matching investment maturities with forecasted cash flow requirements; investing in securities with active secondary markets; and maintaining appropriate portfolio diversification.

C. YIELD

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into consideration the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. The core of investments is limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed.

D. PUBLIC TRUST

All participants in the PSB investment process shall seek to act responsibly as custodians of the public. Investment officials shall avoid any transactions which might impair public confidence in the PSB's ability to operate.

SECTION V INVESTMENT PROCEDURES

A. AUTHORIZED INVESTMENTS

Investments described below are authorized by Chapter 2256, Texas Government Code, as eligible securities for the PSB. The purchase of specific issues may at times be restricted or prohibited by the PSB Audit, Finance, and Investment Committee. PSB funds may be invested in:

1. Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including Federal Home Loan Banks and excluding mortgage backed securities, collateralized mortgage obligations and real estate mortgage investment conduits.
2. Direct obligations of the State of Texas, or its agencies and instrumentalities.
3. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State of Texas, or the United States, or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States. Excluding mortgage



backed securities, collateralized mortgage obligations and real estate investment conduits.

4. Other obligations of states, agencies, counties, cities, and other political subdivisions of any State having been rated as to investment quality by a nationally recognized investment rating firm and having received a rating of not less than “A” or its equivalent.
5. Fully collateralized repurchase agreements having a defined termination date, placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution that has its main office or a branch office in Texas, and secured by obligations described by #1 above, which are eligible investments under the Public Funds Investment Act, pledged with a third party selected or approved by the PSB, and having a market value of not less than the principal amount of the funds disbursed. The term includes direct security repurchase agreements and reverse repurchase agreements structured in compliance with the Texas Government Code and purchased only through approved Investment Pools or Money Market Mutual Funds. All PSB repurchase agreement transactions shall be governed by a signed Master Repurchase Agreement.
6. Certificates of deposit issued by state and national banks and/or depository institutions that has its main office or a branch office in Texas and is:
  - a. Guaranteed or insured by the Federal Deposit Insurance Corporation, or its successor, or insured by the National Credit Union Share Insurance Fund or its successor and is secured by obligations that are obligations under the law and described by #1-4 above, which are intended to include all direct Federal agency or instrumentality issued mortgage backed securities, but excluding those mortgage backed securities of the nature described in Section 2256.009(b) of the Texas Government Code, that have a market value of not less than the principal amount of the certificates, or secured in accordance with Chapter 2257 of the Texas Government Code or in any other manner and amount provided by law for deposits of the PSB;
  - b. Governed by a Depository Contract, that complies with Federal and State regulation to properly secure a pledged security interest;
  - c. Solicited for bid in writing, electronically, or any combination of these methods; and,
  - d. In addition to the authority to invest funds in certificates of deposit under Section V (6)(a) of this Investment Policy, an investment in certificates of deposit made in accordance with the following conditions if an authorized investment under this subchapter:
    - 1) The funds are invested by an investing entity through:
      - A) A broker that has a main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Section 2256.025 of the Texas Government Code; or
      - B) A depository institution that has its main office or a branch office in this state and that is selected by the investing entity.
    - 2) The broker or the depository institution selected by the investing entity under Subdivision (1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;
    - 3) The full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States;

- 4) The investing entity appoints the depository institution selected by the investing entity under Subdivision (1), an entity described by Section 2257.041(d) of the Texas Government Code, or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.
7. Interest-bearing banking deposits that are guaranteed or insured by:
    - a. the Federal Deposit Insurance Corporation or its successor; or
    - b. the National Credit Union Share Insurance Fund or its successor; and
  8. Interest-bearing banking deposits other than those described by Section V, (A) (7) of this Investment Policy if:
    - a. the funds invested in the banking deposits are invested through:
      - 1) a broker with a main office or branch office in this state that the investing entity selects from a list the governing body or designated investment committee of the entity adopts as required by Section 2256.025 of the Texas Government Code; or
      - 2) a depository institution with a main office or branch office in this state that the investing entity selects;
    - b. the broker or depository institution selected as described by Section V (8)(a) of this Investment Policy arranges for the deposit of the funds in the banking deposits in one or more federally insured depository institutions, regardless of where located, for the investing entity's account;
    - c. the full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and
    - d. the investing entity appoints as the entity's custodian of the banking deposits issued for the entity's account:
      - 1) the depository institution selected as described by Section V (8)(a) of this Investment Policy;
      - 2) an entity described by Section 2257.041(d) of the Texas Government Code; or
      - 3) a clearing broker dealer registered with the Securities and Exchange Commission and operating under Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3).
  9. Eligible money market funds must provide PSB with a fund prospectus.
    - (a) A no-load money market mutual fund is an authorized investment under this subchapter if the mutual fund:
      - (1) is registered with and regulated by the Securities and Exchange Commission;
      - (2) provides the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.); and
      - (3) complies with federal Securities and Exchange Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company act of 1940 (15 U.S.C. Section 80a-1 et seq.)

(b) In addition to a no-load money market mutual fund permitted as an authorized investment in Subsection (a), a no-load mutual fund is an authorized investment under this subchapter if the mutual fund:

- (1) is registered with the Securities and Exchange Commission;
- (2) has an average weighted maturity of less than two years; and
- (3) either:
  - (A) has a duration of one year or more and is invested exclusively in obligations approved by this subchapter; or
  - (B) has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

(c) PSB is not authorized by this section to:

- (1) Invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Subsection (9)(b);
- (2) Invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in Subsection (9)(b) of this Investment Policy; or
- (3) Invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Subsection 9(a) or (b) of this Investment Policy in an amount that exceeds 10 percent of the total assets of the mutual fund.

10. Eligible Investment Pools as defined in Section 2256.016 of the Texas Government Code, provided that:

(a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by Chapter 2256, Subchapter A of the Texas Government Code. An investment pool may invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool.

(b) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity an offering circular or other similar disclosure instrument that contains, at a minimum, the following information:

- (1) the types of investments in which money is allowed to be invested;
- (2) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;
- (3) the maximum stated maturity date any investment security within the portfolio has;
- (4) the objectives of the pool;
- (5) the size of the pool;
- (6) the names of the members of the advisory board of the pool and the dates their terms

expire;

- (7) the custodian bank that will safe keep the pool's assets;
- (8) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;
- (9) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;
- (10) the name and address of the independent auditor of the pool;
- (11) the requirements to be satisfied for an entity to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool;
- (12) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios; and
- (13) the pool's policy regarding holding deposits in cash.

(c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:

- (1) investment transaction confirmations; and
- (2) a monthly report that contains, at a minimum, the following information:
  - (A) the types and percentage breakdown of securities in which the pool is invested;
  - (B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;
  - (C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;
  - (D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;
  - (E) the size of the pool;
  - (F) the number of participants in the pool;
  - (G) the custodian bank that is safekeeping the assets of the pool;
  - (H) a listing of daily transaction activity of the entity participating in the pool;
  - (I) the yield and expense ratio of the pool, including a statement regarding how yield is calculated;

- (J) the portfolio managers of the pool; and
  - (K) any changes or addenda to the offering circular.
- (d) An entity by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds.
  - (e) In this section, for purposes of an investment pool for which a \$1.00 net asset value is maintained, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the federal Securities and Exchange Commission.
  - (f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter:
    - (1) a public funds investment pool that uses amortized cost or fair value accounting must mark its portfolio to market daily; and
    - (2) if the investment pool uses amortized cost:
      - (a) the investment pool must, to the extent reasonably possible, stabilize at a \$1.00 net asset value, when rounded and expressed to two decimal places;
      - (b) the governing body of the investment pool must, if the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, take action as the body determines necessary to eliminate or reduce to the extent reasonably practicable any dilution or unfair result to existing participants, including a sale of portfolio holdings to attempt to maintain the ratio between 0.995 and 1.005; and
      - (c) the investment pool must, in addition to the requirements of its investment policy and any other forms of reporting, report yield to its investors in accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.
  - (g) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool must have an advisory board composed:
    - (1) equally of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for a public funds investment pool created under Chapter 791 of the Texas Government Code and managed by a state agency; or
    - (2) of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for other investment pools.
  - (h) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must be continuously rated no lower than AAA, AAA-m, or at an equivalent rating by at least one nationally recognized rating service.
  - (i) If the investment pool operates an Internet website, the information in a disclosure instrument or report described in Section 2256.016 of the Texas Government Code, Subsection (b), (c) (2), and (f) must be posted on the website.

- (j) To maintain eligibility to receive funds from and invest funds on behalf of an entity under Chapter 2256 of the Texas Government Code, an investment pool must make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested.
  - (k) If an investment pool offers fee breakpoints based on fund balances invested, the investment pool in advertising investment rates must include either all levels of return based on the breakpoints provided or state the lowest possible level of return based on the smallest level of funds invested.
11. Local Government Investment of Bond Proceeds and Pledged Revenue as defined in Section 2256.0208 of the Texas Government Code, provided that:
- (a) In this section, “pledged revenue” means money pledged to the payment of or as a security for:
    - (1) Bonds or other indebtedness issued by a local government;
    - (2) Obligations under a lease, installment sale, or other agreement of a local government; or
    - (3) Certificates of participation in a debt or obligation described by Section V (11) (a) (1) or (2) of this Investment Policy.
  - (b) The investment officer of a local government may invest bond proceeds or pledged revenue only to the extent permitted by this chapter, in accordance with:
    - (1) Statutory provisions governing the debt issuance or the agreement, as applicable; and
    - (2) The local Government’s investment policy regarding the debt issuance or the agreement, as applicable.

B. NOT AUTHORIZED

- 1. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.
- 2. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.
- 3. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years.
- 4. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

C. PROTECTION OF PRINCIPAL

The PSB shall seek to control the risk of loss due to the failure of a security issuer or grantor. Such risk shall be controlled by investing only in the safest types of securities as defined in these Rules and Regulations, by collateralization as required by law, and through portfolio diversification by maturity and type.

The purchase of individual securities shall be executed “delivery versus payment” (DVP) through the PSB Safekeeping Agent. By so doing, PSB funds are not released until the PSB has received, through the Safekeeping Agent, the securities purchased.

1. Diversification by Investment Type

Diversification by investment type shall be maintained by ensuring an active and efficient secondary market in portfolio investments and by controlling the market and opportunity risks associated with specific investment types.

Risk is controlled through portfolio diversification which shall be achieved by the following general guidelines:

- Limiting investments to avoid over concentration in securities from a specific issuer or business sector (excluding U.S. Treasury securities),
- Limiting investments in securities that have a higher credit risks,
- Investing in securities with varying maturities, and
- Continuously investing a portion of the portfolio in readily available funds such as local government investment pools (LGIPs), money market funds.

Diversification by investment type shall be established by the following maximum percentages of investment type to the total PSB investment portfolio:

▪ U.S. Government Securities.....	100%
▪ State, Agencies, Counties, Cities, and Other.....	50%
▪ Certificates of Deposit .....	50%
▪ Money Market Mutual Funds .....	80%
▪ Eligible Investment Pools .....	100%

Bond proceeds may be invested in a single security or investment if the Chief Financial Officer determines that such an investment is necessary to comply with Federal arbitrage restrictions or to facilitate arbitrage record keeping and calculation.

2. Diversification by Investment Maturity

In order to minimize risk of loss due to interest rate fluctuation, investment maturities will not exceed the anticipated cash flow requirements of the funds.

Maturity guidelines by fund are as follows:

a. Operating Funds

The weighted average days to maturity for the operating fund portfolio shall be less than 270 days and the maximum allowable maturity shall be two years.

b. Improvement & Construction Funds

The investment maturity of construction fund proceeds (excluding reserve and debt service funds) shall generally be limited to the anticipated cash flow requirement or the “temporary period,” as defined by Federal tax law. Improvement & Construction funds may be invested for three years at an unrestricted yield. After the expiration of the temporary period, construction fund proceeds subject to yield restriction shall be invested considering the anticipated cash flow requirements of the funds and market conditions to achieve compliance with the applicable regulations.

c. Debt Service Reserve Funds

Market conditions, Bond Ordinance constraints and arbitrage regulations compliance will be considered when formulating Debt Service Reserve Fund strategy. Maturity limitations shall generally not exceed the call provisions of the Bond Ordinance and shall not exceed the final maturity of the bond issue or five years, whichever is shorter.

d. Debt Service Funds

Debt Service Funds shall be invested to ensure adequate funding for each consecutive debt service payment. The Investment Officers shall invest in such a manner as not to exceed an “unfunded” debt service date with the maturity of any investment an unfunded debt service date

is defined as a coupon or principal payment date that does not have cash or investment securities available to satisfy said payment.

PSB funds that are considered “bond proceeds” for arbitrage purposes will be invested using a more conservative approach than the standard investment strategy when compliance with the arbitrage regulations will result in a rebating of any excess earnings.

3. Ensuring Liquidity

Liquidity shall be achieved by anticipating cash flow requirements by investing in securities with active secondary markets and by investing in eligible money market mutual funds and local government investment pools.

A security may be liquidated to meet unanticipated cash requirements, to re-deploy cash into other investments expected to outperform current holdings, or otherwise to adjust the portfolio.

4. Collateralization

Consistent with the State law, the PSB requires all deposits in depository institutions to be insured. Amounts not insured must be collateralized with eligible securities. Financial institutions serving as PSB Depositories will be required to sign a Depository Agreement with the PSB and the PSB safekeeping agent. The safekeeping portion of the Agreement shall define the PSB rights to the collateral in case of default, bankruptcy, or closing and shall establish a perfected security interest in compliance with Federal and State regulations, including:

- The Agreement must be in writing;
- The Agreement has to be executed by the Depository and the PSB contemporaneously with the acquisition of the asset;
- The Agreement must be approved by the Board or the Loan Committee of the Depository and a copy of the meeting minutes must be delivered to the PSB; and
- The Agreement must be part of the Depository’s “official record” continuously from its execution.

Consistent with the requirements of the Public Funds Collateral Act of Chapter 2257 of the Texas Government Code, it is the policy of the PSB to require full collateralization of all PSB investments and funds on deposit with a depository bank, other than investments which are obligations of the U.S. government and its agencies and instrumentalities. At its discretion, the PSB may require a higher level of collateralization for certain investment securities. Securities pledged as collateral shall be held by an independent third party with whom the PSB has a current custodial agreement. The Chief Financial Officer is responsible for entering into collateralization agreements with third party custodians in compliance with this Investment Policy. The agreements are to specify the acceptable investment securities for collateral, including provisions relating to possession of the collateral, the substitution for release of investment securities, ownership of securities, and the method of valuation of securities. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the PSB and retained. Collateral shall be reviewed at least monthly to assure the market value of the pledged securities is adequate.

a. Allowable Collateral

The Public Service Board shall accept only the following securities as collateral:

- FDIC and NCUA insurance coverage.
- A bond, certificate of indebtedness, or Treasury Notes of the United States, or other evidence



of indebtedness of the United States that is guaranteed as a principal and interest by the United States.

- Obligations, the principal and interest on which, are unconditionally guaranteed or insured by the State of Texas.
- A bond of the State of Texas or of a county, city or other political subdivision of the State of Texas having been rated as investment grade (investment rating no less than “A” or its equivalent) by a nationally recognized rating agency with a remaining maturity of ten (10) years or less.
- Surety Bonds.

b. Collateral Levels

In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be 102% of market value of principal and accrued interest on the deposits or investments less an amount insured by the FDIC and NCUA.

c. Monitoring Collateral Adequacy

The PSB shall require monthly reports with market values of pledged securities from all financial institutions with which the PSB has collateralized deposits. The Investment Officers will monitor adequacy of collateralization levels to verify market values and total collateral positions.

d. Additional Collateral and Securities

If the collateral pledged for a certificate of deposit falls below the par value of the deposit, plus accrued interest less FDIC insurance, the institution issuing the Collateralized Deposit will be notified by the Investment Officers and will be required to pledge additional securities no later than the end of the next business day.

e. Collateral Substitution

Collateralized certificates of deposit often require substitution of collateral. Any financial institution requesting substitution must contact the Investment Officers for approval and settlement. The substituted security’s value will be calculated, and substitution approved if its value is equal to or greater than the required security level. The Investment Officers, or their designee, must provide written notification of the decision to the bank or the safekeeping agent holding the security prior to any security release. Substitution is allowable for all transactions, but should be limited, if possible, to minimize potential administrative problems and transfer expense. The Investment Officers may limit substitution and assess appropriate fees if substitution becomes excessive or abusive.

f. Subject to Audit

All collateral shall be subject to inspection and audit by the Chief Financial Officer or designee or the PSB’s independent auditors.

5. Safekeeping

a. Safekeeping Agreement

The PSB shall contract with a bank or other depository institutions for the safekeeping of securities either owned by the PSB as a part of its investment portfolio or as part of its depository.

b. Safekeeping of Collateralized Deposits Collateral

All collateral securing bank or other depository institutions deposits must be held by a third-party banking institution acceptable to and under contract with the PSB, or by the Federal Reserve Bank, except the collateral for certificates of deposits in banks. The collateral for certificates of deposits in banks will be registered in the PSB's name in the bank's trust department or, alternatively, in a Federal Reserve Bank account in the PSB's name, or a third-party bank in the PSB's name, at the PSB's discretion. Original safekeeping receipts shall be obtained.

6. Effect of Loss of Required Rating

Pursuant to Section 2256.021 of the Government Code, the Investment Policy requires certain minimum ratings of certain investments. At least quarterly, the Treasury Manager will review the ratings of each of the investments in the portfolio that require a minimum rating and will notify the PSB Audit, Finance, and Investment Committee of any negative changes. Should an investment not meet the minimum rating during the period that the investment is being held by PSB, that investment will no longer qualify as an authorized investment. PSB shall take all prudent measures that are consistent with this Investment Policy to liquidate an investment that does not meet the minimum required rating.

D. INVESTMENT ADVISORS AND INVESTMENT PROVIDERS

Investment Providers /Advisors are brokers/dealers, banks, and other financial institutions who may participate in the management or handling of PSB cash and investments.

Investment Providers/Advisors shall adhere to the spirit, philosophy and specific term of these Rules and Regulations and shall invest within the same "Standard of Care".

The Investment Officers will establish criteria to evaluate Investment Providers/Advisors, including:

- Investment performance and transaction pricing within accepted risk constraints;
- Understanding of the inherent fiduciary responsibility of investing public funds;
- Similarity in philosophy and strategy with the PSB objectives;
- Adherence to the PSB policies, procedures and strategies; and
- Responsiveness to the PSB request for services, information, and open communication.

Business organizations deemed eligible to transact investment business with the PSB shall be presented a written copy of this Investment Policy. For purpose of this subsection, "business organizations" means an investment pool or investment management firm under contract with the PSB to invest or manage the PSB investment portfolio. Additionally, the registered principal of the business organization seeking to transact investment business shall execute a written instrument substantially to the effect that the registered principal has: (1) received and reviewed this Investment Policy; and (2) acknowledged that the organization has implemented reasonable procedures and controls in an effort to preclude non-authorized investment activities with the PSB.

Brokers must comply with FINRA Rule 2111 which requires brokers to have a reasonable basis to believe that a recommendation is suitable for the PSB based on the PSB's investment profile.

The PSB shall not enter into an investment transaction with a business organization prior to receiving the written instrument described above.

E. SELECTION OF BANKS AND DEALERS

1. Authorized Brokers/Dealers

Selection of Investment Providers/ Advisors will be performed by the PSB. The PSB shall select dealers reporting to the Market Reports Division of the Federal Reserve Bank of New York, also known as “Primary Government Security Dealers”, or regional dealers that qualify under Securities and Exchange Commission (SEC) Rule 15C3-1 (uniform net capital rule.)

Selected Investment Providers/ Advisors shall provide timely transaction confirmations and monthly activity reports.

All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the following items as deemed appropriate:

- audited financial statements
- completed broker/dealer questionnaire
- certification of having read and understood the PSB’s Investment Policy and agreeing to
- comply with the policy

Pursuant to Sec. 2256.025 of the Texas Government Code, the PSB shall, at least annually, review, revise, and adopt any additions to a list of qualified brokers that are authorized to engage in investment transactions with the PSB.

The PSB authorizes the following Broker/Dealer firms through this Rules and Regulations No. 10:

- Wells Fargo Securities, LLC.
- Hilltop Securities Inc.
- Mischler Financial Group, Inc.
- Alex Brown
- Piper Sandler & Co.

2. Competitive Bids

Competitive quotes must be taken from at least three qualifying institutions for any investment transaction. Investment transactions may be done orally but followed by electronic or written confirmation. Funds will be authorized to be released after notification that the purchased security has been received. Written confirmation shall be received from the financial institution or broker/dealer. All investments purchased will be held in safekeeping at a third-party custodial institution with safekeeping receipt being sent to the PSB.

3. Delivery vs. Payment

Securities shall be purchased using the delivery vs payment method with the exception of investment pools and mutual funds. Funds shall not be wired or paid until verification has been made that the Trustee received the correct security. The security shall be held in the name of the PSB or held on behalf of the PSB. The Trustee’s records shall assure the notation of the PSB’s ownership of or explicit claim on the securities. The original copy of all safekeeping receipts shall be delivered to the PSB.

4. Depository

At least every five years a Depository the Designated Officer shall request, receive and review applications for the performance of depository services in accordance with Chapter 105 of the Texas Local Government Code. The Designated Officer shall be the Chief Financial Officer or Designee. The selection and designation of the Depository by the PSB will be in accordance with Chapter 105 of the Texas Local Government Code.

F. RESPONSIBILITY AND CONTROLS

1. Authority to Invest

The Chief Financial Officer, Vice President, Assistant Chief Financial Officers, Treasury Manager, and Fiscal Operations Manager are the “Investment Officers” of the PSB. As Investment Officers, they are authorized to deposit, withdraw, invest, transfer, execute documentation, and otherwise manage PSB funds according to these Rules and Regulations.

In accordance with Section 2256.008 of the Texas Government Code, the Chief Financial Officer and designated Investment Officers must attend at least one training session from an independent source approved by the PSB and containing at least ten (10) hours of training relating to the Chief Financial Officer and designated Investment Officer’s responsibilities within twelve (12) months of taking office or assuming duties. The Chief Financial Officer and designated Investment Officers must attend an investment training session and receive not less than eight (8) hours of instruction relating to investment responsibilities not less than once in a two-year period that begins on the first day of the PSB fiscal year and consists of the two consecutive fiscal years after that date. For purposes of this Investment Policy, an “independent source” from which investment training shall be obtained shall include a professional organization, an institute of higher learning or any other sponsor other than a business organization with whom the PSB may engage in an investment transaction. Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio and compliance with this chapter. Upon completion of training, investment officers receive a certificate of attendance with the date and the number of training hours received. Certificates are then filed electronically for record keeping.

The PSB approves the following independent training sources:

- Government Treasurers Organization of Texas (GTOT)
- Texas Municipal League (TML)
- Government Finance Officers Association (GFOA)
- Government Finance Officer Association of Texas (GFOAT)
- Hilltop Securities
- University of North Texas Center for Public Management

2. Prudent Investment Management

The designated Investment Officers shall perform their duties in accordance with the adopted Investment Policy and internal procedures. In determining whether an adopted Investment Officer has exercised prudence with respect to an investment decision, the investment of all funds, or funds under the PSB’s control, over which the Investment Officer had responsibility rather than a consideration as to the prudence of a single investment and whether the investment decision was consistent with the Investment Policy, shall be considered. Investment Officers, acting in good faith and in accordance with these policies and procedures, shall be relieved of personal liability.

3. Standard of Care

The standard of care used by the PSB shall be the “prudent investor rule” and shall be applied in the context of managing the overall portfolio within the applicable legal constraints. Sec. 2256.006 of the Texas Government Code, The Public Funds Investment Act states:

“Investments shall be made with judgment and care, under circumstances then prevailing, that a person of prudence, discretion and intelligence would exercise in the management of the person’s own affairs, not for speculation but for investment, considering the probable safety of capital and the probable income to be derived.”

4. Standard of Ethics

The designated Investment Officers shall act as custodians of the public trust, avoiding any transaction which might involve a conflict of interest, the appearance of a conflict of interest, or any activity which might otherwise discourage public confidence. Investment Officers shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Additionally, all Investment Officers shall file with the Texas Ethics Commission and the Board a statement disclosing any personal business relationship with an entity seeking to sell investments to the PSB or any relationship within the second degree by affinity or consanguinity to an individual seeking to sell investments to the PSB. For purposes of this policy, an investment official has a personal business relationship with a business organization if:

- the investment official owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
- funds received by the investment official from the business organization exceed 10 percent of the investment official’s gross income for the previous year; or
- the investment official has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment official.

5. Establishment of Internal Controls

The Chief Financial Officer will maintain a system of internal controls over the investment activities of the PSB.

6. Reporting

Investment performance will be monitored and evaluated by the Investment Officers. The Investment Officers will jointly provide a quarterly comprehensive report signed, either via electronic or physical signature, by each Investment Officer to the Board. This investment report must:

- Contain a summary statement of each pooled fund group that states the:
  - a) Beginning market value for the reporting period;
  - b) Ending market value for the period; and
  - c) Fully accrued interest for the reporting period.
- Describe in detail the investment position of the PSB on the date of the report;
- State the reporting period market value of each pooled fund group;
- State the reporting period book value, market value and accrued interest for each investment security at the end of the reporting period by asset type and fund type;
- State the maturity date of each investment security;
- State the fund for which each investment security was purchased; and,
- State the compliance of the investment portfolio with the PSB’s Investment Policy and Investment Strategy Statement, and the Public Funds Investment Act.

The PSB, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the PSB's investment policies, procedures and strategies.

7. Portfolio Pricing

Current market prices for individual securities held in the portfolio shall be obtained at least quarterly. This will ensure that the minimal amount of review has been performed on the investment portfolio in terms of value and subsequent price volatility. These prices should be obtained from a reputable source including, but not limited to the Wall Street Journal, Bloomberg Capital Markets, PSB's safekeeping agent and broker/dealers other than those who originally sold the security to the PSB.

G. PERFORMANCE

1. Performance Standards

The PSB's investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio shall be designed with the objective of obtaining a rate of return through budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow requirements of the PSB.

2. Performance Benchmarks

It is the policy of the PSB to purchase investments with maturity dates coinciding with cash flow needs. Through this strategy, the PSB attempts to purchase the highest yielding allowable investments available on the market at that time. Market value will be calculated on a quarterly basis on all securities owned and compared to current book value of those securities to determine portfolio performance during the period of time. The PSB's portfolio shall be designed with the objective of regularly meeting or exceeding the average rate of return on U.S. Treasury Bills at a maturity level comparable to the PSB's weighted average maturity in days.

## ATTACHMENT A INVESTMENT STRATEGY STATEMENT

### A. PREFACE

It is the policy of the PSB that, giving due regard to the safety and risk of investment, all available funds shall be invested in conformance with State and Federal investment regulations, applicable Bond Ordinance requirements and adopted Investment Policy and Investment Strategy.

In accordance with the Public Funds Investment Act, the PSB strategies shall address the following objectives (in order of importance):

- Understanding the suitability of the investment to the financial requirements of the PSB;
- Preservation and safety of principal;
- Liquidity;
- Marketability of the investment if the need arises to liquidate the investment prior to maturity; and,
- Yield.
- Diversification of the investment portfolio

Effective investment strategy development coordinates the primary objectives of the PSB investment policies and procedures and cash management practices with investment security risk/return analysis to enhance interest earnings and reduce investment risk. Aggressive cash management will be used to increase the available “investment period”. Maturity selections shall be based on cash flow and market conditions to take advantage of interest earnings as a viable and material revenue to all PSB funds. The PSB’s portfolio shall be designed and managed in a manner responsive to the public trust and consistent with the PSB’s policies and procedures.

Each major fund type has varying cash flow requirements and liquidity needs. Therefore, specific strategies shall be implemented considering the fund’s unique requirements. PSB funds shall be analyzed and invested according to the following major fund types:

- Operating Funds;
- Improvement and Construction Funds;
- Debt Service Reserve Funds; and,
- Debt Service Funds.

### B. INVESTMENT STRATEGY

In order to minimize risk of loss due to interest rate fluctuations, investment maturities will not exceed the anticipated cash flow requirements of the funds. Investing guidelines by fund type are as follows:

#### 1. Operating Funds

##### a. Suitability

Any investment eligible in the Investment Policy is suitable for the Operating Funds.

##### b. Safety of Principal

All investment will be of high-quality securities with no perceived default risk. Market price fluctuations will be managed by the weighted average days to maturity for the Operating Pool portfolio to less than 270 days and restricting the maximum allowable maturity to two years, the price volatility of the overall portfolio will be minimized.

- c. Marketability  
Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash requirements. Historical market “spreads” between the bid and offer prices of a particular security-type of less than a quarter of a percentage point shall define as an efficient secondary market.
- d. Liquidity  
The Operating Fund requires the greatest short-term liquidity of any of the fund types. Short term investment pools and money market mutual funds shall provide daily liquidity and may be used as a competitive yield alternative to fixed maturity investments.
- e. Diversification  
Investment maturities shall be staggered and laddered throughout the budget cycle to provide cash flow based on the anticipated operating needs of the PSB. Market cycle risk will be reduced by diversifying the appropriate maturity structure throughout two years.
- f. Yield  
Attaining a competitive yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month treasury bill portfolio shall be the minimum yield objective.

2. Improvement & Construction Funds

- a. Suitability  
Any investment eligible in the Investment Policy is suitable for the Improvement & Construction Fund.
- b. Safety of Principal  
All investments will be of high-quality securities with no perceived default risk. Market price fluctuations will however occur, by managing the Improvement & Construction Fund’s portfolio to not exceed the anticipated expenditure schedule the market risk of the overall portfolio will be minimized.
- c. Marketability  
Securities with active and efficient secondary markets are necessary in the event of an unanticipated cash requirement. Historical market “spreads” between the bid and offer prices of a particular security-type of less than a quarter of a percentage point shall define an efficient secondary market.
- d. Liquidity  
Improvement & Construction funds used for construction programs have reasonably predictable draw down schedules. Therefore, investment maturities shall generally follow the anticipated cash flow requirements. Investment pools and money market mutual funds shall provide readily available funds generally equal to one month’s anticipated cash flow needs, or a competitive yield alternative for short term fixed maturity investments
- e. Diversification  
Market conditions and the arbitrage regulations influence the attractiveness of staggering the



maturity of fixed rate investments for bond proceeds. Generally, if investment rates exceed the applicable arbitrage yield for a specific bond issue, the PSB is best served by locking in most investments. If the arbitrage yield cannot be exceeded, then concurrent market conditions will determine the attractiveness of diversifying maturities or investing in shorter and larger lumps. At no time shall the anticipated expenditure schedule be exceeded in an attempt to bolster yield.

f. Yield

Achieving a positive spread to the applicable arbitrage yield is the desired objective for Bond Proceeds. For other Improvement & Construction Funds, the yield of an equally weighted, rolling three-month treasury bill portfolio shall be the minimum yield objective.

3. Debt Service Reserve Funds

a. Suitability

An investment eligible in the Investment Policy is suitable for the Debt Service Reserve Funds. Bond Ordinance and loan documentation constraints and insurance company restrictions may create specific considerations in addition to the Investment Policy.

b. Safety of Principal

All investments will be of high-quality securities with no perceived default risk. Market price fluctuations will however occur, by managing the Debt Service Reserve Fund's portfolio maturities to not exceed the call provisions of the borrowing will reduce the investment's market risk if the PSB's debt is redeemed and the reserve fund liquidated. No investment maturity shall exceed the final maturity of the borrowing or five years, whichever is shorter. Annual market-to-market requirements or specific maturity and average life limitations within the borrowing's documentation will influence the attractiveness of market risk and may reduce the opportunity for maturity extensions.

c. Marketability

Securities with less active and efficient secondary markets are acceptable for Debt Service Reserve Funds.

d. Liquidity

Debt Service Reserve Funds have no anticipated expenditures. The funds are deposited to provide annual debt service payment protection to the PSB's debt holders. The funds are "returned" to the PSB at the final debt service payment. Market conditions and arbitrage regulation compliance determine the advantage of security diversification and liquidity. Generally, if investment rates exceed the cost of borrowing, the PSB is best served by locking in investment maturities and reducing liquidity. If the borrowing cost cannot be exceeded, then concurrent market conditions will determine the attractiveness of locking in maturities or investing in shorter and anticipating future increase yields.

e. Diversification

Market conditions and the arbitrage regulations influence the attractiveness of staggering the maturity of fixed rate investments for Debt Service Reserve Funds. At no time shall the final debt service payment date of the bond issue be exceeded in an attempt to bolster yield.

- f. Yield  
Achieving a positive spread to the applicable borrowing cost is the desired objective. Debt Service Reserve Fund portfolio management shall at all time operate within the limits of the Investment Policy's risk constraints.

4. Debt Service Funds

- a. Suitability  
Any investment eligible in the Investment Policy is suitable for the Debt Service Fund.
- b. Safety of Principal  
All investments will be of high-quality securities with no perceived default risk. Market price fluctuations will however occur, by managing the Debt Service fund's portfolio to not to not exceed the debt service payment schedule the market risk of the overall portfolio will be minimized.
- c. Marketability  
Securities with active and efficient secondary markets are not necessary as the event of an unanticipated cash requirement is not probable.
- d. Liquidity  
Debt Service funds have predictable payment schedules. Therefore, investment maturities shall not exceed the anticipated cash flow requirements. Investment pools and money market mutual funds shall provide a competitive yield alternative for short term fixed maturity investments.
- e. Diversification  
Market conditions influence the attractiveness of fully extending maturity to the next "unfunded" payment date. Generally, if investment rates exceed the applicable arbitrage yield for a specific bond issue, the PSB is best served by locking in most investments. If the arbitrage yield cannot be exceeded, then concurrent market conditions will determine the attractiveness of diversifying maturities or investing in shorter and larger lumps. At no time shall the debt service schedule be exceeded in an attempt to bolster yield.
- f. Yield  
Attaining a competitive market yield for comparable security-types and portfolio restrictions is the desired objective. The yield of an equally weighted, rolling three-month treasury bill portfolio shall be the minimum yield objective.

PASSED, APPROVED, and ADOPTED the 24th day of January 1996, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 10, SECTION II, MODIFIED, APPROVED, and ADOPTED this 9th day of October 2002.

RULES AND REGULATIONS NO. 10, SECTION III(B), SECTION V(A)(6), SECTION V(A)(6)(a) AND SECTION V(C)(4)(a), MODIFIED, APPROVED, and ADOPTED the 14<sup>th</sup> day of January, 2004, by the Public Service Board of

the City of El Paso, Texas.

RULES AND REGULATIONS NO. 10, SECTION II AND SECTION V(F)(1), MODIFIED, APPROVED, and ADOPTED the 27<sup>th</sup> day of April, 2005, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 10, SECTION II, SECTION III(B), SECTION V(A)(5), SECTION V(A)(6), SECTION V(A)(6)(a), SECTION V(C)(4), SECTION V(C)(4)(a), SECTION V(C)(4)(b), SECTION V(C)(5)(a) AND SECTION V(C)(5)(b), MODIFIED, APPROVED, and ADOPTED the 26<sup>th</sup> day of April, 2006, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 10, TABLE OF CONTENTS SECTION V(C)(2)(B);TABLE OF CONTENTS SECTION ATTACHMENT “A”(B)(2); SECTION II, SECTION III(B), SECTION IV(A), SECTION V (C)(2)(b); SECTION V(F)(1), ATTACHMENT “A” (A); ATTACHMENT “A” (B)(2)(a)(b)(d)(f), ADDED, MODIFIED, APPROVED, and ADOPTED the 12<sup>th</sup> day of December, 2007, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 10, SECTION V(A)(6)(D)(1)(2)(3)(4)(5); SECTION V (A)(7)(a)(1)(2)(3)(4); SECTION V(A)(7)(B)(1)(2)(3)(4)(5);SECTION V(A)(7)(c)(1);SECTION V(A)(8)(a)(b)(1)(2)(3)(4)(5); SECTION V(A)(7)(c)(1);SECTION V(A)(8)(c)(1)(2)(A)(B)(C)(D)(E)(F)(G)(H)(I)(J)(K); SECTION V(A)(8)(d)(e)(f)(g)(h); SECTION V(6)(B)(1)(2)(3)(4)(5), ADDED, MODIFIED, APPROVED, AND ADOPTED THE 28<sup>TH</sup> day of April, 2010, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 10, SECTION II POLICY; SECTION V(A)(3); SECTION V(6)(d)(4)(5); SECTION V(8)(a); SECTION V(8)(c)(2)(I); SECTION V (8)(f)(g)(h)(i)(1)(2); SECTION V (B)(6); SECTION V(F)(1)(6), ADDED, MODIFIED, APPROVED, and ADOPTED the 11<sup>th</sup> day of April 2012, by the Public Service Board of El Paso, Texas.

RULES AND REGULATIONS NO. 10, SECTION II POLICY; SECTION V(A)(3); SECTION V(6)(d)(4)(5); SECTION V(8)(a); SECTION V(8)(c)(2)(I); SECTION V (8)(f)(g)(h)(i)(1)(2); SECTION V (B)(6); SECTION V(F)(1)(6), ADDED, MODIFIED, APPROVED, and ADOPTED the 11<sup>th</sup> day of April 2012, by the Public Service Board of El Paso, Texas.

RULES AND REGULATIONS NO. 10, SECTION II POLICY; SECTION V(A)(3); SECTION V(6)(d)(4)(5); SECTION V(8)(a); SECTION V(8)(c)(2)(I); SECTION V (8)(f)(g)(h)(i)(1)(2); SECTION V (B)(6); SECTION V(F)(1)(6), ADDED, MODIFIED, APPROVED, and ADOPTED the 9<sup>th</sup> day of April, 2014, by the Public Service Board of El Paso, Texas.

RULES AND REGULATIONS NO. 10, APPROVED AND ADOPTED THE 8<sup>th</sup> day of April 2015, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 10, SECTION V (F)(1), APPROVED AND ADOPTED THE 13<sup>th</sup> day of April 2016, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 10, APPROVED AND ADOPTED, AND REAFFIRMED IN ITS ENTIRETY the 12<sup>th</sup> day of April 2017, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 10, SECTION V(A)(1); SECTION V(A)(6)(a); SECTION V(A)(7)(a)(b); SECTION V(A)(8)(a)(1)(2)(b)(c)(d)(1)(2)(3); SECTION V(A)(9)(a)(3)(b)(3); SECTION V(A)(10)(b)(13); SECTION V(A)(10)(f), SECTION V(D); ADDED, MODIFIED, APPROVED, and ADOPTED THE 11<sup>th</sup> Day of April 2018, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 10, SECTION II, SECTION V(A), SECTION V(E)(1); APPROVED AND ADOPTED the 10<sup>th</sup> day of April 2019, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 10, SECTION III (B)(C), SECTION IV(A), SECTION V(A)(6)(b)(c), SECTION V(A)(10)(b)(9)(11)(12)(h)(k), SECTION V(A)(11), SECTION V(C)(4)(f), SECTION V(D), SECTION V(E)(1)(4), SECTION V(F)(1)(2)(6), ATTACHEMENT A(A); APPROVED AND ADOPTED the 8<sup>th</sup> day of April 2020, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 10, SECTION III(C), SECTION IV(A), SECTION V(A)(6)(a)(d)(1)(4), SECTION V(A)(8)(a)(b)(d), SECTION V(A)(9)(c)(1)(2)(3), SECTION V(A)(10)(a)(b)(8)(g)(1)(i)(j), SECTION V(A)(11)(a)(3), SECTION V(B)(5)(6), SECTION V(C)(2)(d),(4)(6), SECTION V(D), SECTION V(E)(1)(4), SECTION V(F)(1)(2)(3)(4)(6), ATTACHMENT A; ADDED, MODIFIED, APPROVED and ADOPTED the 14<sup>th</sup> day of April 2021, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 10, SECTION II POLICY; SECTION V(A), SECTION V(C)(6), (E)(1), (F)(1), (F)(6); ADDED, MODIFIED, APPROVED, and ADOPTED THE 13<sup>th</sup> Day of April 2022, by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 10, AFFIRMED, APPROVED and ADOPTED the 12<sup>th</sup> day of April 2023, by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 10, SECTION V(E)(1), SECTION V(E)(4), SECTION V(F)(1), ATTACHMENT A; ADDED, MODIFIED, APPROVED and ADOPTED the 10<sup>th</sup> day of April 2024, by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO. 10, SECTION I, AMENDED, AFFIRMED, APPPROVED AND ADOPTED the 9<sup>th</sup> day of April 2025, by the Public Service Board of the City of El Paso, Texas.

PUBLIC SERVICE BOARD



Bryan Morris, Chair

ATTEST:



Stefanie Block Uribarri, Secretary-Treasurer

APPROVED AS TO FORM:



Daniel Ortiz, General Counsel

RULES AND REGULATIONS NO. 11

RULES AND REGULATIONS  
GOVERNING THE FURNISHING AND CONTROL  
OF WATER AND/OR SEWER SERVICE BY  
THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD  
OUTSIDE THE CORPORATE LIMITS OF THE CITY OF EL PASO

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111-1118M, REVISED CIVIL STATUTES OF TEXAS, AND ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON MAY 22, 1952; AS AMENDED, NOW, THEREFORE BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULES FOR WATER AND/OR SEWER SERVICE TO CUSTOMERS WHO RESIDE OUTSIDE THE CORPORATE LIMITS OF EL PASO ARE ESTABLISHED AND SHALL SUPERSEDE RULES AND REGULATIONS PREVIOUSLY ADOPTED BY THE PUBLIC SERVICE BOARD FOR FURNISHING WATER AND/OR SEWER SERVICE TO OUTSIDE OF CITY CUSTOMERS (KNOWN AS RULES AND REGULATIONS NO. 11).

THAT PUBLIC SERVICE BOARD RULES AND REGULATIONS ARE HEREBY AMENDED BY ADOPTING NEW RULES AND REGULATIONS NO. 11 "OUTSIDE CITY SERVICES" WHICH SHALL SUPERSEDE AND REPLACE ALL CURRENT SECTIONS OF THE RULES AND REGULATIONS GOVERNING SERVICE OUTSIDE THE CORPORATE LIMITS OF THE CITY OF EL PASO, WHICH RULES AND REGULATIONS NO. 11 SHALL READ AS FOLLOWS:

SECTION I. GENERAL

A. TABLE OF CONTENTS

The following headings or captions are adopted as the Table of Contents for Public Service Board Rules and Regulations No. 11.

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## B. DEFINITIONS:

### Backflow

The flow of water or other liquids, mixtures or substances into the distributing pipes of a potable supply of water from any sources other than its intended source.

### Backflow Prevention Assembly(ies):

An assembly that has been manufactured in full compliance with the American Water Works Association ("AWWA") Standards C510 and C511, and is listed by the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California. Approved assemblies shall include an air gap, a reduced pressure assembly, a reduced pressure principle detector assembly, a double check assembly, and a pressure vacuum breaker, each of which is designed for a specific application, and any of which serve to protect the public water supply from contamination originating at the Customer's premises.

### Back Siphonage:

Back Siphonage is the condition where negative pressure in a potable water pipe induces backflow through a Cross Connection.

### Charges:

As applied herein, the fees charged for services by the Utility not included in the monthly minimum charge and commodity usage charges.

### Corporate Limits (City Limits):

The boundary line denoting the extent of land included within the legally incorporated limits of the City of El Paso, El Paso County, Texas.

### CCN:

Certificate of Convenience and Necessity issued by the Texas Water Commission to a utility or water supply and/or sewer service corporation, as those terms are defined in the Texas Water Code, as a prerequisite to render retail water and/or sewer service directly to the public.

Esperanza Service Area: That area in Hudspeth County, described by CCN No. 12881, that EPWU is obligated to provide service pursuant to the July 30, 2020, Water System Asset Purchase and Transfer Agreement with Esperanza Water Supply Company, Inc.

### Cross Connection(s):

Any connection or arrangement, physical or otherwise, between a potable water supply or device, through which it may be possible for non-potable, used, unclean, polluted or contaminated water, or other substances, to enter into any part of such potable water system under any condition, including reduced or negative pressure.

### Dedicated Right(s)-of Way:

The land (real estate) which has been dedicated, accepted and filed with the City of El Paso and/or the County of El Paso to be held in the public domain for use as a public right-of-way for access.

### EPWater:

See definition of Utility below.

### EPWU:

See definition of Utility below.

### ETJ:

Extraterritorial Jurisdiction: For purposes of these Rules and Regulations No. 11, the ETJ is the area extending five miles outside of the corporate limits of the City of El Paso within which the City of El Paso has statutory authority for planning and platting.

### Friction Loss:

The pressure (or flow generating energy) lost by water flowing in a conduit (pipe) as the result of drag producing disturbances between the moving water molecules and the pipe walls.

Line Extension(s):

The water and/or sewer line which is required to be connected to the existing water/sewer system to provide water/sewer service to a property, including pipe installed in a Dedicated Right-of-Way which is contiguous or noncontiguous to a property.

Outside Of City Service Policies (Policies):

Policies governing extension of water and sewer service outside the corporate limits of the City of El Paso but within El Paso County, Texas or the Esperanza Service Area: A written policy adopted by the Public Service Board by their Resolution on August 28, 1991, as amended by revisions to these Rules and Regulations No. 11.

Outside City Customers:

All Customers of the Utility whose property is outside of the Corporate Limits of the City of El Paso, including any person, municipality, town, village, unit of government, governmental agency, corporation, utility, community, independent school district, water district, water supply and sewer service corporation, Subdivision or other grouping of residences, commercial establishments, institutions and industries or any other entity or combination residing outside the Corporate Limits of the City of El Paso but within El Paso County or Esperanza Service Area who desire water and/or sewer service from the Utility (EPWU).

Panhandle Lots):

A lot, because of inherent limitations, lacking frontage except for access provided by way of a narrow projection of the lot to the street.

Properties:

An occupied or vacant parcel of land (real estate) and filed on the County of El Paso Tax Rolls.

PSB:

Public Service Board. The Board of Trustees created by Ordinance 752, which is the governing body of and has the complete authority and control of the management and operation of EPWater.

Sanitary Sewage:

Wastewater (sewage) containing or likely to contain fecal material or other potential sources of disease organisms, as opposed to industrial wastewater, food preparation wastewater, etc.

Sewer Service:

A property is deemed to have sewer service available if a qualifying sewer collector line is in place in the public rights-of-way, PSB or utility easements adjacent and contiguous to the property.

- Sewer Service Lateral(s)- Customer:

The pipes, fitting and appurtenances within the property connected to the Sewer Service Lateral – EPWU or to the Utility’s sewer collector lines located within PSB or utility easements. This Lateral allows the Customer’s wastewater (sewage) to drain (or be pumped, if necessary) from the Sewer Service Lateral – Customer into the Sewer Service – Lateral EPWU or into the Utility’s wastewater collection and (sewer) system.

Sewer Service Lateral(s) - EPWU:

The pipes, fittings and appurtenances connected to the Utility's sewer collector line and extending within the public Dedicated Rights-of-Way up to the clean out or property line. This lateral allows the Customer's Wastewater (sewage) from the Sewer Service Lateral-Customer to drain (or be pumped, if necessary) into the Utility's Wastewater collection and treatment (sewer) system.

Sewer Service Tap:

The connection point which the Sewer Service Lateral – Customer or Sewer Service Lateral - EPWU connects to



the public line.

Subdivision(s):

Subdivision(s) shall be defined as provided in Chapter 19 of the El Paso Municipal Code.

Utility

EPWU, EPWater or El Paso Water Utilities, as used herein means El Paso Water Utilities, the City of El Paso's publicly owned water and sewer agency located in and serving the people of El Paso County, Texas.

Water Meter(s):

The mechanical device, including appurtenances which totalizes the volume of water flowing through a water service connection.

Water Right(s) (Surface, Underground):

The legal right in accordance with Texas laws to divert, use or consume water flowing to, over, or under a property. A Water Right is a real property right that may be apportioned to the land where the water is used and included irrigation rights.

Water Service(s):

A property is deemed to have water service available if a qualifying water main is in place in the rights-of-way, PSB or utility easements adjacent and contiguous to the property.

Water Service Lateral - Customer:

That point in the Customer's water supply system beyond the sanitary control of the El Paso Water Utilities, generally considered to be the outlet end of the Water Meter box or the bonnet box (Fire lines).

Water Service Lateral - EPWU:

The pipes, fittings, valves, meters and appurtenances which are connected to the water main in the street and extending to, or beyond, the property line of a Customer. The installation of all water service connections will be performed by the Utility or at the direction of the Utility and all such connections shall be inspected by qualified Utility personnel.

C. NEUTRAL GENDER

When the context requires, all nouns and pronouns in the masculine gender shall also include the feminine gender.

SECTION II CONDITIONS OF SERVICE OUTSIDE OF CITY

A. GENERAL

1. Purpose

- a. These Rules and Regulations No. 11 for new services outside the Corporate Limits of the City of El Paso are adopted in recognition of the fact that EPWater is owned by the citizens of El Paso; is operated for the benefit of said citizens as a publicly-owned utility; that the rates and Charges to each Customer should be related to the cost of service and to the benefits received; and, whereas, the furnishing of new and/or enlarged Water Services Laterals-EPWU and/or Sewer Service

Laterals-EPWU connections may impose an excessive cost on the operating revenue of the Utility and the fact that these expenses, if added to the Water Service and/or Sewer Service rates, as such, would increase the cost of service to the existing users out of proportion to any benefits they would receive; and, in order to provide a reasonable division of these additional expenses between the existing Customers and the new Outside City Customers, these Rules and Regulations No. 11 for new services outside the Corporate Limits of the City of El Paso are adopted.

- b. A purpose of these Rules and Regulations No. 11 is to extend Water Service and Sewer Service on a planned, equitable basis to County of El Paso residents who are not now served, or who are served on a substandard basis, which condition creates hazards to public health. The policy of the PSB is that service must be based on fiscally sound planning and be consistent with accepted engineering principles for physical expansion of the Utility system. The primary factor in considering areas for Water Service and Sewer Service will be dependent on general location and contiguity with the PSB's existing system.

Service extensions will be limited to properties within Esperanza Service Area or the ETJ and within contiguous service areas in accordance with the Policy adopted by the PSB on August 28, 1991, as amended by these Rules and Regulations No. 11. Approval of Line Extensions will be contingent upon a determination by the Utility's Engineering Department that the available water supply and sewage handling/treatment capacity is adequate to provide any such extended Water Service.

2. Water Rights

The PSB, through the Utility, and in accordance with these Rules and Regulations No. 11, assumes the responsibility of providing water to Properties in its service area while simultaneously seeking to protect and conserve the water supply of the City of El Paso. To further such protection and conservation goals, Water Service will only be provided to Properties where the underground and surface Water Rights are either owned solely by the current owner of the property or are owned by the PSB. Water Service will not be provided to a property if the underground and/or surface Water Rights have been sold or transferred to a third party other than the PSB. Water Service will be discontinued in the event a property's underground and/or surface Water Rights are sold or transferred to a third party other than the PSB. Further, Water Service will not be provided to a property, or will be discontinued, if the PSB determines that underground and/or surface Water Rights are used in a manner that does not promote protection and conservation of the water supply.

3. Cost Allocation

As a part of this regulation, the Utility may require, on any Line Extensions or additions to its system which require expenditures of operating revenue that are not justified on the basis of the anticipated revenue or which are speculative in nature and primarily beneficial to a certain party or parties, sufficient Charges or deposits which the Utility may deem necessary to assure that the costs are assumed by the apparently benefitted parties and not by the general water users of the City and County of El Paso, Texas.

4. Eligibility

It is the intent of these Rules and Regulations No. 11 to establish the conditions of service to Outside City Customers. The conditions of service for Properties located within the Corporate Limits of the City of El Paso are set forth in Rules and Regulations No. 1, as amended. Properties that are located outside the Corporate Limits of the City of El Paso are eligible for Water Service and/or Sewer Service if they are located and improved in such a manner that the following conditions are satisfied:

- a. The property is totally or partially within Esperanza Service Area or within El Paso County, Texas, and the buildings and all other improvements to be served are included on the tax-rolls of the County of El Paso, Texas.

- b. The property to be served abuts a Dedicated Right-of-Way adequate in dimension for access by maintenance equipment in order for the Utility to extend and maintain service.
- c. All Dedicated Rights-of-Way for utility Line Extension whether inside or outside the Corporate Limits of the City of El Paso shall be free of cost or franchise tax to the Utility so long as the service exists.
- d. Compliance with the City of El Paso's Subdivision Ordinance and other applicable ordinances and state statutes, as they now read or may be amended.
- e. Panhandle Lots shall not be eligible for Water Service and/or Sewer Service unless they meet the following criteria:
  - (1) Subdivision Regulations. All Panhandle Lot developments shall be subdivided in accordance with the City of El Paso subdivision ordinance.
  - (2) Extensions. Water Service and/or Sewer Service shall be provided at the property line adjacent to the public Dedicate Right-of-Way. Line Extensions of service to each dwelling unit shall be the responsibility of the Customer. The Line Extensions of water and sewer mains through the panhandle easement shall not be permitted.

5. Property Description

The owner of the property or person desiring Water Service and/or Sewer Service from the Utility water and sewer systems shall provide the Utility with a complete legal description of all property on which buildings and/or other improvements are proposed to be located that require Water Service or Sewer Service. This property description shall become a part of the application for service and will be used in calculating the Charges as provided in Rules and Regulations No. 7. No Water Service and/or Sewer Service shall be extended to any property other than that which was identified by the owner or applicant for service at the time such service was initially provided. Absent written approval by EPWU, no Water Service and/or sanitary Sewer Service shall extend through property owned or intended to be sold to different individuals or entities than those listed on the service application. Providing Water Service and/or Sewer Service directly or indirectly to property other than that originally identified in the application for service is a violation of these Rules and Regulations No. 11 and shall be cause for discontinuance of service in accordance with Section IX.

B. SPECIAL CONSIDERATIONS AND PRIORITIES

Water Service and Sewer Service may be provided to property located within the Esperanza Service Area or property outside of the corporate limits of the City of El Paso, but within the area of ETJ of the City of El Paso in accordance with POLICIES GOVERNING EXTENSION OF WATER AND SEWER SERVICES

OUTSIDE THE CORPORATE LIMITS OF THE CITY OF EL PASO BUT WITHIN EL PASO COUNTY, TEXAS, herein after referred to as Policies adopted by the PSB by their resolution on August 28, 1991, as amended by these Rules and Regulations No. 11. Such service may include either individual household or domestic, commercial, industrial, institutional or wholesale to Customers who purvey water and/or sewer service in accordance with a valid Certificate of Convenience and Necessity (CCN) or who are otherwise lawfully authorized to serve in this area.

1. Wholesale Customers

Water service to wholesale Customers, that is water Customers of EPWU who purvey the water so delivered to retail users, such as households, commercial or industrial users, shall be required to comply with certain conditions as follows:

- a. They must negotiate a contract with EPWU specifying contract time, maximum quantity desired, cost of service and other conditions of service.
- b. They shall comply with all rules and regulations of EPWU for other Customer classes which are applicable.
- c. They shall pay applicable Charges and deposits as stipulated in Rules and Regulations No. 7.
- d. The wholesale water Customer shall be responsible for providing water quality in conformance with Federal Safe Drinking Water Act requirements, and compliance with applicable local, state, and federal laws.
- e. Wholesale sewer service Customers shall be responsible for protection of groundwater through prevention of spills and collection system leaks and shall otherwise comply with all pollution control and other applicable state and federal laws.
- f. Wholesale Customers shall comply with and impose and enforce on their retail Customers the Conservation Regulations of the City of El Paso, and the PSB.

2. Eligibility for Extensions

To be eligible for Line Extension service, outside-city property, other than property located in Esperanza Service Area, may not be located in the ETJ or the Corporate Limits of any municipal corporation other than the City of El Paso, or in the service area covered by a current Certificate of Convenience and Necessity (CCN) held by any other utility or entity, unless the entity or utility consents in writing to service by the PSB. Such consent shall not obligate the PSB to provide service. The Utility may extend service outside of the El Paso ETJ only when the PSB, in their sole judgment, deems such service to be in the interest of public safety, health and welfare.

3. Availability of Funds

- a. Capital funding of service Line Extension outside the Corporate Limits of the City of El Paso must be available in accordance with Rules and Regulations No. 7, including: Line Extension Charges, special deposits for Off-Site Facilities as defined in Rules and Regulations No.1., connection Charges and other applicable Charges and will be paid on contractual obligation in advance to the Utility. Funding sources may be grants from the County of El Paso, State of Texas, the Federal Government or other public or private sources, but in no case will funds from the Utility be used so as to cause an expense to other Customers which would amount to a subsidy without benefits and be inconsistent with the conditions under which the Policies were adopted.

- b. Government grant conditions may require certain exceptions to the fees and Charges in Rules and Regulations No. 7. Such exceptions will be considered provided Utility funds are not used so as to cause an expense to other Customers. Federal, state, and county government grants may be targeted to reduce cost to individual Customers by directly paying all Line Extension costs and connection fees required in Rules and Regulations No. 7 and in such cases, the Utility will not charge the individual connection fees, the amount paid by grants nor in such case, will the Utility pay refunds to the government agency providing the grant.
  - c. In cases where individually-owned single family property Customers outside the Corporate Limits of the City of El Paso do not qualify for financial assistance from federal, state or county agencies, a Promissory Note may be executed as described in Rules and Regulations No. 7 Sections II (O) and Sections III (J).
- 4. Compliance With Other Rules  
Conditions of service to Outside City Customers shall be in strict accordance with Rules and Regulations No. 7 and Rules and Regulations No. 9. Written acknowledgment that the Customer will comply must be provided with application for service.
- 5. Monthly Charges  
Cost of service (monthly service charge) to Outside City Customers shall be in accordance with Rules and Regulations No. 5 and Rules and Regulations No. 6 as these rules and regulations now read or as they may be amended. Written acknowledgment must be provided with application for service.
- 6. Water Conservation  
All water conservation rules and ordinances which are applicable to Customers in the City of El Paso shall be applicable to Outside City Customers and will be strictly enforced.
- 7. Other Municipal Services  
Other City of El Paso municipal services to Outside City Customers will not be provided with the Line Extension of Water Service and/or Sewer Service outside the Corporate Limits of the City of El Paso. Written acknowledgment of the fact that no other services will be provided will be included with the application for Water Service and/or Sewer Service.
- 8. Rights-of-Way  
Line Extension of service to Outside City Customers shall be on Dedicated Rights-of-Way on the condition that El Paso County or other owners or agencies shall grant access at no cost to the Utility and without charging a franchise fee or similar charge for the use of Dedicated Rights-of-Way. It is the intent of the Utility to construct water and sewer mains in public Dedicated Rights-of-Way where possible. Conditions under which water and sewer mains may be allowed in easement are discussed in Rules and Regulations No. 7, Sections II(J) and III(H).
- 9. Availability  
Determination of Water Service and/or Sewer Service availability to Properties located outside the Corporate limits of the City of El Paso shall be made in accordance with the adopted policies and as follows:
  - a. Subdivisions platted up to August 28, 1991  
Subdivisions platted up to August 28, 1991, will be programmed in accordance with the priority system stipulated in the Policies as amended, and at the discretion of the PSB. Generally, such Subdivisions will have priority over those platted later provided they meet all other conditions of the Policies and Rules and Regulations No. 11.

The purpose of extending service to Outside City Customers by the PSB is to promote the public health, safety and welfare of the community of El Paso County. However, it is the intent of the PSB to maintain the viability of the Utility while serving this purpose. Existing Customers shall not be burdened with rates and costs associated with the expanded field of service. Therefore, a priority system for consideration of applicants such as included in the Policies, as amended, which considers need, funding, health issues and engineering feasibility, or as may be determined by the Texas Water Development Board, will be utilized. It is the intent that the Utility will be expanded contiguously without leapfrogging in accordance with available funding so as to be in the best interests of the rate-payers, existing and future, and of the Utility.

A variance to the priority system may be granted to the public school districts for providing water and wastewater service to individual public schools. This variance may be granted by the PSB to a specific public school when, in the PSB's sole judgment, it deems such service to be in the best interest of public safety, health and welfare.

It is the intent of the Utility to protect and manage the regional water resources with El Paso County, Texas. In as much as sewage generation is greatly impacted by the installation of Water Service, priority consideration for installation of Water Services will be given to applicants with suitable collection, treatment and disposal facilities for increased discharges which may result from installation of Water Services.

b. Subdivisions platted after August 28, 1991

Subdivision platted after August 28, 1991, requesting Water Service and/or Sewer Service shall be considered in accordance with the Policies as amended. Generally, priority for service will be given to Subdivisions plated prior to this date. Subdivisions platted after August 28, 1991 will not be served if it requires leapfrogging over un-served areas that have a higher priority. All proposed developments located outside the Corporate Limits of the City of El Paso which were platted after the date of the adoption of the Policies by the PSB on August 28, 1991, must conform to the City of El Paso's subdivision regulations and applicable ordinances and PSB Rules and Regulations in effect at the time application is made for service. Such development must also conform with the PSB's master plans insofar as the approved sizing of such facilities is concerned, including off-site lines and Off-site Facilities for which the developer may be responsible.

A variance to the priority system may be granted to the public school districts for providing Water Service and Sewer Service to individual public schools. This variance may be granted by the PSB to a specific public school when, in the PSB's sole judgment, it deems such service to be in the best interest of public safety, health and welfare.

The Outside City Customer, developer, or its designated agent of Subdivisions platted after August 28, 1991, shall post cash or other security acceptable to the PSB into an escrow fund to EPWU's account which shall be not less than 125% of the estimated increase to the PSB's current Capital Improvement Program attributable to the Line Extension requested. Such additional or expanded facilities must conform to the EPWater master plan or any amendments thereof. Alternatively, the applicant for extended services may elect to construct the facilities on its own account, with its own funds. In this case, the applicant may be considered for refunds based upon the source of funding. In no event is the Utility obligated to provide refunds from its own funds. Before Line Extensions of Water Service are approved

by the Utility the developer must satisfy the Utility that all lots in the specific Subdivision, or other type of development, will contain adequate wastewater disposal facilities.

c. Esperanza Service Area

Water supply is available for the Esperanza Service Area from assets acquired by EPWU pursuant to the July 30, 2020 Water System Asset Purchase and Transfer Agreement with Esperanza Water Supply Company, Inc.

10. Water Supply Protection

Protection of the water supply shall be provided by the following special conditions:

- a. The plumbing in the existing houses must be adequate for the pressures of the EPWU system and must not create a Cross Connection. The applicant for service shall comply with the City of El Paso Plumbing Code before service is provided, and thereafter, as deemed necessary by the Utility to ensure that there is no Cross Connection to the water supply. Mechanical Backflow Prevention Assemblies will be installed by the Customer on all outside-city connections. The failure of the Customer to install such a Backflow Prevention Assemblies shall be a basis for discontinuance of service.
- b. Service will be made only after the City of El Paso and the County of El Paso certify that the property to be served satisfies appropriate plumbing and Sanitary Sewage disposal requirements.
- c. Only one service connection shall be permitted to each residential property that is under one ownership unless the property is platted in accordance with the subdivision regulations of the proper jurisdiction. The size of the residential service connection (meter) shall be  $\frac{3}{4}$  inch for lots 1 acre or less in area. Lots greater than 1 acre shall be limited to one gallon per minute rated capacity for each three feet of property that is adjacent to the water line or at the discretion of the Utility. This limitation is required because the water distribution system outside the City of El Paso limits often consist of long dead-end feed lines and potential use by Customers may be greater than the lines can serve. The appropriate Charges shall be paid on all the property that abuts the water line and/or that uses water from the service connection.

11. Westside

The areas outside the Corporate Limits of the City of El Paso on the westside, including Canutillo, have received retail service from the PSB since the 1960s. Service has been provided to protect the public health, in recognition that the City of El Paso derives a portion of its water supply from the Mesilla Bolson located with the area, and as a means of protecting both groundwater and surface water from contamination by reducing the number of wells. Wastewater treatment capacity is also available at the Northwest Treatment Plant. In order to protect and preserve the area's water resources, retail Water Service and Sewer Service will be provided within the (ETJ) in this area in accordance with these rules, including prevention of leapfrog development and collection of Charges that fully cover the cost of service. Water Service will not be provided to Properties that do not have a wastewater collection system constructed to the standards contained in these Rules and Regulation, and which is connected to a wastewater treatment plant certificated by the TCEQ.

12. Eastside and Lower Valley

The areas on the City of El Paso's Eastside and Lower Valley generally do not have available potable groundwater. Service from the Utility has been provided through wholesale contracts or directly to governmental facilities. Service to this area will only be provided within the Corporate Limits City of El Paso, including any additional areas annexed by the City of El Paso, or through wholesale water supply contracts. Retail service may also be provided to Customers within existing water districts in the event

of consolidation or other dissolution of such districts.

### SECTION III SEVERABILITY CLAUSE

These Rules and Regulations are part of the other Rules and Regulations of the PSB and persons accepting service agree to comply with the appropriate provisions and conditions of all of the Rules and Regulations. If any provision, paragraph, section, subsection, sentence, clause or phrase of these Rules and Regulations No. 11 or the application of same to any person or set of circumstances is for any reason invalidated by any court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 11. The remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect.

### SECTION IV RIGHT OF APPEAL

The Customer may appeal in writing any ruling or action of the Utility or its representatives in accordance with the procedures established in Rules and Regulations No. 8. Any Customer who does not appeal such a ruling or action in accordance with these procedures and within 60 days of the date of the issuance of the ruling or action shall waive any right to contest such action or ruling. The PSB, at its own discretion, may affirm, modify, limit or condition the ruling of the Utility or may defer final decision on the appeal to allow the person to seek a variance if available, in accordance with Rules and Regulations No. 8.

### SECTION V PROTECTION OF THE WATER SUPPLY

Each Customer shall comply with Section V of Rules and Regulations No. 1, the City of El Paso Plumbing Code, and the Regulations of the Texas State Department of Health, the rules and regulations of the TCEQ, and all other applicable laws. Each Customer shall permit inspection at any reasonable hour by the City of El Paso Plumbing Inspector, the City of El Paso representative, County of El Paso representative the Cross Connection Control Program Manager, a Water Conservation Enforcement Officer or Technician, Pretreatment Inspectors, or any official employee or representative of the Utility. The purpose of this inspection is to determine whether physical facilities exist on the premises of the user that are a hazard or may create a hazard to the health, safety, or welfare of the citizens of El Paso through possible contamination of the water supply



by Cross Connections, Back Siphonage, excessive leaks, or other means which constitute a threat to the water supply or other conditions or activities prohibited by the mandatory water conservation ordinance of the City of El Paso, Chapter 15.13 of the El Paso Municipal Code.

#### SECTION VI PROTECTION OF THE SEWER SYSTEM

NOTE: This Section was repealed and replaced by the adoption of Rules and Regulations No. 9, approved by the PSB on June 13, 1990, as amended.

#### SECTION VII CUSTOMER'S RIGHTS AND RESPONSIBILITIES

##### A. SERVICE SIZE

The Customer shall determine the size of Water Service Lateral-EPWU and the size and number of Sewer Service Lateral-EPWU he may need, within the limitations of these regulations, subject to payment of the rates and Charges as provided in Rules and Regulations No. 7; except, however, that a single-family dwelling unit having a gross lot area of one acre or less shall not be permitted a Water Service Lateral-EPWU larger than  $\frac{3}{4}$  inches. However, each property or developable unit shall have a separate Water Meter and separate Sewer Service Lateral-EPWU, and in no instance shall two Properties owned by different individuals or entities and/or Properties separated by a Dedicated Right-of-Way be served by one (1) Water Meter, or by one (1) Sewer Service Lateral-EPWU or one (1) Sewer Service Lateral-Customer.

##### B. EXTENSION AND CONNECTION CHARGES

Once Line Extension Charges and other costs have been paid pursuant to Rules and Regulations No. 7, the right of the allowable service connections shall be vested in the property, whether used or not. However, should a service connection remain inactive for three years or more, the service may, at the option of the Utility, be removed; and re-installation shall require a new service connection Charge, pursuant to Rules and Regulations No. 7.

##### C. CUSTOMER FURNISHED EQUIPMENT

1. The Customer shall be responsible for the furnishing, cost, and installation of the Water Service Laterals-Customer (domestic, irrigation/yard and stand pipe) from the meter into the property and for the furnishing and installation of a fire line service from the bonnet box located in the parkway, sidewalk or easement to the building, for the furnishing and installation of the approved Backflow Prevention Assembly (with meter for fire lines) and protective enclosures required for domestic, irrigation/yard, fire line and stand pipes, for all equipment for the control and utilization of these services located past the meter or bonnet box, and within the property and for maintaining such lines and equipment in good, serviceable, and safe condition.
2. The Customer shall be responsible for the furnishing, cost, and installation of new or relocating public fire hydrants.
3. The Customer shall be responsible for the furnishing, cost, and installation of the Sewer Service Laterals-EPWU and Sewer Service Lateral-Customer from the tap at the sewer main or manhole into the property and within the property, and to include all equipment for the control and utilization of these services and for maintaining, repairing and equipment such Sewer Service Laterals - Customer in good, serviceable, and safe condition from the property line and within the property. Sewer Service Taps shall be installed or inspected by qualified Utility personnel.
4. The Customer shall be responsible for the furnishing, cost, and installation of new sewer manholes if required for Sewer Service.
5. The Customer shall not extend water or sewer lines to furnish such service to Properties other than that on which Charges provided herein Rules and Regulation No. 7 have been paid.

D. WATER SERVICE CONDITIONS

The Customer agrees to accept such conditions of water pressure or service as may from time to time exist and to hold the Utility, the City of El Paso, and/or the PSB harmless on account of damage caused by low or high pressure, fluctuations of pressure, or interruptions of service. Where the static water pressure at the meter exceeds 80 pounds per square inch, the Customer shall, for his or her own protection and at his or her own expense, install a pressure regulator, strainer and relief valve, to be set for pressure as desired by the Customer.

E. SEWER SERVICE CONDITIONS

The Customer shall agree to accept the elevation and location of all sewers as laid by the Utility and will, where necessary, install and operate on his own premises and at his own expense, all necessary lifting equipment or backup protective devices. Customers having drain or fixture outlets into the house connections which are at an elevation that is lower than the top of the nearest downstream sanitary sewer manhole shall protect their premises from possible backup of sewage by the installation of Backflow or other devices to prevent sewage backing up and flowing out of such outlets. Such Customers agree to accept responsibility for any damages caused by a sewage backup where the Customer has failed to install devices to prevent such sewage backing up and agrees to hold the City of El Paso, the Utility and/or the PSB harmless for any damage caused by such a sewage backup.

In areas where vacuum sewer lines are installed, service valve boxes are required for service. As a condition of service, the service boxes may be required to be located on the Customer's premises in an area determined by the Utility to be accessible at all times for inspection, testing, and maintenance. One service box may serve two or more Properties. The service box may be set on the property line between adjoining served Properties or on any of the served Properties. The Customer shall maintain the surrounding property in a manner that protects the service box from damage and assures that it is clearly visible. The Customer shall immediately report any defect or damage he/she observes in the service box to the Utility. Application by the Customer for service shall be deemed as permission for the Utility to set the service box on his/her property. No rent or other charge shall be assessed or imposed by the Customer against the PSB or the Utility for placing the service box, service lines or other equipment upon the Customer's premises.

F. WATER METER LOCATION

When a location for the Water Meter box outside the property line is not practical or where not protected by a curb and gutter, the Water Meter box shall be located on the Customer's premises near the point where the service pipe crosses the property line and/or easement and where the meter will be accessible at all times for inspection, testing and reading and the Customer shall maintain the surrounding property in a manner that protects the meter from damage and assure that it is clearly visible. The Customer shall immediately report any defect he/she observes in the meter to the Utility. Application by the Customer for service shall be deemed as permission for the Utility to set the meter box on his property, if necessary and no rent or other charge shall be assessed or imposed by the Customer against the PSB for placing the meter box, service pipe or other equipment upon the Customer's premises.

G. CUSTOMER FACILITIES

The Utility does not assume the responsibility of inspecting any part of the Customer's installation of water or sewer facilities. The Customer shall be solely responsible for the costs for installing and maintaining any such facilities. The Utility has the right to inspect all Backflow Prevention Assemblies at the costs described in Rules and Regulations No. 7.

H. DAMAGE TO CUSTOMER

The City of El Paso and/or PSB-EPWU shall not be responsible for any loss or damage caused by the improper installation, condition or use of the Customer's equipment or by any negligence or wrongful act of the Customer or his agents, employees or licensees.

I. DAMAGE TO UTILITY

Any damage to equipment belonging to the Utility caused by the negligence or wrongful act of the Customer or his agent, employee or licensee shall be paid by the Customer upon presentation of a bill therefore. Non-payment of such Charges shall be grounds for disconnection of service.

J. SERVICE SIZE GUIDE

As a guide in the selection of the size service, the Customer may consider that a service connection will deliver approximately the following amount when discharging to atmosphere at the Customer side of the meter.

<u>Meter size</u>	<u>Gallons per Minute Demand</u>
5/8 x 3/4"	15
1"	37
1 1/2"	75
2"	120
3"	240
4"	375
6"	750
8"	1400
10"	2000

This amount should be adjusted downward with an adequate allowance made by the Customer for Friction Loss in his piping system. The Customer understands and agrees that the above table constitutes an estimate of the amount to be delivered and that neither the PSB or the Utility shall be responsible for any failure to deliver the estimated capacity shown on the above table.

SECTION VIII DESIGN AND OWNERSHIP OF FACILITIES

A. OPERATIONS, MAINTENANCE AND OWNERSHIP

The Utility shall design, operate and maintain all of its water and sewer facilities with due regard to present and future requirements of capacity, system operation and efficiency and anticipated life of such improvements. Ownership and/or title to all such facilities shall remain in the EPWU, City of El Paso, Texas, acting by and through its PSB upon completion of the construction of such facilities and upon the acceptance and incorporation of such facilities into the operating system.

B. UTILITY FURNISHED EQUIPMENT

1. The Utility will furnish, install, and maintain all meters and all pipes, equipment and materials connecting the Water Meters, fire lines and stand pipes with the main as required by the Water Service Connection Charge as provided in Rules and Regulations No. 7. Responsibility and ownership to all such installations shall remain in the El Paso Water Utilities, City of El Paso, Texas, acting by and through its PSB .
2. The Responsibility and ownership to the Sewer Service Lateral-EPWU within the public Dedicated Rights-of-Way shall remain in the El Paso Water Utilities, City of El Paso, Texas, acting by and through its PSB. The Utility is responsible for the repair of the Sewer Service Lateral-EPWU
3. When the Utility, the City of El Paso or the County of El Paso is replacing water and sewer mains, installing new public water and sewer mains, reconstruction or resurfacing of streets, the Utility will furnish and install Water Service Laterals-EPWU and Sewer Services Laterals-EPWU to vacant or undeveloped Properties or parcels. The Water Service Laterals-EPWU and Sewer Service Laterals-EPWU will be installed ahead of pavement. The Customer will be required to use the furnished and installed Water Service Laterals-EPWU and Sewer Service Laterals-EPWU and comply and be responsible for Charges described in Rules & Regulations No. 7 for future development. The Customer will not be provided additional Water Service Laterals-EPWU and Sewer Service Laterals-EPWU to the refence Properties or parcels until 5 years have passed from the installation of the pavement or unless an exception is granted by the Utility.

C. RIGHT TO OPERATE

The Utility will have sole right to connect or disconnect the Customer's service with the water and/or sewer main; to install, remove or reset meters; and to operate water main valves and appurtenances. No person, other than a duly authorized representative of the Utility, shall in any way interfere with or operate any of the facilities of the water and wastewater System.

D. LINE LOCATIONS

Water Line Extension shall be located on the north and east sides and sewer Line Extension on the south and west sides of Dedicated Rights-of-Way, except that if such locations are unavailable, or in the interest of operation, efficiency, or maintenance of the water and wastewater System, the Utility may designate some other location. Under no circumstance shall any structure be placed over or around any water and/or sewer main or Line Extension unless prior provision is made for ready and easy access to any and all parts of such main or Line Extension.

E. FIRE HYDRANTS

Public fire hydrants shall not be installed in lines extending outside of the Corporate Limits of the City of El Paso except as may be requested by fire protection agencies having jurisdiction for the area served and funded by the developer. Extensions of Water Service outside of the Corporate Limits is for consumptive purposes and does not specifically imply that the level of service provides municipal level fire protection and the Customer agrees that such level of fire protection is not provided. Cost of installation of any hydrants will be the responsibility of the Customer or the requesting fire protection agency and shall not be reimbursed by the Utility.

F. LIMITATION OF OTHER CITY SERVICES

The water and sewer Line Extension to Properties located outside of the Corporate Limits of the City of El Paso does not imply the provision of any other service of the City of El Paso and the Customer agrees that no other services, including but not limited to: police, fire protection, garbage collection and street maintenance are provided.

G. CONDITIONAL SERVICE

When service is required to a property within the outside the Corporate Limits of the City of El Paso that is not adjacent to water main and/or a sewer line from which adequate service can be provided and when, in the opinion of the Utility, it is not feasible to construct a main that would provide adequate service, the Utility may grant permission to the Customer to take conditional service at the nearest existing adequate main. The Customer shall pay the appropriate Charges as provided in Rules and Regulations No. 7, computed as though the main were adjacent to the property. The Customer shall pay all cost of installation and maintenance of a pipeline from or the nearest main that would provide adequate service to the Water Meter and/or sewer connection to this property and assume all responsibility and liability therefore and the payment of all costs and damages growing out of the installation, operation or failure of said pipeline. Such a connection and pipeline shall be installed and used as a temporary arrangement only at such time as an adequate main may be installed adjacent to the property and on written demand of the Utility, the Customer will have installed a regular service at his expense and will discontinue the use of the temporary connection and pipeline will pay the Utility the appropriate charges for a regular service.

SECTION IX DISCONTINUANCE OF SERVICE

The Utility shall have the right, with notice to the Customer, except in emergency situation where immediate termination of service is necessary to preserve or protect the public health or safety when service may be terminated without notice, to discontinue the Water Service and/or Sewer Service and to apply any of the Customer's Water Service Guarantee or Deposit to amounts owed to the Utility for non-payment of service Charges; for the excessive waste of water; for the violation of any applicable plumbing code; for the piping of service along or across streets, alleys or to the property of others without the prior written consent of the Utility; for using a service without applying for and signing the proper service contract; for supplying service to property other than that which was identified by the owner or applicant for service at the time such service was initially provided for violation of the provisions relating to service outside of the corporate limits of the City of El Paso, Texas as set out in these Rules and Regulations No. 11; for furnishing false or erroneous information in any application for service; or when any existing Water Service and/or Sewer Service shall become inactive; or upon the violation of any provision of

these Rules and Regulations No. 11, or any lawful rule or regulation of the Utility or the City of El Paso. Provided, however, the Utility shall have the authority to immediately discontinue the Customer's meter or Sewer Service with notice should any violation of these rules and regulations cause and immediate threat to the public health or safety or the environment. Such service shall remain discontinued until all errors are rectified and/or violations have ceased.

#### SECTION X EXISTING AGREEMENTS

All agreements to serve Customers outside of the Corporate Limits of the City of El Paso which are in force and effect at the date of this resolution shall remain unaltered as to terms and conditions of service. Such agreements include but are not limited to: Fort Bliss, The Lower Valley Water Authority, and Clint, Texas.

#### SECTION XI STORMWATER MANAGEMENT

Pursuant to City of El Paso Ordinance 016668 establishing a Municipal Drainage System, the Public Service Board Stormwater Utility will develop a Stormwater Management Plan.

A. SERVICE AREA

Service area means all land located within the limits of the City of El Paso and any other land areas in the City of El Paso's ETJ as provided by the Municipal Drainage Utility Systems Act which, as a result of topography or hydraulics, contribute to overland flow into the water sheds served by the drainage system of the City of El Paso.

B. ANNEXED LAND

Upon the effective dates of completed annexation of additional lands into the City of El Paso, each such annexed additional land shall become part of the service area. Land annexed for limited purposes shall become part of the service area upon annexation for full purposes.

C. REGIONAL STORMWATER MASTER PLANNING

The PSB will work with the County of El Paso, Villages, Corp of Engineers, Texas Water Development Board and other local, state and federal agencies in developing a regional stormwater master plan for County of El Paso to ensure a comprehensive plan to address and properly manage stormwater.

#### SECTION XII SAVINGS

These rules and regulations are a part of the other rules and regulations of the Public Service Board and, save and except as amended hereby, the remaining provisions of the PSB's Rules and Regulations shall remain in full force and effect.

#### SECTION XIII EFFECTIVE DATE

These rules and regulations shall be and become effective from and after their adoption hereby and shall remain in effect until amended or changed by the PSB.

PASSED, APPROVED and ADOPTED this 9<sup>th</sup> day of December, 1992, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 11, SECTION VII(E), REVISED, APPROVED, AND ADOPTED this 12<sup>th</sup> day of May, 1999.

RULES AND REGULATIONS NO. 11, SECTIONS I(B), II(A)(1)(b), II(a)(4)(e), II(B)(2), II(B)(8), and II(B)(10)(d), REVISED, APPROVED, AND ADOPTED; SECTIONS II(B)(11) and II(B) (12) ADDED, APPROVED AND ADOPTED this 13<sup>th</sup> day of December, 2000.

RULES AND REGULATIONS NO. 11, SECTION V, REVISED, APPROVED, AND ADOPTED this 23<sup>rd</sup> day of January, 2002.

RULES AND REGULATIONS NO. 11, SECTION XI, SECTION XII, SECTION XIII, ADDED, REVISED, APPROVED, AND ADOPTED this 12<sup>th</sup> day of December, 2007.

RULES AND REGULATIONS NO. 11, SECTION II (B)(3)(c), ADDED, REVISED, APPROVED, AND ADOPTED this 12th day of December, 2012.

RULES AND REGULATIONS NO. 11, SECTION VII (F), ADDED, REVISED, APPROVED, AND ADOPTED this 8<sup>th</sup> day of January, 2020, by the Public Service Board of the City of El Paso, Texas.

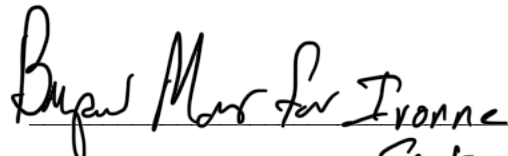
RULES AND REGULATIONS NO. 11, SECTION I (B), SECTION II (A)(5), (B)(3)(b,c), (9)(b), SECTION IX ADDED, REVISED, APPROVED, AND ADOPTED this 13<sup>th</sup> day of January, 2021, by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 11, SECTIONS I(B), II (A)(1), II (A)(4)(a), II(B), II(B)(2), II(B)(9)(c) ADDED, REVISED, APPROVED, AND ADOPTED THIS 12th day of May, 2021 by the Public Service Board of the City of El Paso, Texas.

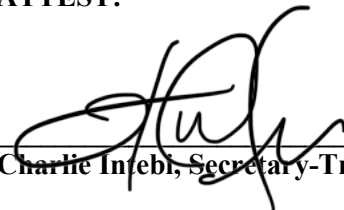
RULES AND REGULATIONS NO. 11, SECTION I (A, B), SECTION II (A,B ), SECTION III, SECTION IV, SECTION V, SECTION VI, SECTION VII (A, B, C, D, E, F, G, H, I, J), SECTIONS VIII (A, B, C, D, E, F, G), SECTION IX, SECTION X, SECTION XI (A, B, C), SECTION XII, SECTION XIII ADDED, REVISED, APPROVED, AND ADOPTED THIS 12th day of January, 2022 by the Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 11, SECTION I (B), SECTION II (A)(e), SECTION II (B)(10)(d), REVISED, APPROVED, AND ADOPTED THIS 10th day of January, 2024 by the Public Service Board of the City of El Paso, Texas.

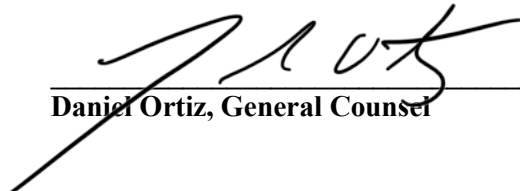
**PUBLIC SERVICE BOARD**

  
Ivonne Santiago, Chair *Santiago*

**ATTEST:**

  
Charlie Infebl, Secretary-Treasurer

**APPROVED AS TO FORM:**

  
Daniel Ortiz, General Counsel

RULES AND REGULATIONS NO.12

RULES AND REGULATIONS  
GOVERNING THE FURNISHING AND CONTROL  
OF RECLAIMED WATER BY  
THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111-1118M, TEXAS REVISED CIVIL STATUTES, 30 TEXAS ADMINISTRATIVE CODE CHAPTER 210, AND ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON MAY 22, 1952, AS AMENDED; NOW, THEREFORE BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULES FOR THE FURNISHING AND CONTROL OF RECLAIMED WATER SERVICE WITHIN AND OUTSIDE OF THE CORPORATE BOUNDARIES OF THE CITY OF EL PASO ARE HEREBY ESTABLISHED.

SECTION I     GENERAL

A.     TABLE OF CONTENTS

The following headings or captions are adopted as the Table of Contents for Public Service Board Rules and Regulations No. 12.

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B. DEFINITIONS

Whenever the following terms, or pronouns used in their place, occur in these Rules and Regulations No. 12, or in any documents that these Rules and Regulations No. 12 govern, the intent and meaning shall be interpreted as follows:

Air-Gap Separation:

A physical separation between the free flowing discharge end of a water supply pipeline and an open or non-pressure receiving vessel. The separation shall be at least double the



diameter of the supply pipe measured vertically above the overflow rim of the vessel, and in no case less than one inch. The design shall be approved by the EPWU and the TCEQ.

Approved Use:

The use of Reclaimed Water in conformance with a User Agreement and in compliance with all other applicable laws.

Approved Use Area:

The site designated in a User Agreement to receive Reclaimed Water.

Backflow Control Device:

A backflow control device approved by the EPWU and TCEQ used to protect the Potable Water System from contamination that may originate downstream of the device.

Construction Use:

An Approved Use of Reclaimed Water to support construction activities, such as soil compaction and dust control.

Cross-Connection:

Any unprotected actual or potential connection between any part of a Potable Water System and any source or system containing water or substance that is not or cannot be approved by the EPWU as safe, wholesome and potable. By-pass arrangements, jumper connections, swivel or changeover devices, valves, or other devices through which backflow could occur shall be considered to be cross-connections.

Drawings:

The plans, working drawings, detail drawings, profiles, or typical cross sections, approved by the EPWU, that show locations, character, dimensions or details of the work.

EPWU:

The El Paso Water Utilities, a publicly owned water and sewer agency located in and serving the people of El Paso County, Texas.

General Public:

Any person who may come in contact with Onsite or Offsite Facilities or Approved Use Areas.

Industrial Use:

An Approved Use of Reclaimed Water for industrial or commercial uses as authorized under 30 TAC §210.10

Irrigation Use:

An Approved Use of Reclaimed Water for landscape, horticultural, or agricultural irrigation as defined and allowed under 30 TAC §210.8.

Nonpotable Water:

All water (including Reclaimed Water ) that has not been approved by the TCEQ for human consumption.

Offsite Facilities:

All Reclaimed Water distribution, storage, or delivery facilities upstream of the Point of Connection to an Approved Use Area.

Onsite Facilities:

All Reclaimed Water distribution facilities downstream of the Point of Connection.

Point of Connection:

The location where the Offsite Facilities connect to the Onsite Facilities, which shall be the downstream end of the EPWU's Reclaimed Water service meter. The EPWU's meter will normally be set in a location that abuts a curb line or property line of the Approved Use Area.

PSB:

The Public Service Board. The Board of Trustees created by Ordinance 752, which is the governing body of, and has the complete management and control of, the EPWU, consisting of five (5) members, including the Mayor of El Paso, appointed by the City Council of El Paso.

Reclaimed Water:

Domestic wastewater that is under the direct control of the EPWU and which has been treated to a quality suitable for beneficial use.

Service:

The furnishing of Reclaimed Water to a User through a metered connection to the Onsite Facilities.

TCEQ:

The Texas Commission on Environmental Quality

User:

Any person or entity, or authorized representative thereof, owning a site with an Approved Use Area who is issued a User Agreement.

User Agreement:

A contractual agreement between a User and the EPWU that establishes the terms for the delivery and use of Reclaimed Water at an Approved Use Area.

Violation:

Noncompliance with these Rules and Regulations No. 12, 30 TAC §210, or a User Agreement by any User. Each day that a violation continues shall constitute a separate violation.

Water Right (Surface, Underground):

A legal right acquired under the laws of Texas to impound, divert, or use ground or surface water. A water right is a real property right.

C. NEUTRAL GENDER

When the context requires, all nouns and pronouns shown in the masculine gender shall also include the feminine gender.

SECTION II ADMINISTRATIVE PROCEDURES

A. APPLICATION FOR ONSITE RECLAIMED WATER SERVICE

A potential User desiring Reclaimed Water service shall file an application form for Reclaimed Water service as supplied by the EPWU. The form shall be signed by the potential User. The application shall request the following information:

1. The potential User's relationship to the site (legal owner, tenant, lessee, etc.);

2. The current land use of the site;
3. The proposed land use of the site;
4. The type of Reclaimed Water use proposed;
5. The address and description of the property to be served;
6. Any special conditions for service;
7. Technical information pertinent to the design and type of Reclaimed Water use, including, but not limited to, the following:
  - a. Proposed Reclaimed Water meter size (inches)
  - b. Gross area to be served through the Reclaimed Water meter (acres)
  - c. Peak flow through the meter (gpm) along with supporting calculations (assistance from the EPWU may be necessary)
  - d. Estimate of the annual Reclaimed Water requirement (acre-feet or million gallons)
  - e. Time of day, day of week when Reclaimed Water would normally be used (consistent with the Water Conservation Ordinance)
  - f. A complete and correct copy of any permit or permit application that may be required under 30 TAC §210.5;
8. A sketch of the site delineating the proposed Approved Use Area;
9. The location and size of all service connections; and,
10. The nearest major streets.

**B. EVALUATION OF APPLICATION**

Upon receipt of an application, the EPWU shall review the application and make such investigations relating to the proposed service as deemed appropriate. The investigations may include a site visit with the potential User to determine the feasibility of serving Reclaimed Water to the site. The EPWU shall prescribe specific requirements to the User as to the design of the facilities, the manner of construction, the method of operation, and conditions of service. A determination shall be made of the completeness of the information and whether the information is consistent with these Rules and Regulations No. 12, the requirements of the TCEQ, and all other applicable laws.

**C. ISSUING OF USER AGREEMENT**

If an application is approved, a User Agreement shall be executed by the User and the EPWU. The User Agreement shall incorporate the following terms and others as may be appropriate:

1. Rules and Regulations No. 12;
2. Design requirements;
3. Construction requirements;
4. Operational requirements;

5. Service conditions;
6. Monitoring and Reporting; and
7. Any additional requirements to ensure continued operation of Onsite Facilities in a manner that protects public health and to comply with applicable law.

D. RECORDS AND REPORTING

1. The following records shall be maintained:
  - a. By the EPWU:
    - i. The quantity of Reclaimed Water delivered to the User during the billing period; and
    - ii. The quality of Reclaimed Water delivered to the User.
  - b. By the User:
    - i. The date and quantity of Reclaimed Water used by User for uses other than irrigation;
    - ii. Any failure of Onsite Facilities;
    - iii. Any Violation;
    - iv. Any change in ownership of an Approved Use Area or Reclaimed Water Supervisor; and
    - v. Alterations to Onsite Facilities.
    - vi. All User reports shall be sent to the Biosolids and Water Reuse Manager, P.O. Box 511, El Paso, Texas, 79961.
2. All records shall be made to the EPWU or the PSB, as may be appropriate, upon request. The records shall be maintained at the Approved Use Area for a period of three (3) years.

E. ENFORCEMENT

After an investigation, if the EPWU determines that a Violation has occurred, the EPWU shall immediately notify the User. It shall be the responsibility of the User to initiate action to correct the conditions causing the Violation. If, in the opinion of the EPWU, the Violation constitutes an immediate danger to the public health, Reclaimed Water service shall be terminated immediately. Service shall be resumed after the cause of the violation has been corrected to the satisfaction of the EPWU. If the Violation is not determined to constitute an immediate danger to the public health, then a schedule for completing the corrections shall be negotiated between the User and the EPWU. Corrections not made in accordance with the schedule may result in the termination of Reclaimed Water service.

A User may appeal the EPWU's determination on a Violation by following the appeal procedure in Section VII(F) of these Rules and Regulations No. 12.

### SECTION III    SYSTEM RESPONSIBILITIES

A.    PERMIT REQUIREMENTS

The EPWU shall be responsible for notification and permitting for the use of Reclaimed Water from the TCEQ pursuant to 30 TAC §210.

B.    PROTECTION OF PUBLIC HEALTH

The EPWU may take any action, including termination of Reclaimed Water service, at such times it deems proper, relative to construction or operation of the Onsite or Offsite Facilities to safeguard public health.

C.    OFFSITE FACILITIES

All Offsite Facilities shall be owned, constructed, operated, and maintained by the EPWU.

D.    ONSITE FACILITIES

The User shall own, construct, operate, and maintain all Onsite Facilities in accordance with these Rules and Regulations No. 12 and all Regulatory Agency requirements. The use of Reclaimed Water from the Haskell R. Street Wastewater Treatment Plant used for the irrigation of golf courses shall require additional Onsite Facilities as described in the User Agreement.

E.    ONSITE POTABLE WATER SYSTEM PROTECTION

The User shall install and annually inspect an approved Backflow Control Device on all Potable Water Systems that serve water to Approved Use Areas. Required locations and the annual inspection for such devices shall be reviewed and approved by the EPWU. Personnel authorized for Backflow Control Device selection, installation, inspection, and testing shall be "General Testers" who have successfully passed a TCEQ approved course pursuant to 30 TAC §290.44(h)(4)(A-E).

F.    SURVEILLANCE

It is the responsibility of the User to provide surveillance and supervision of the Onsite Facilities in a manner that assures compliance at all times with these Rules and Regulations No. 12. It is the responsibility of the EPWU to provide surveillance and supervision of the Offsite Facilities in a manner that assures compliance at all times with these Rules and Regulations No. 12.

G.    APPROVED USES

These Rules and Regulations No. 12 address the use of Reclaimed Water for turf and landscape irrigation, compaction and dust control for construction, and non-food processing industrial processes. Other proposed uses will be reviewed on a case-by-case basis by the EPWU and the TCEQ. Only those uses specified in a User Agreement are Approved Uses.

H.    APPROVED USE AREAS

Reclaimed Water may only be used in Approved use Areas. In all cases, the EPWU's approval of any proposed use area will be contingent upon the proposed Approved Use Area. Only those Approved Use Areas specified in the User Agreement are Approved Use Areas.

I.    TRANSFERS

Reclaimed Water delivered to a User for use on User's Approved Use Area shall not be given, sold, traded, or in any way transferred to another use area without the written approval of the EPWU.

J.    RECLAIMED WATER SUPERVISOR

The User shall designate a Reclaimed Water Supervisor who shall be directly responsible to the User for the proper operation of the Onsite Facilities. The Reclaimed Water Supervisor shall be the primary contact between the User and the EPWU, and the EPWU will assist in the training of the Reclaimed Water Supervisor. The User shall notify the EPWU of the name and telephone numbers, daytime and nighttime, of the Reclaimed Water Supervisor and shall inform the EPWU if a change is made.

K. MONITORING AND REPORTING

The User and EPWU will conduct periodic monitoring for water use, site and soil conditions, and salinity at reclaimed water sites. The EPWU will provide monitoring reports to Users to report findings.

SECTION IV SYSTEMS DESIGN

A. DESIGN APPROVAL

Prior to the construction or retrofitting of Onsite Facilities, the design drawings and specifications must be submitted to the Biosolids and Water Reuse Manager for approval. Approval shall be contingent upon evidence that all applicable design requirements have been satisfied.

B. DESIGN RESPONSIBILITY

The User shall be responsible for the design of the new or retrofitted Onsite Facilities. The preparation of drawings and construction specifications shall be carried out by persons or firms approved by the EPWU.

C. POTABLE/NON-POTABLE SYSTEMS SEPARATION

The Potable and Reclaimed Water systems shall at all times be separated by an air gap. No direct connection of any type between the two system types will be allowed. Introduction of Potable Water into a Reclaimed Water system shall be accomplished only through an approved air gap separation.

D. POINT OF CONNECTION FOR SERVICE

The EPWU will establish the Points of Connection for all Reclaimed Water services. The User shall be responsible for extending the onsite service line to the Point of Connection.

E. PIPING

All piping used in conveying Reclaimed Water shall be of adequate size and structural integrity to ensure that leaks or ruptures will not occur. Lines crossing roadways or other areas receiving regular vehicular traffic must be buried to a depth of at least 24 inches and sleeved. Rigid pipe able to withstand the planned vehicle loads shall be used for such installations.

F. IRRIGATION SYSTEM LAYOUT

All Onsite Facilities irrigation systems shall be designed to minimize discharge or spray onto areas that are not Approved Use Areas. Part-circle sprinklers shall be used adjacent to roadways, sidewalks, and boundary lines to confine the discharge from the irrigation system to the Approved Use Area.

G. STORAGE FACILITIES

All storage tanks used for storing Reclaimed Water shall be of adequate design and structural integrity to ensure that leaks or ruptures will not occur in the course of normal use. Unless specifically allowed otherwise, storage tanks shall be contained within a fence or other enclosure that will restrict access by the general public to these facilities at all times. Outlet control with positive shut-off shall be provided at each storage facility. All pond storage facilities shall be constructed in accordance with 30 TAC §210.7.

H. DISTRIBUTION VEHICLES

Vehicles used for distributing Reclaimed Water for soil compaction and/or dust control shall be provided with an adequate tank and plumbing system to ensure that leaks and ruptures will not occur in the normal course of use. Control valves shall be provided such that Reclaimed Water can be applied in a controlled fashion on the Approved Use Area and completely retained during transit to all other areas. Spray heads or other nozzles shall be provided and configured such that the Reclaimed Water is uniformly applied and runoff, ponding, or windblown spray conditions are minimized. Each tank shall be equipped with an approved air-gap separation.

I. TEMPORARY CONNECTIONS TO POTABLE WATER SYSTEM

In those areas where Reclaimed Water is not immediately available for use and Onsite Facilities have been constructed, and the User has obtained a User Agreement, a temporary connection to the EPWU's Potable Water System may be allowed with written approval from the EPWU in accordance with the terms of the User's User Agreement. Only the EPWU shall perform the work of making any connections to the Potable Water System. All temporary connections to the EPWU's Potable Water System shall also conform with requirements specified in Rules and Regulations No. 1 for the protection of the water supply. At the time when the EPWU determines that Reclaimed Water is available, the EPWU shall notify any User with a temporary connection of the availability of Reclaimed Water and schedule a mutually acceptable time for making the conversion to Reclaimed Water.

SECTION V    SYSTEMS CONSTRUCTION

A. CONSTRUCTION INSPECTION

The EPWU shall inspect the construction of Onsite Facilities to verify that the facilities are constructed in conformance with the approved drawings. The User shall give the EPWU a notice of at least four (4) working days before starting the construction at the Onsite Facilities work and obtain approval to begin work. Inspection by the EPWU's personnel shall not substitute for inspection by the City of El Paso Public Inspection Department. A Plumbing Permit may be required by the City of El Paso.

B. AREAS OF RESPONSIBILITY

The responsibility for providing a Backflow Control Device at the User's Potable Water service connection shall be determined by the EPWU at the time an application for Reclaimed Water service is filed. The User shall be responsible for testing and maintaining all Backflow Control Devices in accordance with the EPWU's policy for testing and maintaining such devices on Potable Water Systems.

C. CONNECTIONS TO EXISTING EPWU FACILITIES

The User shall not make a connection to existing EPWU facilities or cause interruption of Reclaimed Water service in any portion of the EPWU system unless it has been approved by the EPWU. If it becomes necessary to interrupt service to an existing system, this interruption shall be done at a time determined by the EPWU and under the EPWU's direction and inspection.

D. INSPECTION ACCESS

The EPWU shall have access at all times to the work site during construction, and shall be provided with whatever information is requested regarding the progress, workmanship, and character of materials used in the work. The EPWU shall have the authority to suspend the work wholly or in part for such time as it may deem necessary due to failure on the part of the User to carry out any EPWU directive or any provision of the approved drawings and specifications. The User shall immediately comply with the written order of the EPWU to suspend the work wholly or in part. The work shall be resumed when methods or defective work are corrected and approved in writing by the EPWU. Reclaimed Water service may be denied if a User fails to comply with a written order of the Biosolids and Water Reuse Manager.

E. MATERIALS OF CONSTRUCTION

1. Valves

All Reclaimed Water valves shall be in serviceable condition and free from leaks and structural faults. Where appropriate, all valves shall be installed in suitable valve boxes complete with locking and hinged covers as approved by the EPWU. All quick-coupling valves shall be operated with a special coupler key with an Acme thread for opening and closing the valve. This provision may be modified and approved in writing by the EPWU in those cases where an existing onsite Potable Water System is currently equipped with quick-coupling valves that are not operated with an Acme-threaded key.

2. Piping  
All Reclaimed Water piping shall be in serviceable condition and free from leaks and structural faults. All joints shall be structurally sound and free from leaks.
3. Storage Tanks  
All Reclaimed Water storage tanks, whether fixed or mounted on distribution vehicles, shall be structurally sound and free from leaks and equipped with an appropriate air gap device.

F. IDENTIFICATION AND POSTING

1. Facilities Identification
  - a. Buried Piping: For all new or replacement pipe for Onsite or Offsite Facilities, all piping 12" in diameter and smaller shall be manufactured in purple. For pipe larger than 12" in diameter, it shall be one of the following: manufactured in purple, painted purple, taped with purple metallic tape, or bagged in purple, and as approved by the EPWU on a case-by-case basis. If materials and/or warning tape are not available, other identification methods may be approved by the EPWU.
  - b. Exposed Piping: All exposed piping and piping within a building shall be either purple pipe or painted purple. All exposed piping should be stenciled in white with a warning reading "Non-Potable Water". The EPWU must review and approve any proposal that calls for above-ground Reclaimed Water pipe to be painted as a means for complying with the color requirement. Other proposed methods for identifying above-ground piping must be reviewed and approved by the EPWU on a case-by-case basis.
  - c. Above Grade Valves and Related Components: All new or existing valves and related components installed above grade and protected from the elements shall be painted purple or manufactured in purple. All new or existing valves and related piping components not protected from the elements shall be manufactured in purple, if available, or alternatively identified purple by another means as approved by EPWU.
  - d. Below Grade Valves and Related Components: All new or retrofitted valves and related components for piping 12" diameter or less shall be manufactured in purple, if available. If unavailable or if valves and components are for pipe larger than 12" in diameter, it shall be one of the following: manufactured in purple, painted purple, taped with purple metallic tape, or bagged in purple. All valves of any type installed below grade shall be housed in a purple locking box.
  - e. Each storage tank shall be covered and identified by a painted label or sign as containing Reclaimed Water. The warning shall contain the words "CAUTION - RECLAIMED WATER, DO NOT DRINK" or similar warning with black or white letters at least two inches high in English and in Spanish on a purple background. In addition, at least one sign shall be posted on the fence surrounding the storage tank. The label and sign shall be so placed that they can be seen readily by all operations personnel using the facilities.
  - f. Each distribution vehicle shall be identified by painted labels or signs as containing NON-POTABLE WATER in English and Spanish. They shall be placed so that they can be seen readily by all operations personnel using the distribution vehicle.
  - g. Identification requirements for new or retrofitted Onsite Facilities within an industrial or commercial facility shall be determined on a case-by-case basis.



2. Posting of Approved Use Areas

Users shall post their Approved Use Areas in conformance with the EPWU's approval. The posting shall be on appropriate signs shall be "CAUTION - RECLAIMED WATER USED FOR IRRIGATION (or other specified use) - DO NOT DRINK" with black or white letters at least two inches high in English and Spanish on a purple background. Other wordings may be used with approval of the EPWU. Posting of and Approved Use Areas inside industrial or commercial facilities will be determined on a case-by-case basis.

G. FINAL INSPECTION AND TESTING

1. Final Inspection

A User shall request final inspection of a User's Onsite Facilities in writing after completion of construction work and upon receiving the EPWU's approval of record drawings. This request shall include the scheduling of a cross-connection control test and an operational test. The tests shall be scheduled in coordination with the EPWU.

2. Cross-Connection Control Testing

An EPWU-witnessed cross-connection control test shall be conducted to verify that no direct connection exists between the Potable Water System and the Onsite Facilities. The test shall be conducted as follows:

The onsite Potable Water System(s) shall be shut down at or near the Point(s) of Connection. After shutting the onsite Potable Water System(s) down, all outlets of the Potable Water System(s) shall be opened and the Onsite Facilities shall be pressurized for a minimum of two hours. An innocuous, colored dye may be injected into the Onsite Facilities during the test to aid in observing possible cross-connection flows. The outlets on the Potable Water System(s) shall then be inspected. Flow from any Potable Water outlet shall be deemed to indicate a cross-connection condition. (Note: Initial flows that result from the Potable Water Systems' depressurization can be ignored for the purpose of this test.)

3. Operational Testing

Prior to final acceptance by the EPWU, all Onsite Facilities shall be required to successfully pass an operational test. The purpose of the test is to ensure that the Onsite Facilities satisfy the intent of these Rules and Regulations No. 12 relative to the safe and proper use of the Reclaimed Water. Any required corrections shall be noted and submitted to the User by the EPWU in writing with a follow-up inspection prior to final acceptance.

H. RECORD DRAWINGS

Record Drawings of the final installed Onsite Facilities shall be submitted by the User and approved by the EPWU prior to User requesting Reclaimed Water service. The Record Drawings shall be completed in a legible and workmanlike manner. One complete set shall be maintained onsite at all times. The requirement for Record Drawings may be waived at the discretion of the Biosolids and Water Reuse Manager. When required, the Record Drawings shall include, but not be limited to, the locations and depth of the following:

1. Points of Connection including meters;
2. Points of line severing;

3. Routing of pressure lines;
4. Gate, sprinkler control, and quick-coupling valves;
5. Routing of control wires;
6. Control stations;
7. Type and size of materials used and markings;
8. Backflow Control Devices, including type, on the Potable Water System; and
9. Potable Water lines and exterior drinking fountains. If none exist, so state.

I. FINAL SERVICE APPROVAL

The EPWU shall grant the User final approval for Reclaimed Water service after approval of the Record Drawings, the cross-connection control test, and the operational test and following completion of all corrections required by the EPWU as a result of the tests.

SECTION VI SYSTEMS OPERATIONS

A. PERSONNEL TRAINING

The User shall train all Onsite Facilities operations personnel consistent with the worker training and safety plan approved by the Executive Director of the TCEQ, pursuant to 30 TAC §510.4(a)(3)(G).

B. ONSITE INSPECTION

Periodic unannounced inspections of the Onsite Facilities of a User may be made during operational hours by the EPWU. The purpose of an inspection is to identify Violations and obtain compliance. The User shall cooperate with the inspection and assist in the performance of any operational tests as requested. The EPWU shall not unduly interfere with User's operations during the onsite inspections.

C. PERIODS OF IRRIGATION

The operation of Onsite Facilities used for irrigation shall be during periods of minimal use of the Approved Use Area by the general public. Such periods of operation shall be in accordance with the City Code of the City of El Paso, Section 15.13.020 and within the irrigation period specified in the User Agreement.

D. CONSTRUCTION USE

Reclaimed Water used for the purpose of soil compaction and/or dust control shall not be stored or applied in a manner that causes runoff or ponding. If such conditions occur, the method of application shall be altered to correct them and prevent any further runoff or ponding. Control valves on the water distribution vehicles and other controlling devices shall be properly used to prevent the application of Reclaimed Water outside the Approved Use Area onto surfaces including, but not limited to, street pavements, sidewalks, and drainage courses.

E. SPECIFIC OPERATION RESTRICTIONS

1. Runoff/Ponding Conditions

Excessive runoff and ponding of Reclaimed Water shall be avoided. Only minor incidental runoff and temporary ponding will be permitted. If excessive runoff and ponding occurs, the User shall modify the Onsite Facilities or the management/operation of the Onsite Facilities to control the runoff or ponding. It is the responsibility of the User to ensure that runoff and ponding of the Reclaimed Water is minimized. The EPWU shall determine whether runoff and ponding on the site is being maintained to an acceptable minimum level.

2. Unapproved Uses/Areas  
The use of Reclaimed Water for any purpose other than those approved in the User Agreement is prohibited. The use of Reclaimed Water in areas other than those approved in the User Agreement is prohibited.
3. Unprotected Drinking Fountains  
All drinking fountains located within the Approved Use Area shall be protected from contact with Reclaimed Water.
4. Hose Bibs  
All hose bibs and faucets shall be painted purple and designed to prevent connection to a standard water hose. Hose bibs shall be located in locked, below grade vaults which shall be clearly labeled as being of non-potable quality. As an alternative to the use of locked, below grade vaults with standard hose bibs services, hose bibs may be placed in a non-lockable service box which can only be operated by a special tool so long as the hose bib is clearly labeled with a sign. The sign shall have a minimum size of eight inches by eight inches and shall be in both English and Spanish, "RECLAIMED WATER, DO NOT DRINK" or similar warning.
5. Quick Couplers  
All new or existing quick couplers shall have purple locking valve covers.

## SECTION VII SPECIAL CONDITIONS

- A. SEVERABILITY  
If any part of these Rules and Regulations No. 12, or its application to any person is held void, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 12.
- B. WATER RIGHTS  
The delivery of Reclaimed Water by the EPWU and its use by a User and does not constitute a transfer by the EPWU or an acquisition by the User of a Water Right.
- C. AUTHORITY AND PRECEDENCE  
The design and operation of all Onsite Facilities and all Reclaimed Water uses shall meet the requirements of all applicable Federal, State, and local law, except these Rules and Regulations No. 12 shall not take contain requirements contained more stringent than those specified in Federal, State, or local law.
- D. ENFORCEMENT  
The EPWU shall enforce these Rules and Regulations No. 12. These Rules and Regulations No. 12 shall apply equally to any User. There shall be no variance from these Rules and Regulations No. 12 except upon authorization by the PSB.
- E. AMENDMENTS  
These Rules and Regulations No. 12 may be amended by a PSB resolution at any regular or special meeting for cause determined by the PSB. Any amendments so made are immediately incorporated into these Rules and Regulations No. 12 and will be administered as such.
- F. RIGHT OF APPEAL  
The User may appeal in writing any action of the EPWU to the PSB in accordance with the procedures established in PSB Rules and Regulations No. 8. Any User who does not appeal such a ruling or action in accordance with these procedures within 60 days of the date of the issuance of the action shall waive any right to contest such action. The PSB, at its own discretion, may either affirm, reverse, or modify the ruling made by the EPWU. Any modification of the ruling of the

EPWU by the PSB shall be consistent with these Rules and Regulations No. 12, or, if not consistent, shall constitute a variance from these Rules and Regulations No. 12. The reasons for such a variance shall be stated in the minutes of the PSB.

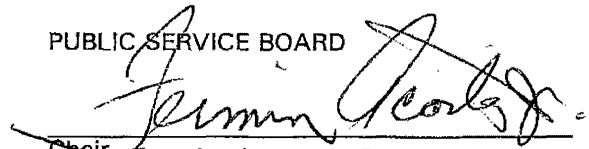
SECTION VIII EFFECTIVE DATE

These Rules and Regulations No. 12 shall be and become effective from and after their adoption hereby and shall remain in effect until amended or changed by the Public Service Board.


PASSED AND APPROVED at regular meeting of the Public Service Board of the City of El Paso Texas, this 13th day of March, 1996, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq.

RULES AND REGULATIONS NO. 12, Heading, Table of Contents, Sections I(B), II(A,B&C), III(A,E,G &K), IV(G), V(F) and VI(A&E), REVISED, APPROVED AND ADOPTED the 12<sup>th</sup> day of January, 2005, by the Public Service Board of the City of El Paso, Texas.

PUBLIC SERVICE BOARD

  
Chair Fermin Acosta, Jr.

ATTEST:

  
Secretary-Treasurer Ruben Guerra

APPROVED AS TO FORM:

  
Robert D. Andron, General Counsel

## RULES AND REGULATIONS NO. 13

### RULES AND REGULATIONS GOVERNING THE TRANSPORTATION AND DISPOSAL OF LIQUID WASTE

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111-1118, REVISED CIVIL STATUTES OF TEXAS, AND ORDINANCE 752 PASSED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, ON MAY 22, 1952, AS AMENDED; NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, TEXAS, THAT THE FOLLOWING RULES FOR GOVERNING THE DISCHARGE OF HAULED WASTEWATER INTO EL PASO'S WASTEWATER SYSTEM ARE HEREBY ESTABLISHED (KNOWN AS RULES AND REGULATIONS NO. 13).

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## SECTION II GENERAL PROVISIONS

Except for sanitary wastewater which conforms to the prohibitions in Section IX, the discharge of any pollutant or wastewater from a vehicle into El Paso's wastewater system is prohibited unless the wastewater transporter is permitted under these Rules and Regulations. Anyone seeking to discharge such wastes must first obtain a Hauled Waste Permit from the Public Service Board (PSB) and may only discharge at the Septage Receiving Facility at the Roberto R. Bustamante Wastewater Treatment Plant (or other permitted facility as specified by the PSB). The PSB reserves the right to change the date and times of operation of the Facility without notice or recourse. Wastes shall not be accepted from any producer or source located outside El Paso County unless approved by the PSB.

### A. DEFINITIONS AND ABBREVIATIONS

The following abbreviations, when used in this Rules and Regulations No. 13, shall have the designated meanings as follows:

BOD

Biochemical Oxygen Demand

EPA

United States Environmental Protection Agency

mg/L

Milligrams per liter

NPDES

National Pollutant Discharge Elimination System

POTW

Publicly Owned Treatment Works

PSB

Public Service Board

TAC

Texas Administrative Code

TPDES

Texas Pollutant Discharge Elimination System

TSS

Total Suspended Solids

U.S.C.

United States Code

Unless the context specifically indicates otherwise, the following terms and phrases, as used in these rules and Regulations, shall have the following meanings:

Act or "the Act"

The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251m *et seq.*

Authorized Representative

- a. If the user is a corporation, the president, secretary, treasurer, or vice-president of the corporation in charge of the principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

- b. If the user is a partnership or a sole proprietorship; a general partner or proprietor, respectively;
- c. If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee;
- d. The individuals described in paragraphs (a) through (c) above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall responsibility for environmental matters for the company, and the written authorization is submitted to the PSB.

Biochemical Oxygen Demand

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° Celsius, expressed as a concentration.

City of El Paso

The City of El Paso, Texas, or the City Council of El Paso, Texas

Commercial Vehicle Wash

A business enterprise in a fixed location at which vehicle washing (conveyor, self-service, or roll over/automatic) is offered to the public for a fee, and which utilizes wastewater pretreatment (i.e., grit trap(s)) to process wastewater prior to discharge into the public sanitary sewer collection system.

Discharge

Any solid, liquid or gas introduced into El Paso's wastewater system.

Disposal Site

A permitted facility or part of a permitted facility, including collection sewers and sludge handling facilities at which wastes are approved to be collected, transported, treated, and intentionally disposed of by conveyance to receiving waters and/or lands. These types of facilities must be classified as either a Publicly Owned Treatment Works (POTW), or a Type I (landfill), Type V (other, i.e., liquid processing), Type VI (experimental facilities) or Type VII (land application for beneficial use) Municipal Solid Waste Facility as defined under 40 CFR Part 257 and TAC Part IX, Chapter 330, Subchapter D, Section 330.41.

Disposal Site Operator

A person, firm, corporation, municipal corporation, or utility permitted or registered by the appropriate state and/or federal regulatory agencies to engage in receiving, storing, transferring, processing and/or ultimately disposing of liquid waste, including, but not limited to, grease trap waste, grit trap waste, and septage.

Environmental Protection Agency

The United States Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

Generator

This is a person who causes, creates, generates, stores, or otherwise produces liquid waste, including, but not limited to, grease trap waste, grit trap waste, and septage as a byproduct of some domestic or non-domestic activity.



#### Grab Sample

A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

#### Grease Trap

A receptacle utilized by commercial or industrial generators of liquid waste to intercept, collect, and restrict the passage of organic, inorganic, greasy or fatty liquid, semi-liquid, and/or solid waste into both public and private sanitary sewers to which the receptacle is directly or indirectly connected.

#### Grease Trap Waste

Any organic, inorganic, greasy, or fatty liquid, semi-liquid, and/or solid wastes collected by and ultimately removed from grease traps for disposal.

#### Grit Trap

A receptacle utilized by commercial or industrial generators of liquid waste to intercept, collect and restrict the passage of petroleum-based oil and grease wastes and inorganic or other solids into both private and public sanitary sewers to which the receptacle is directly or indirectly connected.

#### Grit Trap Waste

Oil and grease waste, and inorganic solids generated by commercial, industrial, automotive or heavy machinery repair, and/or washing facilities that are collected by and ultimately removed from a grit trap for disposal.

#### Hazardous Waste

A solid waste or combination of solid wastewater, which because of its quantity, concentration, or physical, chemical, or infectious characteristic may: (a) cause, or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed; or (c) is identified, classified or listed as a hazardous waste as defined by 40 CFR [art 261.3.

#### Industrial Wastewater

Liquid and water-carried non-domestic solid, gas, and liquid wastes from dwellings, commercial buildings, and industrial facilities, whether treated or untreated, together with any groundwater, surface water, surface water or Stormwater that may be present.

#### Interceptor

A receptacle, including grit traps, grease traps, and sand traps, specifically designed to collect and restrict the passage of wastes and inorganic or other solids into both private and public sanitary sewers.

#### Interference

A discharge which, alone or in conjunction with a discharge or discharges from other sources, both inhibits or disrupts a POTW, its treatment processes or operations, or its sludge processes, use or disposal; and, therefore is a cause of a violation of any requirement of a POTW's TPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of wastewater sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act, the Clean Air Act, The Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.



Liquid Waste Transporter

This is a person who transports liquid wastes by vehicle.

Manifest

The written, multi-part documentation required to be in the possession of the transporter enabling disposal of hauled grit trap waste, grease trap waste, or septage at a permitted or registered disposal site as provided in Section VII of this Rules and Regulations No. 13.

Manifest System

A preprinted, sequentially numbered, multi-part document issued by the PSB used to document specific data regarding the point of generation, transportation, volume and disposal of grit trap waste, grease trap waste, sludge or septage.

Mobile Processing Vehicle

A vehicle designed to separate water from the liquid/solid waste while the vehicle is in transit. These include truck mounted processes known as separator trucks and any other liquid waste processes that are not considered to be fixed to a specific location.

Mobile Processing Vehicle Wastewater

This is the separated or decanted liquid resulting from the separation process of a mobile processing vehicle.

National Pollutant Discharge Elimination System

A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342)

NMED

New Mexico Environment Department

National Pollutant Discharge Elimination System (NPDES) Permit

A permit issued pursuant to Section 402 of the Clean Water Act (33 U.S.C. 1342). The National Pollutant Discharge Elimination System (NPDES) controls water pollution by regulation of point sources that discharge pollutants into waters of the United States.

Pass-through

A discharge that exits a POTW into waters of the United States in quantities or concentrations, which alone or in conjunction with a discharge or discharges from other source, is a cause of a violation of any requirement of the POTW's TPDES Permit, or corresponding State permit (including an increase in the magnitude of duration of a violation); or which causes a violation of a State Water Quality Standard.

Permit

The formal written control document issued to a transporter that entitles such transporter to collect, transport, and dispose of grease trap waste, grit trap waste and septage at a permitted or registered treatment, storage, or disposal site or facility, and regulates said activities.

Permittee

A person to whom a permit is issued under this Rule.

Person

Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

pH

The measure of the relative acidity or alkalinity of a solution defined as the negative logarithm (base 10) of the hydrogen ion concentration.

Pollutant

Any dredged spoil, solid waste, incinerator residue, sewage, garbage, wastewater sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.

Public Service Board

The Public Service Board of the City of El Paso, Texas, acting on its own behalf or through the authorized acts of El Paso Water Utilities (EPWU), which is charged with the day-to-day operation of El Paso's wastewater system.

Publicly Owned Treatment Works

A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292), and operated by the PSB. This definition includes any devices or systems used in the collection, storage, treatment recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances that carry wastewater to a treatment plant.

Slug Load

Any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards listed in this Rules and Regulations No. 13.

State

State of Texas

TCEQ

Texas Commission on Environmental Quality

Texas Pollutant Discharge Elimination System (TPDES)

The Permit issued by the TCEQ under the provisions of Section 402 of the Clean Water Act and Chapter 26 of the Texas Water Code.

Total Suspended Solids

The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids and which is removable by filtering.

User

Any person who contributes, causes or permits the contribution of wastewater into El Paso's wastewater system.

Vector

A mobile receptacle or device in which or by which waste may be transported upon public streets, highways or roadways.

Waste Oil Recovery Traps

This is a receptacle specifically for the purpose of intercepting, collecting, or restricting the passage of petroleum based oil and grease wastes generated from a commercial operation into the sanitary sewer system.

Waste Oil

Wastes removed from a waste oil recovery trap, excluding oils recovered for recycling.

#### Wastewater

Liquid and water carried industrial or domestic solid, gas or liquid wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, together with any groundwater, surface water and storm water that may be present.

#### Wastewater System or System

El Paso's POTWs owned and operated through the Public Service Board.

#### B. ADMINISTRATION

El Paso Water Utilities, under the direction of its President and CEO and acting through its employees and agents, is hereby authorized to administer this Rules and Regulations No. 13, and to take all steps necessary to implement them. Unless explicitly stated otherwise, references to the Public Service Board in this Rules and Regulations No. 13 shall include El Paso Water Utilities.

#### SECTION III PERMIT APPLICATION

A person shall be in violation if he operates or causes the operation of a vehicle on the City Street or public rights-of-way for the purpose of collecting, transporting, or disposing of grease trap waste, grit trap waste, septage, or other liquid wastes without first obtaining a Hauled Waste Permit from the PSB or designated representative. For the purposes of this Rule, each instance of transporting, collecting, or disposing of such wastes without a permit shall be considered a separate violation.

- A. Any person applying for a permit to transport liquid waste must be duly licensed and/or registered as required by the Texas Commission on Environmental Quality and/or other appropriate authorities. Copies of such licenses or registrations must be filed with the application.
- B. Any person may apply for a Hauled Waste Permit by filing an application with the appropriate office of the PSB. Any person currently discharging waste from a vehicle into the wastewater system must obtain a Hauled Waste Permit with thirty (30) days of the effective date of this Rules and Regulations No. 13.
- C. Persons currently holding a Hauled Waste Permit with the PSB may renew the permit on an annual basis by completing a Hauled Waste Permit Renewal Application. Persons shall contact the PSB for the application form and submit the completed form at least sixty (60) days prior to the expiration date of an existing permit.
- D. The Hauled Waste Permit Application must contain the following information as well as any other information the PSB may, from time to time, require:
  - 1. Name of hauled waste operation.
  - 2. Name of principal owner or operator of the hauled waste operation.
  - 3. Address and telephone number of hauled waste operation. The address shall be a physical address (not a Post Office Box (where certified or registered mail can be delivered).
  - 4. Photocopies of the drivers' licenses of all vehicle operators under the employ of the applicant. All drivers' licenses shall be compliant with the requirements of the Texas Department of Public Safety. Drivers operating vehicles in excess of 26,000 pounds (full weight) shall have a Commercial Driver's License.
  - 5. A list of all vehicles and tanker trailers to be registered, including:
    - a. License number;
    - b. Class, size and make and model of vehicle;



- c. Tank capacity in gallons; and
  - d. Registration Number(s) assigned to the company by the TCEQ.
- E. In addition to the permit application, the PSB shall require the following:
  - 1. Full and empty weights of each vehicle/tanker. These weights shall be obtained at a Certified Public Scale. Weights obtained elsewhere will not be accepted.
  - 2. A measurement of the exterior dimensions of the tank used to contain the waste. All measurements will be made by the PSB or designated representative and will be utilized for calculating the volume of the tank.
  - 3. Vehicle Registration for each vehicle/tanker.
  - 4. Original registration letter from the TCEQ for each vehicle/tanker.
  - 5. Proof of insurance. The Applicant shall provide evidence of automobile liability and insurance and thereafter keep same in full force and effect with an insurance company authorized to do business in the State of Texas. PSB shall be provided with thirty (30) days' advanced notice, in writing, of cancellation or material change in the policy. In the event of cancellation or material change in the permittee's policy, the permit shall be suspended until such time as the permittee can again secure appropriate coverage.
- F. The PSB reserves the right to inspect drivers' licenses and vehicle proof-of-insurance at any time a vehicle enters the Septage Receiving Facility.
- G. The PSB reserves the right to conduct an investigation to determine the accuracy of information supplied by the applicant prior to issuing a permit. Submittal of information that is false shall be grounds for refusal to grant a permit or revocation of a permit if already issued.
- H. The permittee shall notify the PSB, in writing, of any changes to the information contained within the original application. This notification shall be made prior to implementing the changes.

#### SECTION IV PERMIT ISSUANCE AND VEHICLE REGISTRATION

- A. Prior to issuance of a permit, the PSB shall require the applicant to submit, for inspection by the PSB, each vehicle and tanker that will be utilized. The PSB or its agents shall determine if the vehicle is constructed and equipped in accordance with Section VII of this Rules and Regulations No. 13.
- B. Upon approval and issuance of a permit, each vehicle and tanker trailer identified on the application will be issued a registration number corresponding to the owner's permit number, vehicle or trailer number and year of registration. The Registration Number shall be issued solely and exclusively to a specific vehicle under a specific permit and cannot be used concurrently under any other permit or registration.
- C. The Registration Number must be clearly displaced on the driver's side of both the front and rear bumpers of the vehicle.
- D. The permittee may register additional vehicles or trailers by filing a "Supplemental Registration of Vehicles" form for each new vehicle or trailer to be filed and paid at the designated office of the PSB.
- E. Any vehicle or trailer that is not registered by application or supplemental registration will not be allowed to discharge waste until such vehicle or trailer has been duly registered.

- F. Permits shall be valid for one (1) year.
- G. Permits are issued to specific individuals or companies and may not be reassigned, sold or otherwise transferred without the prior written authorization of the PSB.
- H. Discharge of sanitary waste from recreational vehicles not for commercial gain shall not require a permit. Discharge is permissible during regular business hours without charge. Such persons are also exempt from the manifest requirements in Section VI herein; however, they are subject to the prohibitions and restrictions in Rule and Regulations No. 9, Section II, of these Rules and Regulations. Proof of automobile insurance coverage is required for entry to the Septage Receiving Facility and shall be presented to the PSB employee at the Station prior to discharge upon request.
- I. The PSB may, at its sole discretion, issue a Permit without first obtaining an Application.
- J. The PSB reserves the right to deny permits under any circumstances. No new permits shall be issued when it is determined by the PSB or its designated representative that the POTW where the Septage Receiving Facility is located is at, or near capacity; specifically to include, but not limited to, 25% of flow and BOD and/or TSS loading. Permits may be denied to individual applicants if the applicant is in arrears for any fee, penalty, or payment due the PSB.

#### SECTION V FEES

- A. The fees for the discharge of liquid waste and for the Hauled Waste Permit shall be established by the PSB as provided in Rules and Regulations No. 6, Section VII. Each discharge will be based upon the full tank capacity of the particular registered truck, regardless whether the truck is full at the time of discharge. Fees for disposal at times other than regular business hours will be established by the PSB.
- B. Permittee will be billed for discharge, clean up assessments, if applicable, and any other charges on a monthly basis. Failure to pay fees or charges in accordance with Section VI of this Rules and Regulations No. 13 will result in permit suspension and said permittee will be denied access to the disposal facility until such time as all fees and charges are paid.
- C. The permit fee and other charges are subject to revision by the PSB at any time. New rates will not be effective until thirty (30) days after written notices has been given to all persons holding a Hauled Waste Permit. The notice shall include the effective dates of the new rates, a schedule of rates, and the address where more information regarding the rate change may be obtained.

#### SECTION VI RESPONSIBILITIES OF LIQUID WASTE TRANSPORTERS

All transporters shall conform to the following terms and conditions when collecting, transporting, and disposing of sanitary waste. Grease trap waste, grit trap waste, and industrial wastes are prohibited **unless authorized by the PSB or designated representative**. Any transporter failing to comply with the responsibilities and requirements set forth below shall be in violation. Each instance of noncompliance shall constitute a separate violation.

##### A. LOAD DETERMINATION

Prior to accepting a load of liquid waste, the transporter shall determine the volume, nature, and classification of the material to be transported and that his/her permit, vehicle and equipment are sufficient to legally and properly accept, transport, and dispose of the waste without discharge, spillage, leakage of the material, or release of malodorous fumes. Upon delivery of the waste to the disposal site, the transporter shall inform the disposal site operator of the content of the waste as per the manifest requirements in Section VII herein. At the discretion of the PSB or designated representative, the liquid waste presented for disposal may be sampled and tested prior to disposal to verify the classification, quality, concentration, character, or volume of the

waste. Costs incurred by the PSB to verify permit status or to determine whether discharge of prohibited substances occurred shall be paid by the permittee.

B. INTERCEPTOR EVACUATION

Transporters shall completely evacuate interceptors serviced. Further, the discharge of liquid, semi-solids, or solids back into an interceptor after servicing is strictly prohibited. Mobile processing vehicles are prohibited from returning separated water to the interceptor or discharging it into the wastewater collection system.

C. MIXING OF WASTE

Incompatible wastes shall not be mixed. Incompatible wastes are wastes with different processing, storage, or disposal requirements. Transporters may mix wastes with different characteristics ONLY IF the facility to which the waste is being transported for disposal is authorized to accept such mixed wastes.

D. STORAGE OF LIQUID WASTE

Storage of liquid waste in non-permitted, temporary storage tanks is prohibited. Transporters may store liquid waste in permitted vehicles up to four (4) days. Waste shall not be transferred from one vehicle to another without permit to do so.

E. APPROPRIATE DISPOSAL SITES

Transporters shall deposit waste at a duly licensed facility where the owner or operator of the disposal facility agrees to receive the waste and the facility is authorized by permit or registration issued by the TCEQ or NMED to receive the waste.

F. MANIFEST SYSTEM

Transporters with a permit to transport liquid waste shall utilize the manifest system set forth in Section VI herein. The Permittee shall assure that the information contained within all manifest is complete and accurate.

G. CLEANING OF DISCHARGE SUMP

The Permittee, or the driver or agent of the permitted company shall clean the discharge sump and adjacent area before leaving the area. If any permittee, driver, or agent of the permitted company fails to comply with this requirement, a clean-up fee of \$250.00 will be assessed. The exteriors of trucks shall not be cleaned in the discharge sump area.

H. DISCHARGE SUMP AREA

Except in the case of emergency, or as necessary for ingress and egress to the discharge sump area, the permittee or the driver or agent of the permitted company are prohibited from leaving the discharge sump area during discharge of waste.

I. PHYSICAL ADDRESS

Permittees are required to maintain a physical address, not a Post Office Box, where certified and/or registered mail can be received. All returned mail will be held at the International Water Quality Laboratory, Industrial Pretreatment Department, located at 4100-L Delta Drive. Discharge privileges will be temporarily suspended until the mail piece is retrieved.

J. VEHICLE COMPLIANCE

Vehicles and drivers shall conform to all appropriate local and state laws, including, but not limited, vehicle inspection and driver licensing requirements.

SECTION VII MANIFESTS

- A. Upon obtaining a permit, each transporter shall purchase manifests from the PSB in accordance with the fee schedules currently in effect. Each permittee is responsible for keeping a sufficient quantity of manifest forms. Liquid waste shall not be accepted without a completed manifest.

- B. The permittee or the driver or agent of the permitted company shall complete one manifest for each septic tank serviced, with the exception of chemical/portable toilet companies that service their own units. Companies that service their own chemical/portable toilets, which may be placed at various locations, shall complete one manifest for each load transported. When chemical/portable toilet companies service a unit they do not own (such as a septic tank), an individual manifest shall be generated as described herein.
- C. Each manifest shall thoroughly document the following information:
1. Name of Permittee.
  2. TCEQ Registration Number.
  3. Vehicle Registration Number assigned by the PSB.
  4. Name, address and telephone number of the Generator of the waste.
  5. Name of contact person for Generator.
  6. Description of the wastes being hauled for Generator, including:
    - a. Type of Waste
    - b. Volume of Waste
  7. Generator's signature acknowledging that the information describing the wastes is true and correct.
  8. The signature of the Generator or authorized representative of any other legal disposal site to which an unacceptable load is returned.
  9. A certification statement signed by the driver that the waste is non-hazardous as defined by the Resource Conservation and Recovery Act.
  10. The signature of the Disposal Site Operator indicating that the load is acceptable to the best of his/her knowledge.
- D. Each individual carbonless, manifest shall consist of four parts:
1. The white original of the manifest shall be signed by the driver and generator at the time of waste collection.
  2. The 1<sup>st</sup> colored copy shall be given to the generator after it is signed by both the driver and generator at the time of waste collection.
  3. The white original of the manifest shall be signed by the disposal site operator at the time of disposal and disposal and shall be maintained by the disposal site operator.
  4. The 2<sup>nd</sup> colored copy shall be maintained by the permittee.
  5. The 3<sup>rd</sup> colored copy shall be returned to the generator within fifteen (15) days (upon completion of the steps described above). It shall be the responsibility of the permittee of the permittee to return the copy to the generator.
- E. The PSB may make administrative modifications to the manifest form. The PSB shall maintain a record of the serial numbers of manifests purchased by the liquid waste transporter.



F. Maintenance of manifest records shall be as follows:

1. Permittees shall keep the transporter copy of all manifests for a period five (5) years.
2. Generators shall keep the final copy of all manifests for a period of five (5) years.
3. The PSB shall maintain the PSB copy of all manifests for a period of five (5) years.
4. Should any pending administrative law or proceeding or litigation mandate that such records be preserved for longer than five (5) years, affected persons shall adhere to the dictates of those proceedings.
5. The PSB reserves the right to demand and inspect, at any time, manifest records held by the permittee.

G. Unlawful use of manifests shall include the following:

1. Falsification of any information required in a manifest shall be grounds for immediate suspension or revocation of a Hauled Waste Permit. Each instance of falsification shall be considered a separate violation of this Rule.
2. The physical transfer of manifests by a permit holder to anyone other than for a vehicle owned and operated by the permittee or said permittee's agent or to the PSB is prohibited. Purchase and/or resale of manifests from any source other than the PSB are prohibited. Each instance of purchase, transfer or resale of manifests shall constitute a separate violation of this Rule.
3. Unlawful use of manifests is a violation of State law and is subject to criminal prosecution. The PSB shall promptly report all such instances to the TCEQ.

H. The receiving facility reserves the right to refuse any load for which a discrepancy or illegibility has been found. These include, but are not limited to:

1. Differences between the quantity or type of waste designated on the manifest.
2. The quantity or type of waste a facility actually received.

All discrepancies shall be noted on the manifest.

SECTION VIII LIQUID WASTE VEHICLES

All vehicles used to transport liquid waste utilizing City Streets and public rights-of-way, including grit trap waste, grease trap waste and/or septage must at all times conform to the following vehicle specification and maintenance requirements. Each instance of failure to do so shall constitute a separate violation of this Rule.

A. VEHICLE SPECIFICATIONS

1. The tank(s) shall be securely and permanently attached to the primary structure of the vehicle in such a manner as to assure that the tank(s) will not loosen or dislodge during transport. Tanks that are portable or removable or other containers temporarily attached or affixed to vehicles are prohibited unless otherwise approved by the PSB.
2. All piping, valves, and connectors shall be permanently attached to the tank(s) and/or vehicle.
3. The tank(s) shall be liquid tight.



4. The tank(s) shall be constructed so that every interior and exterior portion can be thoroughly cleaned.
5. All piping, valves, and connection shall be accessible and easy to clean.
6. The inlet, or the opening of the tank(s), shall be constructed and located so that waste collected shall not spill during filling, transfer, or transport.
7. Outlet drains shall be a minimum of four (4) inches in diameter.
8. Outlet connections shall be constructed so that liquid waste shall not discharge, leak, run or spill from the tank(s).
9. Outlets are to be of a design and type suitable for the liquid waste to be safely removed and capable of controlling outflow without discharge, spillage, spray, or flooding of immediate surrounds while in use.
10. Pumps, valves, cylinders, diaphragms and other appurtenances shall be of a design and type suitable for the liquid waste to be safely loaded, transported and removed, be capable of operation without discharge, spillage, spray or leakage, and be easily disassembled for cleaning.
11. Tanks used to contain liquid waste shall have a vacuum relief valve that is to be opened to increase the flow rate during discharge.
12. Tanks used to contain liquid shall have sight gauges to allow the approximate capacity of the tank to be determined. Gauges shall indicate the percentage of the tank filled.
13. All discharge valves and ports on the tanks used to contain liquid waste shall be prominently marked. All discharge ports shall be visible and readily accessible. The position of the vacuum pump, i.e., pulling a vacuum into the tank or pumping air into the tank, must also be clearly labeled.
14. All vehicles and trailers must be kept in good and safe working order. A valid Texas State inspection sticker must be displayed as required by law.

B. MAINTENANCE REQUIREMENTS

All liquid waste transporters shall:

1. Maintain hoses, tanks, valves, pumps, cylinders, diaphragms, pipes, connections, and other appurtenances on a vehicle in good operation and repair and free from leaks.
2. Provide a safety plug or cap for each inlet and outlet tank valve.
3. Maintain the vehicle exterior in clean, vector-free and relative odor-free condition at the beginning of each work day and provide for intermittent wash downs of vehicle exterior and wash outs of tank interiors as necessary to maintain the conditions described above at all times.
4. Remove the PSB Permit Number from the vehicle when it is no longer permitted to collect, transport, or dispose of liquid waste, or when vehicle ownership changes.

## SECTION IX    PROHIBITED DISCHARGES

- A. No User shall discharge or cause discharge into El Paso's wastewater system of any pollutant or wastewater except in conformity with these Rules and Regulations, the requirements of the Act, General Pretreatment Regulations in 40 C.F.R., Part 403, and applicable State laws. All liquid waste transporters must obtain a discharge permit from the PSB prior to any discharge.
- B. No User may discharge or cause to be discharged into the wastewater system any pollutant or wastewater that may cause pass-through or interference. Pollutants, substances or wastewater prohibited by this Rule shall not be processed or stored in such a manner that they could be discharged into the POTW except as allowed by the Hauled Waste Permit. In addition, a User may not introduce the following substances into the wastewater system:
1. Any liquids, solids, or gases, which by reason of their nature or quantity are, or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion, or which have a closed cup flashpoint of less than 60°Celsius.
  2. Solid or viscous substances in such quantities and/or qualities that may cause obstruction to flow in the system resulting in interference, such as but not limited to: grease, garbage with particles greater than 1 centimeter in any dimension, animal guts, or tissues, paunch manure, bones, hair, hide, fleshings, entrails, blood, feathers, ashes, cinders, sand, mud, lime, stone dust, marble grinding or polishing wastes, or substances that may solidify or become viscous at temperatures between 0° Celsius and 60° Celsius.
  3. Fat, grease, oil or was of vegetable origin in excess of 100 mg/L.
  4. Non-biodegradable cutting oil, naphtha, diesel fuel, products of mineral oil, gasoline, tar, asphalt, residues from refining or processing of fuel, lubricating oil or asphalt, including fats, wax, grease or oils of petroleum origin, whether emulsified or not, in excess of 100 mg/L.
  5. Any wastewater having a pH less than 5.5 or greater than 10.5, or wastewater having any other corrosive property capable of causing significant damage or hazard to structures, equipment, and/or personnel of the system.
  6. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters at the effluent end of the system, or to exceed a limitation set forth in a Categorical Pretreatment Standard.
  7. Any noxious or malodorous liquids, gases, or solids that either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to physically prevent reasonably safe and/or tolerable human and/or mechanical entry into sewers for inspection, maintenance and repair purposes.
  8. Any substance that may cause the system's effluent or any other product of the system such as residues, sludge, or sum to be unsuitable for normal landfill disposal, land application, reclamation or reuse, or to interfere with the reclamation process where the system pursuing a reuse and reclamation program, in no case, shall a substance be discharged to the system cause the system to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 503 of the Act, any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, the Resource Conservation Recovery Act, or State criteria applicable to sludge management



and/or disposal methods being used including Chapter 312 of the Texas Administrative Code.

9. Any substance that will cause the system to violate its TPDES and/or State Disposal System Permit, or water quality standards.
10. Any wastewater with objectionable color not removed in the treatment process.
11. Any wastewater having a temperature that will inhibit biological activity in a treatment plant resulting in interference but in no case wastewater with a temperature at the introduction into the treatment plant that exceeds 40° Celsius.
12. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits as permitted by the most current Federal or State regulations.
13. Any pollutants that result in the presence of toxic gases, vapors, or fumes within the system in a quantity that may cause acute worker health and safety problems.
14. Storm water, surface water, groundwater, roof run-off, subsurface drainage, and unpolluted wastewater unless specifically authorized by Wastewater Discharge Permit.
15. Sludge, screenings or other residues from the pretreatment of industrial wastewater.
16. Wastewater causing, either alone or in conjunction with other sources, the POTW effluent to fail a toxicity or biomonitoring test.
17. Detergents, surfactants, surface active agents, or other substances that may cause foaming in the POTW.
18. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, or more than 50 percent of the Lower Explosive Limit of the meter.
19. Mercury compounds that exceed the Minimum Quantification Level (MQL) as specified in Table 2 of Rules and Regulations No. 9.

#### SECTION X INSPECTION AND SAMPLING BY THE PSB

- A. The PSB reserves the right to inspect any and all loads delivered for discharge to the Septage Receiving Facility.
- B. The PSB reserves the right to collect samples of loads prior to discharge to the POTW. The random collection is not subject to prior notification to the permittee. Upon permittee's request, the PSB shall provide the permittee a portion of each sample in a container provided by the permittee for that purpose. Notwithstanding anything to the contrary, the permittee shall be under no obligation to perform any analysis on such portions of samples collected by the PSB.
- C. The PSB reserve the right to require the driver of the registered vehicle to sample the load delivered for discharge to the Septage Receiving Facility. In this case, the PSB Inspector on site will supply the driver with a bottle for sample collection and the driver will provide a grab sample from the load to be discharged to the PSB Inspector prior to discharge. The driver must also complete and execute a chain of custody record form provided by the PSB employee.
- D. Handling, preservation, and laboratory analysis of samples collected shall be performed in accordance with 40 CFR Part 136 and amendments thereto.

- E. If results of analysis reveal that a load already discharged was unacceptable, the PSB will promptly notify the permittee.
- F. The PSB reserves the right to require the permittee to provide results of analysis for any load prior to discharge.

#### SECTION XI SUSPENSION OF PERMIT

The PSB may suspend or revoke a permit if a permittee or an agent or employee of the permittee has violated any of the terms or conditions of the permit or this Rule and that the number or severity of the violations justify suspension of the permit.

#### SECTION XII ENFORCEMENT PROCEDURES

##### A. NOTICE OF ALLEGED VIOLATIONS

Whenever the PSB or its designated representative believes that any person or permittee has violated or is violating this Rule and/or its Hauled Waste Permit, the PSB or its designated representative may serve (either personally or by registered or certified mail) upon such person or permittee a written notice stating the nature of the alleged violation. The recipient of an alleged violation notice must respond in writing to the PSB or its designated representative within fifteen (15) working days from the date of receipt of such notice.

Should the recipient of a notice of alleged violation fail to respond in writing to the PSB or its designated representative within the initial fifteen (15) working day response period, the recipient or permittee shall be deemed to have admitted responsibility for the violation.

##### B. RESPONSE BY PERSONS OR PERMITTEE TO NOTICE OF ALLEGED VIOLATION

The person or permittee responding to receipt of an alleged violation notice shall file written response in the most applicable of the following forms:

1. Should the person or permittee admit his or her responsibility for the alleged violation, the person or permittee shall submit a letter report to the PSB or its designated representative:
  - a. If the nature of the violation of either the permit or this Rule involves discharge or disposal of hauled liquid waste that is prohibited herein, submit a report containing information regarding the time, date, location, cause, source, quantity, quality, and concentration of the discharge or disposal and the corrective measures actually taken by the person or permittee to recover or neutralize the discharge. Copies of self-reports submitted to any state, federal or other agencies having jurisdiction, and actions to be taken by the person or permittee to prevent any similar recurrent discharge or disposal.
  - b. If the nature of the violation involves an administrative or procedural non-compliance, the letter report shall contain information regarding corrective measures and schedules the person or permittee has adopted to assure expeditious and continued compliance.
2. Should the person or permittee deny his or her responsibility for the alleged violation, the person or permittee must submit a letter report to the PSB or its designated representative explaining why responsibility is being contested.

C. LEGAL ACTION

Despite any other provisions contained in this Rule, legal counsel for the PSB is hereby authorized to seek legal action and/or equitable remedies against any person or permittee believed to be violating or have violated this Rule, the provisions of a Hauled Waste Permit, and/or federal or state laws governing water quality, industrial wastewater pretreatment, and transport of hazardous or nonhazardous liquid waste over which the PSB has enforcement authority. A legal proceeding prosecuted under this Rule does not constitute a waiver by the PSB or any right the City may have to join in a legal action originating from an alternative source of law.

D. PENALTIES

1. Criminal

A conviction for violation of this Rule shall constitute a Class C Misdemeanor unless other controlling authority identifies it as a felony. A person convicted of a violation of this Rule shall be fined a minimum amount of not less than \$50 per violation and a maximum of not more than the highest lawful amount allowed for such violation. Each violation of a particular section of this Rule shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this Rule. A culpable mental state is not required to prove an offense under this Rule. The Chairman of the PSB is hereby authorized to designate qualified EPWU personnel to serve notices of violation for violations of this Section and take all necessary action to file a complaint with the municipal prosecutor's office.

2. Civil


A civil penalty in an amount not to exceed two thousand dollars (\$2,000) per violation of this Rule may be imposed. Each violation of a particular section of this Rule shall constitute a separate offense, and each day such an offense continues shall be considered a new violation for the purposes of enforcing this Section. A culpable mental state is not required to prove an offense under this ordinance.

PASSED, APPROVED, and ADOPTED the 24<sup>th</sup> day of February 1999 by unanimous vote of the Public Service Board.

RULES AND REGULATIONS NO. 13, SECTIONS II, VI.D., VI.I., IX.B.19, AND XII.D.2., and miscellaneous grammatical changes ADDED OR MODIFIED, APPROVED, and ADOPTED this 10<sup>th</sup> day of January 2007.

RULES AND REGULATIONS NO. 13, SECTIONS III.A., III.E., and VII.C.2., and miscellaneous grammatical changes ADDED OR MODIFIED, APPROVED, and ADOPTED this 11<sup>th</sup> day of December 2013.

PUBLIC SERVICE BOARD

  
Richard T. Schoephoerster, Chair

ATTEST:

  
\_\_\_\_\_  
David C. Nemir, Secretary-Treasurer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Robert D. Andron, General Counsel



RULES AND REGULATIONS NO. 14

RULES AND REGULATIONS  
ESTABLISHING THE LAND MANAGEMENT POLICY  
OF THE PUBLIC SERVICE BOARD

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD, BY VIRTUE OF SECTION 1502.070, TEXAS GOVERNMENT CODE, VERNON'S REVISED CIVIL STATUTES, CITY ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, MAY 22, 1952 AND CITY ORDINANCE 016668, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, JUNE 19, 2007, AS AMENDED, NOW THEREFORE BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING AMENDMENT TO THE RULES AND REGULATIONS GOVERNING THE LAND MANAGEMENT POLICY OF THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD IS HEREBY ADOPTED. ALL OTHER RULES AND REGULATIONS SHALL REMAIN IN FULL FORCE AND EFFECT.

SECTION I GENERAL

A. TABLE OF CONTENTS

The following headings or captions are adopted as the Table of Contents for Public Service Board Rules and Regulations No. 14.

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B. DEFINITIONS

The words and terms not expressly defined within these Rules and Regulations No.14 shall have their usual and customary meaning except where a specialized meaning is required, in which case such meaning shall be taken from the Public Service Board's Water, Sewer and Drainage Bond Ordinances and Rules and Regulations.

C. NEUTRAL GENDER

When the context requires, all nouns and pronouns in the masculine gender shall also include the feminine gender.

## SECTION II      POLICY

It is the Policy of the Public Service Board (PSB) to practice wise fiscal management of lands and other assets under the complete authority and control of the PSB. The PSB will ensure that the sale and management of lands under its control is done so in an effort to address any relevant environmental and water resource concerns, access to the underlying ground water for eventual use as potable water and how the land or portions of the land are used directly as part of system operation, focusing on the best overall value for the ratepayer, and taking into consideration the needs of the community-at-large.

It is hereby declared to be the policy of the PSB that land under the jurisdiction of the Public Service Board will be sold only after consideration of the following issues: (1) Protection of the water supply and natural stormwater flow paths, and promotion of water conservation initiatives adopted by the PSB; (2) Promotion of efficient utility services; and (3) Maximization of land values with reasonable risk levels.

The PSB will not engage in land development so as to compete with the private sector. The policies and procedures set forth herein are adopted in an effort to protect the water supply, promote water conservation, promote the use of reclaimed water, plan for stormwater drainage, and to establish main thoroughfares in the City that are consistent with the PSB's mission and adopted strategic plan.

## SECTION III      PURPOSE

The purpose of this policy is to categorize the PSB land holdings and identify the procedure for the sale of System land that is subject to the complete authority and control of the PSB.

### A.      LAND FOR SALE

Pursuant to the City of El Paso (the "City") water, sewer, and drainage bond ordinances, before System land may be eligible for sale, the PSB shall first determine whether the land, or portions of the land, may be declared inexpedient for use in connection with the water, sewer, and drainage systems (collectively, the "System"). All land that is declared inexpedient for use in connection with the System shall nonetheless remain a part of the System and subject to the complete authority and control of the PSB until the closing of a transaction for sale of the land, and any portions of the land that are reserved or excepted by the PSB in such transactions shall remain a part of the System unless expressly removed from the System thereafter by PSB action. In determining whether such land, or a portion thereof, may be declared inexpedient for use in connection with the system, the PSB shall consult with El Paso Water Utilities' staff and ensure that the following conditions are satisfied: (1) The land shall not be necessary for current and future operations of the El Paso Water Utilities, provided, however, that if the PSB determines that only a portion or portions of the land are necessary for operations, the PSB may permit the land to be sold so long as those portions necessary for operations are reserved from the conveyance; (2) There shall be enough water, sewer and drainage capacity at the treatment, distribution and collection facilities in order to ensure service to the land; and (3) The sale of the land does not adversely affect the water supply and is not contrary to the PSB's water conservation efforts.

### B.      RESERVED LAND

El Paso Water Utilities, under the direction of the PSB, will identify System lands that should be held in reserve for water storage, water, wastewater, drainage and reclaimed water purposes or facilities, buffer zones and for the purpose of protecting natural resources. Such land, being subject to the complete authority and control of the PSB, may be held in long-term trust for the protection of groundwater and securing of water rights or if it is more than 20 years beyond the contiguous growth and development of the City.



#### SECTION IV    PROCEDURES

1. Sale of Land Through Bid. The PSB has developed a public bid process and specifications for the sale of System land, in accordance with Texas Local Government Code Ann.§272.001, which states the requirements of the sale of land through public auction and sealed bids. When land must be sold through the bidding process pursuant to the Texas Local Government Code, the bid will be awarded to the bidder submitting the highest bid that: (1) equals or exceeds the minimum acceptable price, as determined by the PSB in accordance with the Texas Local Government Code and the City of El Paso Water, Sewer and Drainage Bond Ordinances; and (2) complies with bid specification requirements and covenants. The PSB reserves the right to reject any or all bids.
2. Sale of Land Through Broker. The PSB may sell land in accordance with Texas Local Government Code Ann.§253.014(a)-(e), as amended.

#### SECTION V    STORMWATER MANAGEMENT

Pursuant to City of El Paso Ordinance 016668 establishing a Municipal Drainage System, the Public Service Board Municipal Drainage Utility, in developing the Stormwater Plan, will take into account the use of open spaces, greenways, arroyos and wilderness areas in their natural state as a means to assist in the management of storm water and in accordance with the City's Open Space Master Plan.

- A. The stormwater capital infrastructure plan shall identify stormwater infrastructure projects (including land acquisition) which have the potential dual purposes of stormwater management and preservation with the City's open spaces, greenways, arroyos, and wilderness areas in their natural state in accordance with the City's Open Space Master Plan and the City's Parks and Recreation Master Plan (Green Projects).
- B. The Board shall allocate an amount equal to ten percent (10%) of the System's annual drainage utility fee revenues for such Green Projects.

#### SECTION VI    EFFECTIVE DATE

These rules and regulations shall be and become effective from and after their adoption hereby and shall remain in effect until amended or changed by the Public Service Board.

PASSED, APPROVED and ADOPTED this 12th day of February 2003 by the Public Service Board of the City of El Paso, Texas.

RULES & REGULATIONS NO.14, SECTION V (A, B), SECTION VI, ADDED, REVISED, APPROVED and ADOPTED the 12th day of December 2007, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

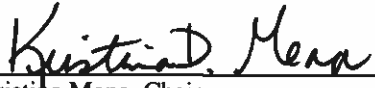
RULES AND REGULATIONS NO. 14, SECTION III (A1, 2), B, C, SECTION VI (A, B), ADDED, REVISED, APPROVED AND ADOPTED the 9<sup>TH</sup> day of June 2021 by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

RULES AND REGULATIONS NO. 14, SECTIONS I II III IV and V, ADDED, REVISED, APPROVED AND ADOPTED the 11<sup>TH</sup> day of May 2022 by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

PUBLIC SERVICE BOARD

ATTEST:

  
Bryan R. Morris, Secretary-Treasurer

  
Kristina Mena, Chair

APPROVED AS TO FORM:

  
Daniel Ortiz, General Counsel

## RULES AND REGULATIONS NO. 15

### RULES AND REGULATIONS GOVERNING THE MANAGEMENT OF FATS, OILS, AND GREASES (FOG)

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111-1118, REVISED CIVIL STATUTES OF TEXAS, THE TEXAS WATER CODE, EL PASO MUNICIPAL CODE §15.12.010, AND ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, ON MAY 22, 1952, AS AMENDED; NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO THAT THE FOLLOWING RULES FOR GOVERNING THE GENERATION, TRANSPORTATION AND DISPOSAL OF FATS, OILS, AND GREASES FROM FOOD SERVICE ESTABLISHMENTS ARE HEREBY ESTABLISHED AND SHALL READ AS FOLLOWS:

#### SECTION I GENERAL

##### A. TABLE OF CONTENTS

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## SECTION II GENERAL PROVISIONS

### A. PURPOSE AND POLICY

These Rules and Regulations of the Public Service Board (PSB), together with applicable provisions of PSB Rules and Regulations No. 6, No. 9, and No. 13, set forth the uniform requirements for the installation, operation, and maintenance of grease traps or interceptors as well as for the transportation and disposal of FOG generated by the manufacturing, processing, or preparation of food products. The purposes of Rules and Regulations No. 15 are as follows:

1. To prevent the introduction of fats, oils, and greases (FOG) in such qualities or quantities that may interfere with the operation and maintenance of El Paso's wastewater collection and treatment system.
2. To prevent sanitary sewer overflows and to protect the health and safety of PSB employees and of the citizens of El Paso

The effect of the FOG Program on the quality of wastewater discharged into the POTW will be considered in evaluation of technically based local limits.

### B. APPLICABILITY

These requirements are applicable to all grease trap/interceptor waste transporters as well as food service establishments, including those that are undergoing:

1. New construction.
2. Interior remodeling to accommodate expansion or operational modifications.
3. Changes of ownership/occupancy.

### C. DEFINITIONS AND ABBREVIATIONS

The following abbreviations, when used in this rule, shall have the designated meanings as follows:

BMP	Best Management Practices
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
PSB	Public Service Board
TCEQ	Texas Commission on Environmental Quality
TPDES	Texas Pollutant Discharge Elimination System

#### Act or "the Act"

The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

#### Best Management Practices

The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to

prevent or reduce the pollution of the MS4 waters of the United States. BMPs include treatment requirements, operations procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials.

#### Central Preparation Facility

A facility that supplies restaurant branches under a single business establishment with ingredients or items that will be used or sold at each location. Owners of central kitchens also rent space to emerging businesses, food trucks, mobile food carts, and smaller restaurants that do not have space to store and prep large quantities of food.

#### City or El Paso

The City of El Paso, Texas, as governed by the City Council of El Paso, Texas.

#### Discharge

Includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose, or to allow, permit, or suffer any of these acts or omissions.

#### Disposal Facility

A person, firm, corporation, municipality, or utility permitted or registered by the appropriate state and/or federal regulatory agencies to engage in receiving, storing, transferring, processing and/or ultimately disposing of grease trap/interceptor waste.

#### Environmental Protection Agency

The United States Environmental Protection Agency

#### Exempt Establishment

A food service establishment that:

- 1) Operates for no more than ten (10) days in connection with an annual event such as a fair, carnival, circus, public exhibition, or other public gathering, serving only food that does not require additional processing or cooking;
- 2) Sells or serves pre-packaged or pre-cooked food that requires only warming and does not result in dish washing activities;
- 3) Serves only snow cones, drinks;
- 4) Bars and clubs serving drinks only and where food is not prepared;
- 5) Produce markets without food grinders;
- 6) Grocery or convenience stores without food preparation, meat cutting or packaging, delicatessens, or bakeries.

#### FOG (fats, oils, and greases)

Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical procedures established in 40 CFR 136, as may be amended from time to time.

#### Food

Any substance whether solid or liquid or animal or vegetable or fruit in origin intended for use or commonly used as food for human consumption.

#### Food Service Establishments

A facility that generates FOG as a result of food manufacturing, processing, preparation, or food service; such facilities include, but are not limited to restaurants, food manufacturers, food processors, hospitals, schools, hotels and motels, prisons, nursing homes, or any other facility preparing, serving, or otherwise making any food products available for consumption. This term excludes private residences where food is prepared for individual family consumption.

#### Generator

Means any person who owns or operates a grease trap or interceptor, or whose activity produces grease trap or interceptor waste.

#### Grab Sample

This is a sample taken from a waste stream without regard to the flow in the waste stream over a period of time not to exceed fifteen (15) minutes.

#### Grease Trap or Interceptor

The device designed to use differences in specific gravities to separate and retain light density liquids, waterborne FOG, prior to discharge into the sanitary sewer system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection system. Grease traps and interceptors are also referred herein as “grease traps/interceptors”.

#### Grease Trap/Interceptor Waste

The material collected in and from a grease trap/interceptor in the sanitary service line of a commercial, institutional, or industrial food service or processing establishment, including the solids resulting from de-watering processes.

#### Interference

A discharge that alone or in conjunction with a discharge or discharges from other sources both inhibits or disrupts a POTW, its treatment processes or operations, or its sludge processes, use or disposal; and, therefore is a cause of a violation of any requirement of a POTW's TPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of wastewater sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

#### Manifest

A pre-printed, sequentially numbered, multi-part document issued by the PSB used to identify the generator of grease trap/interceptor waste, the transporter, and the final disposal facility.

#### Mobile Food Vendor (Food Truck Vendor)

A person who operates a mobile retail food store from a temporary location adjacent to a public roadway or highway.

#### Mobile Processing Vehicle

A specially permitted vehicle designed to separate water from the liquid/solid grease trap/interceptor waste while in transit. These include truck mounted processes, known as separator trucks, and any other liquid waste processes that are not considered to be fixed to a specific location.

#### Mobile Processing Vehicle Wastewater

This is the separated or decanted liquid resulting from the separation process of a mobile processing vehicle.

#### National Pollutant Discharge Elimination System Permit (NPDES)

A permit issued pursuant to Section 402 of the Clean Water Act (33 U.S.C. 1342). The National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States.

#### Pass-Through

A discharge that exits the POTW and enters the waters of the State in quantities or concentrations, which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW permit (including an increase in the magnitude or duration of a violation).

#### Person

Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, joint venture, estate, governmental entity or any other legal entity or their legal representatives, agents and assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

#### pH

The measure of relative acidity or alkalinity of a solution and is defined as the negative logarithm (base 10) of the hydrogen ion concentration.

#### Pollutant

Any substance introduced directly or indirectly into water or onto soil so as to cause pollution including but not limited to dredged soil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste.

#### Pollution

This is the man-made or man-induced alteration of the chemical, physical, biological, and/or radiological integrity of water, air or soil.

#### POTW

A publicly owned treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) operated by the PSB. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

#### Public Service Board

The Public Service Board of the City of El Paso, Texas, acting on its own behalf or through the authorized acts of the El Paso Water Utilities (EPWU), which is charged with the day-to-day operation of El Paso's wastewater system, or by EPWU's designated representative.

#### Sample Port or Sample Well

An approved device or manhole installed in the sewer line from a facility specifically designed to facilitate collection of samples of wastewater.

#### Sanitary Sewer System

The system of pipes, conduit, and treatment facilities owned or operated by the City that collect, transport, and treat sanitary sewage and into which storm, surface, and ground waters are not intentionally or normally admitted.

#### Texas Pollutant Discharge Elimination System (TPDES)

Permit issued by the TCEQ under the provisions of Section 402 of the Clean Water Act and Chapter 26 of the Texas Water Code.

#### Total Suspended Solids

The total suspended matter that floats on the surface of or is suspended in water, wastewater, or other liquid and which is removable by filtering.

#### Transporter

A person who is registered with and authorized by the TCEQ, or equivalent state agency, to transport sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste in accordance with 30 Texas Administrative Code §312.142.

#### Treatment Plant

That portion of the POTW designed to provide treatment including recycling and reclaiming of domestic and industrial wastewaters.

#### Wastewater

The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any solids and other pollutants that may be present, whether treated or untreated which is contributed into or permitted to enter the POTW.

#### Waters of the State

All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, rivers, aquifers, irrigations systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within or flow through or border upon the State or any portion thereof. This includes the beds and banks of all watercourses and bodies of surface water.

### SECTION III PROHIBITED DISCHARGES

No person shall discharge or cause to be discharged into the wastewater system any pollutant or wastewater that will cause Pass-through or Interference. In addition, a person may not introduce the following substances into the wastewater system:

- A. The intentional or unintentional, direct or indirect discharge of any petroleum oil, non-biodegradable cutting oil, mineral oil, or any fats, oil, or greases of animal or vegetable origin into the PSB collection system in such amounts as to cause interference with the collection and treatment system, or as to cause pollutants to pass through the treatment works into the environment.
- B. The intentional or unintentional, direct or indirect discharge of liquid, semi-solids, or solid grease trap waste into the PSB collection system.
- C. Separated wastewater from mobile processing vehicles.
- D. Any wastewater having a pH less than 5.5 or greater than 10.5, or wastewater having any other corrosive property capable of causing significant damage or hazard to structures, equipment, and/or personnel of the system.
- E. Trucked, drummed, containerized or hauled wastes or pollutants except as specified in Rules and Regulations No. 13.

### SECTION IV FOG GENERATOR RESPONSIBILITIES

Food service establishments shall provide and maintain grease trap/interceptors as necessary to comply with this Rule and Rules & Regulations No. 15, February 12, 2020, Page 6



Regulation No. 15 and the requirements of the City of El Paso.

A. INSTALLATIONS

1. Food service establishments which are newly proposed or constructed, or existing establishments which will be expanded or renovated to include a food service facility, where such establishment did not previously exist, shall be required to install, operate and maintain a grease trap or interceptor in accordance with the requirements of the City of El Paso. Grease trap or interceptors shall be installed and inspected prior to issuance of a certificate of occupancy.
2. Existing food service establishments must operate and maintain existing grease traps/interceptors in accordance with the manufacturer's recommendations and in accordance with this Rules and Regulations No. 15.
3. The PSB may require existing food service establishments to install and/or modify grease trap/interceptors as deemed necessary to comply with this Rules and Regulations No. 15.

B. CONSTRUCTION

Grease interceptors/traps shall be constructed to prevent fats, oils or greases from entering the sanitary sewer in concentrations greater than the allowable limit as set forth in Rules and Regulations No. 9 and shall be located so that they are easily accessible for cleaning, maintenance, and inspection. The installation of grease traps or interceptors shall comply with the requirements established by the City of El Paso.

C. CLEANING AND MAINTENANCE

1. Grease trap and grease interceptors shall be maintained in efficient operating conditions at all times.
2. Generators shall be responsible for meeting all pumping requirements established in this Rules and Regulations No. 15.
3. Grease traps/interceptors shall be serviced by a transporter registered with the TCEQ or governing state agency for the state in which the transporter operates.
4. Grease interceptors/traps shall be inspected for seepage into the surrounding media each time the grease trap/interceptor is pumped. The generator shall repair, replace, or install such apparatus and equipment as is necessary to insure the proper operation and function of the grease trap or interceptor.
5. A manifest shall be generated each time a grease trap/ interceptor is pumped or cleaned.
6. Generators shall keep all originals of the completed manifests on site and available for inspection by the PSB for three (3) years.

D. CLEANING SCHEDULES

1. Grease trap/interceptors shall be cleaned as often as necessary to ensure that sediment and floating material do not accumulate and impair the efficiency of the grease trap/interceptor; to ensure the discharge is in compliance with local limits established in Rules and Regulations No. 9; and to ensure no visible grease is observed in the discharge.
2. Grease traps/interceptors subject to these rules shall be completely evacuated at a minimum of once every ninety (90) days, or more frequent when:
  - a. The combined grease and solid layers reach a thickness equal to twenty-five (25%) of the wetted height of the grease trap or interceptor, as measured from the bottom of the device to the invert of the outlet pipe, containing floating materials, sediment, oils or greases; or
  - b. There is a history of non-compliance

E. ALTERNATIVE TREATMENT

The use of alternative treatment products designed to digest and/or emulsify grease is prohibited. Such products include but are not limited to enzymes, surfactants, solvents, and emulsifiers.

F. COMPLIANCE WITH FOG DISCHARGE REQUIREMENTS

The cost of complying with section IV of this Rules and Regulations No. 15 shall be the responsibility of the owner of the property on which the grease is generated and their lessees. These costs include but are not limited to any maintenance, analysis, grease trap or interceptor cleaning, repair, replacement or modification.

G. MOBILE FOOD VENDORS

Food service establishments used by mobile food vendors as central preparation facilities for shall conform to the following:

1. Copies of licenses issued by the City of El Paso Public Health Department shall be made available on site for inspection.
2. All wastewater generated must be processed through the grease interceptor.
3. Each event to dispose of wastewater must be formally documented and records must be made available on site for inspection.
4. Records of disposal events must include the name of the vendor, the date of disposal, the name and signature of the representative, the name and signature of the representative of the central preparation facility who authorized and observes discharge, and the volume of wastewater disposed.
5. A residence cannot serve as a central preparation facility.
6. Vendors are prohibited from discharging wastewater directly into the City's wastewater collection system

SECTION V FOG TRANSPORTER RESPONSIBILITIES

All transporters of grease trap/interceptor waste shall conform to the following terms and conditions in collecting, transporting, and disposing of food generated FOG.

A. REGISTRATION

Any person wishing to purchase PSB issued manifests for the purpose of collecting, transporting, and disposing grease trap/interceptor waste shall be duly licensed and/or registered by the TCEQ and the City of El Paso, Department of Environmental Services.

B. LOAD DETERMINATION

Prior to accepting grease trap/interceptor waste for transportation, the transporter shall determine and identify through the use of a manifest, the volume and nature of the material to be transported. The transporter shall also ensure that his/her permit, vehicle, and equipment are sufficient to legally and properly accept, transport, and dispose of the load without discharge, spillage, leakage of the material, or release of malodorous fumes. Upon delivery of the waste to the disposal site, the transporter shall identify the nature of the waste and ensure that the disposal site representative acknowledges receipt of the waste as per the manifesting requirements in Section VI herein.

C. GREASE TRAP/INTERCEPTOR EVACUATION

The transporter shall fully evacuate each grease trap/interceptor. Where the trap volume is greater than the tank capacity on the vacuum truck, the transporter shall arrange for additional transportation capacity so that the trap is fully evacuated within a 24-hour period, in accordance with 30 Texas Administrative Code §312.143. Further, the discharge of liquid, semi-solids, or solids back into a grease trap/interceptor after servicing is strictly prohibited. **Mobile processing vehicles are prohibited from returning separated water to the interceptor or discharging it into the wastewater collection system.**

D. STORAGE OF GREASE TRAP/INTERCEPTOR WASTE

Storage of liquid wastes in non-permitted temporary storage tanks is prohibited. Transporters may store liquid waste in permitted vehicles for up to four (4) days.

E. USE OF APPROPRIATE DISPOSAL SITES

The transporter shall dispose the grease trap/interceptor waste at a facility where: 1) the owner or operator of the disposal facility agrees to receive the waste; and 2) the facility is authorized by the TCEQ to accept grease waste under a Type V Municipal Solid Waste Permit.

F. USE OF MANIFESTS BY TRANSPORTERS

Transporters shall utilize manifests issued by the PSB to track the collection, transportation, and disposal of FOG generated by food service establishments. It is the responsibility of the transporter to assure that all sections of the manifests referring to the transporter and the disposal facility are complete and accurate.

SECTION VI MANIFESTING REQUIREMENTS

- A. Each transporter shall purchase manifests from the PSB; transporters shall keep a sufficient quantity of manifest forms.
- B. No generator shall cause, suffer, allow, or permit the removal or shipment of grease trap or interceptor waste unless accompanied by a manifest issued by the PSB. This manifest shall consist of an original and four copies. The copies will be designated as the generator copy, the transporter copy, the disposal facility copy, and the PSB copy. The transporter shall provide the completed originals of manifests to the generator no later than two weeks from the date service is provided; after the waste has been disposed at a duly authorized disposal facility. The originals shall include the signature of the disposal facility operator.
- C. The manifest shall contain the following information:
  - 1. The name, telephone number and physical address of the site of generation, the name of the generator's authorized agent, mailing address, and a telephone number where the agent can be reached.
  - 2. The generator's PSB registration number.
  - 3. The total grease trap/interceptor capacity in gallons and the date and time the trap/interceptor was serviced.
  - 4. The transporter's company name and mailing address.
  - 5. The transporter's five-digit TCEQ Registration Number or equivalent state registration number from the governing agency.
  - 6. The name, telephone number and Driver's License number of the driver for each shipment of liquid waste and the vehicle registration number of the vehicle used to transport the waste.
  - 7. The total quantity of liquid waste, in gallons, removed from the site of generation by the transporter.
  - 8. The company or facility name, mailing address, and permit number for the facility receiving the grease trap/interceptor waste.
  - 9. The name of the receiving facility's authorized agent and a telephone number where the agent can be reached.
  - 10. The total quantity of grease trap/interceptor waste, in gallons, delivered to the facility identified as receiving the waste.
- D. At the time of waste transfer, the generator or his or her designated representative shall:
  - 1. Sign and affix the date of transfer to the manifest by hand.
  - 2. Obtain the handwritten signature of the driver for the transporter and the time and date of service.
  - 3. Complete the generator section of the manifest.
  - 4. Retain the "Generator Copy" of the manifest.
  - 5. Give the transporter the remaining copies of the manifest.
- E. Upon disposal of the waste, the generator shall receive the original and one copy of the completed manifest from the transporter.
- F. The disposal facility shall assure the copy of the completed manifest is submitted to the PSB within fourteen (14) days of the date of disposal.
- G. The generator shall keep in its records all originals of manifests for waste transported from his/her premises for a period of three (3) years from the date of waste transfer and shall make them available to the PSB or the City-County Health and Environmental District for inspection at all reasonable times.

- H. The manifest shall contain the following Certification Statement signed by the generator:

“I certify that the waste material removed from the facility named above does not contain hazardous material and that the waste and volumes described are accurate.”

## SECTION VII REGISTRATION

- A. Food service establishments shall register with the PSB. A registration form shall be obtained from the PSB; each application shall contain the following information:
1. Name, address, telephone number and location, (if different from the address) of applicant, owner of the premises (if different from the tenant when property is leased) from which fats oils and grease are discharged.
  2. Name of a representative duly authorized to act on behalf of the food service establishment.
  3. A drawing sufficient in detail to show the location of all kitchen equipment that produces wastewater, and all sewers, floor drains, sewer connections, grease traps/interceptors and appurtenances in the user's premises if known or it may be readily ascertained.
  4. A signed statement that the information provided is accurate, and that the applicant agrees to abide by the regulations contained in this Rules and Regulations No. 15, as well as any other applicable Federal, State or local regulations governing the food service facility.
  5. Any other information as deemed necessary by the PSB.
- B. The PSB will review the application and may inspect the food service establishment prior to the issuance of a “Certificate of Registration” to verify all provided information and assess the condition of the grease trap/interceptor.
1. Each Certificate of Registration shall be renewed biannually.
  2. The Certificate of Registration must be displayed in a conspicuous place where it can be seen by the staff of the food service facility.
  3. Certificates of Registration shall be issued to a specific user for a specific operation. Certificates of Registration shall not be transferred or sold to a new owner under any circumstances. A new owner is required to apply for a new Certificate.
  4. It shall be a violation of this Rules and Regulations No. 15 for any food service facility identified by the PSB to discharge wastewater containing fats, oils and grease to the El Paso's wastewater collection system without authorization from the PSB.

## SECTION VIII REPORTING REQUIREMENTS

- A. The green copies of completed manifests shall be submitted by the disposal facility to the PSB within fourteen (14) days of the date of disposal.
- B. Food service establishments shall maintain records of the date and time of all cleaning and maintenance of each grease trap/interceptor in a bound logbook and shall make this book available for inspection by the PSB or the City-County Health and Environmental District on demand. The food service establishment may also maintain written protocols concerning grease trap/interceptor cleaning and maintenance procedures, this information shall also be made available to the PSB or City Health on demand..
- C. Grease trap/interceptor waste transporters shall submit to the PSB a summary of manifests used each month. The summary shall include the manifest number, the generator's name, the amount of grease transported, the date of service and the date of disposal. The summary shall be received by the PSB on or before the fifteenth day after the end of the reporting month.
- D. Unless otherwise provided, all notices, applications and reports required by this Rules and Regulations No. 15 shall be submitted to:

Industrial Pretreatment  
El Paso Water Utilities  
1154 Hawkins Blvd.  
El Paso, Texas 79925

#### SECTION IX INSPECTION AND SAMPLING BY THE PSB

The PSB may inspect any food service establishment and collect samples of its discharge, at the designated discharge points, without advance notice to the generator. While the representative of the PSB is at the facility, the generator may request and shall be provided a portion of any sample taken provided there is adequate sample available. The generator shall allow the PSB or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, or in the performance of any of their duties. The PSB shall have the right to set up on the generator's property such devices as are necessary to collect samples, perform inspections, monitor compliance and/or meter flow.

#### SECTION X EXEMPTIONS

- A. If the generator believes that the requirements of this Rules and Regulations No. 15 should not apply to his/her operation, the generator must request an exemption in writing. The request for exemption shall include the following:
1. Type of exemption requested (i.e., registration, pumping frequency, grease trap/interceptor installation requirement, etc.)
  2. The name, address, and telephone number of the business;
  3. The name of the manager or duly authorized representative;
  4. A detailed description of the business and its operations;
  5. The type, size, and maintenance schedules for any wastewater pretreatment devices;
  6. The names of those companies that have accepted for disposal any waste and recycled products from the generator during the previous calendar year;
  7. Statement of whether employees are trained in appropriate waste disposal practices and a list of those practices;
  8. A diagram showing the locations of all water and sewer connections, fixtures, sample ports, back flow prevention devices, and any other treatment devices;
  9. Demonstrate that the produced effluent, based on defensible analytical data, is compliant with limits established in Rule 9 of these Rules and Regulations
  10. Copies of all printed menus if applicable;
  11. A description of any changes planned to the structure;
  12. Any alteration of the nature, quality, or volume of its wastewater;
  13. A statement as to why the generator believes an exemption should be granted;
  14. Any additional information deemed necessary by the PSB.
- B. The PSB designated representative shall make a decision in regard to all requests. Should the generator disagree with the decision made, the generator may appeal such decision in writing within fifteen (15) working days from the date of notice. The generator's request shall be addressed to Industrial Pretreatment Manager and shall include any additional evidence necessary to dispute the decision. Failure to appeal the decision within the designated period shall constitute acceptance of the decision.
- C. The PSB reserves the right to obtain samples of wastewater necessary to determine compliance even after a request for exemption has been approved.
- D. In any event, a grease trap or interceptor shall be fully evacuated, cleaned and inspected at least once every 180 days.

## SECTION XI ENFORCEMENT

### A. NOTICE OF VIOLATION

1. Whenever the PSB or its designated representative believes that any generator has violated or is violating this Rules and Regulations No. 15, the PSB or its designated representative may serve (either personally or by registered or certified mail) upon such generator a written notice stating the nature of the alleged violation. The recipient of an alleged violation notice must respond in writing to the PSB or designated representative within fifteen (15) working days from the date of receipt of such notice.
2. Should the recipient of an alleged violation notice fail to respond in writing to the PSB or designated representative, within the initial fifteen (15) working day response period, the recipient person or permittee shall be deemed to have admitted to responsibility for the violation.
3. Should the generator deny his or her responsibility for the alleged violation, the generator must submit a letter report to the PSB or designated representative explaining why responsibility is being contested.

### B. PENALTIES

Administrative and civil penalties may be imposed to generators and/or transporters that violate the requirements established in this Rules and Regulations No. 15; penalties may be assessed as follows:

1. Administrative penalties of up to \$500 may be imposed for violations (e.g. failure to follow pumping frequency, failure to maintain grease trap/interceptor in proper working condition, etc.) to this Rule.
2. Administrative penalties of up to \$100 may be assessed for minor reporting violations such as the failure to include a telephone number in the completed manifest.
3. Failure to accurately report the amount of waste collected, transported, and/or disposed will not be considered a minor violation and thus shall follow the penalty schedule established in B.1., above.
4. A civil penalty of up to \$1000 may be imposed to generators known to have caused a blockage in the PSB sewer collection line.
5. Consistent and/or frequent violations of this Rules and regulations No. 15 by the generator or failure to pay stipulated penalties can result of denial of water and sewer services by the PSB.
6. The PSB reserves the right to refuse to issue manifests to those transporters that violate the requirements established in this Rules and Regulations No. 15 or that fail to pay stipulated penalties. Repeated violations by a transporter may result in the permanent denial of manifests.

These Rules and Regulations No. 15 shall be and become effective from and after their adoption hereby and shall remain in effect until amended or changed by the Public Service Board.

PASSED, APPROVED AND ADOPTED at the regular meeting of the Public Service Board of the City of El Paso, Texas, this 13<sup>th</sup> day of April, 2005, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq.

RULES AND REGULATIONS NO. 15, SECTIONS II.C., IV.F., V.D., and VI.B., VII.B.1., and miscellaneous grammatical changes ADDED or MODIFIED, APPROVED, and ADOPTED this 10th day of January, 2007.

RULES AND REGULATIONS NO. 15, SECTIONS V.A., V.E., and VI.B., and miscellaneous grammatical changes ADDED OR MODIFIED, APPROVED, and ADOPTED this 28<sup>th</sup> day of July, 2010.

RULES AND REGULATIONS NO. 15, SECTIONS V.A., VI.B., VI.E., VI.F., VII.a.3., and VIII.A., and miscellaneous grammatical changes ADDED OR MODIFIED, APPROVED and ADOPTED this 11th day of December 2013.

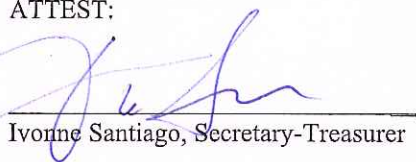
RULES AND REGULATIONS NO. 15, SECTIONS I. A. and C., IV. E. F. and G., Section V. A. and E. and Section VII. A., Section VIII. C., and miscellaneous grammatical changes ADDED OR MODIFIED, APPROVED and ADOPTED this 12<sup>th</sup> day of February 2020, by the EL Paso Water Utilities Public Service Board of the City of El Paso, Texas.

PUBLIC SERVICE BOARD



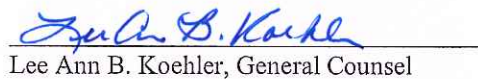
Christopher Antcliff, Chair

ATTEST:



Ivonne Santiago, Secretary-Treasurer

APPROVED AS TO FORM:



Lee Ann B. Koehler, General Counsel

## RULES AND REGULATIONS NO. 16

### RULES AND REGULATIONS GOVERNING THE ADMINISTRATION OF WATER AND WASTEWATER IMPACT FEES

BY THE AUTHORITY GRANTED TO THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD, TRUSTEES, UNDER TEXAS GOVERNMENT CODE SECTION 1502.070, CITY ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS MAY 22, 1952 AS AMENDED, CHAPTER 15.12 WATER AND SEWER SYSTEM OF THE EL PASO MUNICIPAL CODE AS AMENDED, AND CHAPTER 15.22 WATER AND WASTEWATER IMPACT FEES OF THE EL PASO MUNICIPAL CODE AS AMENDED; BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULES AND REGULATIONS NO. 16 CONCERNING WATER AND WASTEWATER IMPACT FEES ARE ESTABLISHED AND EFFECTIVE AND SHALL SUPERSEDE THE RULES AND REGULATIONS PREVIOUSLY ADOPTED FOR WATER AND WASTEWATER IMPACT FEES (KNOWN AS RULES AND REGULATIONS NO. 16).

#### SECTION I GENERAL

The City of El Paso, El Paso Municipal Code Section 15.12.010 sets out that the El Paso Water Utilities Public Service Board is authorized to promulgate Rules and Regulations on all subjects relevant to the operation of the City's water and sewer systems, which Rules and Regulations shall have like effect as if adopted by ordinance.

The City of El Paso, in accordance with Texas Local Government Code Chapter 395, duly established and implemented Impact Fees for water and wastewater facilities by City of El Paso Ordinance No. 017113, Impact Fee Ordinance, passed and approved May 12, 2009 amending Title 15 (Public Services) of the El Paso City Code. The Ordinance adopted impact fees for water and wastewater facilities, established impact fee service areas, provided for accounts for impact fees and use of funds in the accounts, provided for appeals and other requirements of State Law.

The purpose of Impact Fees is to assure the provision of adequate water and wastewater to serve new development in the City by requiring each new development to contribute payments towards its share of the costs of facilities necessitated by and attributable to the new development.

The Capital Improvements Advisory Committee (CIAC) shall have those duties and responsibilities as established under Chapter 2.80 of the El Paso City Code and Chapter 395 of the Texas Local Government Code. Administrative support shall be with the City's Development Services Department or as may be delegated by the City Manager. The El Paso Water Utilities ("EPWater") will provide requested information and recommendations to assist the CIAC.

#### SECTION II. ADOPTION OF IMPACT FEES

EPWater, pursuant to Chapter 395 of the Texas Local Government Code and City of El Paso Ordinance No. 017113, Impact Fee Ordinance (Impact Fee Ordinance), as amended, hereby adopts the City's Impact Fee Ordinance as amended as its Rules and Regulations No. 16. This Rule on Impact Fees for water and wastewater facilities, identifies impact fee service areas, provides for the assessment and collection of impact fees, provides for accounts for the fees and use of funds in the accounts and adopts



other provisions as required by State law, all as may be amended by duly authorized authority from time to time.

Should there be any conflict between these Rules and Regulations No. 16 or any of its provisions and the Impact Fee Ordinance, as amended, the City Ordinance shall be controlling.

### SECTION III. DEFINITIONS.

The following definitions apply to this Chapter:

A. Advisory committee:

The capital improvements advisory committee on water and wastewater impact fees designated and appointed by the City Council in accordance with the Texas Local Government Code Chapter 395.

B. Capital improvement:

A water supply, treatment and distribution facilities or a wastewater collection and treatment facilities, with a life expectancy of three or more years, to be owned and operated by or on behalf of the City whether or not located in the service area.

C. Capital improvements plan:

The plan adopted by the City, as may be amended from time to time, that identifies water and wastewater capital improvements or facility expansions and their associated costs which are necessitated by and attributable to new development and will be financed in whole or in part through water and wastewater impact fees.

D. Facility expansion:

The expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

E. Impact fee:

A charge or assessment imposed by the City against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described by this definition to fund capital improvements in the capital improvements plan. The term does not include:

1. Dedication of land for public parks or payment in lieu of the dedication to serve park needs;
2. Dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development;

3. Lot or acreage fees to be placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or
4. Other pro rata fees for reimbursement of water or wastewater mains or lines extended by the City through EPWater.

However, an item included in the capital improvements plan may not be required to be constructed except in accordance with Section 395.019(2) of the Texas Local Government Code, and an owner may not be required to construct or dedicate facilities and to pay impact fees for those facilities.

F. Land use assumptions:

A description of the service area and projections of changes in land uses, densities, intensities, and population in the service area over at least a 10-year period as may be amended.

G. New development:

The subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units and is located within a service area.

H. Service area:

The area within the corporate boundaries or extraterritorial jurisdiction, as determined under Chapter 42, Texas Local Government Code, of the City to be served by the capital improvements or facilities expansions specified in the capital improvements plan. The service area does include all or part of the land within the City and its extraterritorial jurisdiction.

I. Service unit:

A standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards and based on historical data and trends applicable to the City subdivision in which the individual unit of development is located during the previous 10 years. For purposes of compliance with the impact fee statute, the Impact Fee Ordinance, as amended, and these Rules and Regulations No.16, a service unit represents the water and wastewater flows in gallons per day (gpd) for a single family residential or equivalent unit with a water meter smaller than 1-inch.

The definitions as set forth in the Impact Fee Ordinance as amended are hereby adopted and incorporated herein by this reference for all purposes.

#### SECTION IV. ADMINISTRATION AND ACCOUNTING.

- A. EPWater will administer the Impact Fee Ordinance, as amended, and will establish adequate financial and accounting controls to ensure that fees disbursed from accounts established for each Impact Fee area pursuant to the Impact Fee Ordinance are utilized solely for the purpose authorized under Chapter 395, Texas Local Government Code.

B. Accounts and funds.

All funds collected shall be deposited in interest-bearing accounts clearly identifying the category of capital improvements or facility expansions within the service area for which the impact fee was adopted. Interest earned on impact fee accounts are considered funds of the account on which it is earned. Impact fee funds, to include interest generated from impact fee accounts, may be spent only for the purposes for which the impact fee was imposed as shown by the Capital improvements plan and as otherwise authorized by Chapter 395, Texas Local Government Code. The records of the accounts into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours.

C. EPWater will maintain and keep adequate financial records for each account to show the source and disbursement of all revenues, which shall account for all monies received and ensure that the disbursement of funds from each account shall be used solely and exclusive for the purposes for which the impact fee was imposed as shown by the Capital improvements plan and as otherwise authorized by Chapter 395, Texas Local Government Code.

D. EPWater will ensure that any fee collected under the Impact Fee Ordinance, as amended, is expended within a reasonable period of time but not to exceed ten (10) years from the date the fee is deposited into the impact fee account.

E. Other conditions of service not in conflict with these Rules and Regulations are applicable including Rules and Regulations No. 1 and 11.

SECTION V. LAND USE ASSUMPTIONS AND SERVICE AREA.

For purposes of the Impact Fees, the Land Use Assumptions and Service Areas are those as adopted by the El Paso City Council on March 24, 2009, as amended.

SECTION VI. CAPITAL IMPROVEMENTS PLAN

A. The Capital Improvements Plan for the Impact Fees is the plan, which was adopted by the El Paso City Council on March 24, 2009 and which may be amended by the City Council from time to time in accordance with Chapter 395, Texas Local Government Code.

B. The City Council of the City of El Paso is responsible for supervising the implementation of the Capital Improvements Plan in a timely manner. The City has delegated the administrative responsibility for the Impact Fee Ordinance to EPWater, including implementation of the Capital Improvements Plan. Therefore, EPWater shall have the additional responsibility to file reports on the status of the implementation of said Plan at least annually. The reports shall be of sufficient detail to enable the City Council to discharge its supervisory responsibilities.

C. The improvements set forth in the Capital Improvements Plan and the corresponding provisions of water and wastewater service in the Service Areas were forecast over a ten (10) year time period. Although EPWater is not required, or intends to build all of the improvements or make service available immediately to all potential service units within the Service Areas, EPWater will provide, within ninety (90) days of the adoption of these Rules and Regulations and on an annual basis thereafter; a general schedule, including maps, of service availability proposed

within the (10) year time period. The general schedule and maps shall be a part of the reports required to be submitted in paragraph “B” above.

- D. If water and/or wastewater services are not then currently available, impact fees may be assessed but not collected except as provided in Section 395.019 of Chapter 395, Texas Local Government Code.

#### SECTION VII. IMPACT FEE SERVICE AREAS

The Impact Fee Service Areas are those as adopted March 24, 2009 as reflected in Appendix A, which may be adjusted by City Council from time to time in accordance with the Impact Fee Ordinance, as amended, and Chapter 395, Texas Local Government Code. Three separate service areas have been established within the City of El Paso and its extraterritorial jurisdiction to be served by the capital improvements or facilities expansions specified in the capital improvements plan. Those service areas are the Westside Service Area, the Eastside service Area, and the Northeast Service Area.

#### SECTION VIII. IMPACT FEES TO BE ASSESSED

- A. Impact Fees prior to May 7, 2024

##### **Impact Fee Assessment Schedules**

<b>Northeast Service Area</b>				
<b>Meter Size</b>	<b>Meter Capacity Ratio</b>	<b>Water*</b>	<b>Wastewater</b>	<b>Total</b>
Less than 1 inch	1.00	\$1,178	\$291	\$1,469
1 inch	1.67	\$1,967	\$486	\$2,453
1½ inch	3.33	\$3,921	\$969	\$4,890
2 inch	5.33	\$6,276	\$1,551	\$7,827
3 inch	10.00	\$11,775	\$2,910	\$14,685
4 inch	16.67	\$19,629	\$4,851	\$24,480
6 inch	33.33	\$39,246	\$9,699	\$48,945
8 inch	53.33	\$62,796	\$15,519	\$78,315
10 inch	76.67	\$90,279	\$22,311	\$112,590
12 inch	143.33	\$168,771	\$41,709	\$210,480

**\*Fees do not apply to water meter or connections made for standby fire protection service**

Westside Service Area				
Meter Size	Meter Capacity Ratio	Water*	Wastewater	Total
Less than 1 inch	1.00	\$659	\$927	\$1,586
1 inch	1.67	\$1,101	\$1,548	\$2,649
1½ inch	3.33	\$2,195	\$3,087	\$5,282
2 inch	5.33	\$3,514	\$4,941	\$8,455
3 inch	10.00	\$6,593	\$9,270	\$15,863
4 inch	16.67	\$10,990	\$15,453	\$26,443
6 inch	33.33	\$21,973	\$30,897	\$52,870
8 inch	53.33	\$35,158	\$49,437	\$84,595
10 inch	76.67	\$50,545	\$71,073	\$121,618
12 inch	143.33	\$94,490	\$132,867	\$227,357

**\*Fees do not apply to water meter or connections made for standby fire protection service**

Eastside Service Area				
Meter Size	Meter Capacity Ratio	Water*	Wastewater	Total
Less than 1 inch	1.00	\$697	\$920	\$1,617
1 inch	1.67	\$1,163	\$1,537	\$2,700
1½ inch	3.33	\$2,321	\$3,065	\$5,386
2 inch	5.33	\$3,714	\$4,905	\$8,619
3 inch	10.00	\$6,968	\$9,203	\$16,171
4 inch	16.67	\$11,615	\$15,341	\$26,956
6 inch	33.33	\$23,223	\$30,672	\$53,895
8 inch	53.33	\$37,158	\$49,077	\$86,235
10 inch	76.67	\$40,064	\$52,916	\$92,980
12 inch	143.33	\$74,899	\$98,924	\$173,823

**\*Fees do not apply to water meter or connections made for standby fire protection service**

B. Impact Fees effective May 7, 2024

**Impact Fee Assessment Schedules**

Northeast Service Area				
Meter Size	Meter Capacity Ratio	Water*	Wastewater	Total
Less than 1 inch	1.00	\$1,508	\$372	\$1,880
1 inch	1.67	\$2,518	\$622	\$3,140
1½ inch	3.33	\$5,019	\$1,240	\$6,259
2 inch	5.33	\$8,033	\$1,985	\$10,018
3 inch	10.00	\$15,072	\$3,725	\$18,797
4 inch	16.67	\$25,125	\$6,209	\$31,334
6 inch	33.33	\$50,235	\$12,415	\$62,650
8 inch	53.33	\$80,379	\$19,864	\$100,243
10 inch	76.67	\$115,557	\$28,558	\$144,115
12 inch	143.33	\$216,027	\$53,388	\$269,415

**\*Fees do not apply to water meter or connections made for standby fire protection service**

Westside Service Area				
Meter Size	Meter Capacity Ratio	Water*	Wastewater	Total
Less than 1 inch	1.0	\$844	\$1,187	\$2,031
1 inch	1.67	\$1,409	\$1,981	\$3,390
1½ inch	3.33	\$2,810	\$3,951	\$6,761
2 inch	5.33	\$4,498	\$6,324	\$10,822
3 inch	10.00	\$8,439	\$11,866	\$20,305
4 inch	16.67	\$14,067	\$19,780	\$33,847
6 inch	33.33	\$28,125	\$39,548	\$67,673
8 inch	53.33	\$45,002	\$63,279	\$108,281
10 inch	76.67	\$64,698	\$90,973	\$155,671
12 inch	143.33	\$120,947	\$170,070	\$291,017

**\*Fees do not apply to water meter or connections made for standby fire protection service**

Eastside Service Area				
Meter Size	Meter Capacity Ratio	Water*	Wastewater	Total
Less than 1 inch	1.00	\$892	\$1,178	\$2,070
1 inch	1.67	\$1,489	\$1,967	\$3,456
1½ inch	3.33	\$2,971	\$3,923	\$6,894
2 inch	5.33	\$4,754	\$6,278	\$11,032
3 inch	10.00	\$8,919	\$11,780	\$20,699
4 inch	16.67	\$14,867	\$19,636	\$34,503
6 inch	33.33	\$29,725	\$39,260	\$68,985
8 inch	53.33	\$47,562	\$62,819	\$110,381
10 inch	76.67	\$68,390	\$90,317	\$158,707
12 inch	143.33	\$127,850	\$168,843	\$296,693

**\*Fees do not apply to water meter or connections made for standby fire protection service**

The Schedules of Impact Fees shall be as set out in the City Impact Fee Ordinance and as may be amended from time to time in accordance with Chapter 395, Texas Local Government Code.

#### SECTION IX. TIME OF ASSESSMENT OF IMPACT FEE

An “assessment” means a determination of the amount of the impact fee in effect on the date or occurrence provided in this section and is the maximum amount that can be charged per service unit of such development. No specific act by the City is required.

For new development, which is platted, or re-platted and there is an increase in the number of service units in the development, after the adoption of an impact fee, impact fees shall be assessed on the incremental increase in service units in the development before or at the time of recordation of recordation of a subdivision plat or replat in the official records of the county clerk of the county in which the tract is located.

For land on which new development occurs or is proposed to occur without platting, impact fees shall be assessed at the time an application for an individual meter connection to the City’s water or wastewater system is filed.

Following the initial assessment of an impact fee, the amount of the impact fee per service unit for that development cannot be increased unless the approved final plat expires or lapses under the applicable ordinance or law, and service units increase or meter size is increased.

#### SECTION X. TIME OF COLLECTION OF IMPACT FEE

- A. For new development, which is platted in accordance with City Codes before the adoption of an impact fee, an impact fee may not be collected on any service unit for which a valid building permit is issued within one (1) year after the date of adoption of the impact fee ordinance.
- B. For new development which is platted, or re-platted and there is an increase in the number of

service units after the adoption of an impact fee ordinance and if water and/or wastewater capacity is currently available:

1. For land platted within the corporate boundaries of the City, impact fees shall be collected at the time a building permit is issued.
  2. For land platted outside the corporate boundaries of the City, impact fees shall be collected at the time an application for an individual meter connection to the City's water or wastewater system is filed.
  3. For land on which new development occurs or is proposed to occur without platting, impact fees shall be collected at the time an application is filed for an individual meter connection to the City's water or wastewater system.
  4. If the impact fee is not collected at the time specified above for any reason, EPWater reserves the option of collecting the fee at the time of connection to the water or wastewater system.
- C. For new development which is platted, or re-platted and there is an increase in the number of service units, after the adoption of an impact fee and if water and wastewater capacity are not currently available:
1. Impact fees shall be collected, except as otherwise provided in the Impact Fee Ordinance, as amended, only if the collection is made to pay for a capital improvement or facility expansion that has been identified in the Capital improvements plan and the City commits to the construction of the identified capital improvement within two (2) years, under duly awarded and executed contracts or commitments of staff time covering substantially all of the work required to provide service, and to have the service available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in no event longer than five (5) years; or,
  2. The City has entered into an agreement that the owner of a new development may construct or finance the capital improvements or facility expansions and agrees that the costs incurred or funds advanced will be credited against the impact fees otherwise due from the new development.

#### SECTION XI. IMPACT FEE AS A CONDITION OF BUILDING PERMIT APPROVAL OR METER CONNECTION

New development occurring in any of the defined service areas shall not be connected to the City's water or wastewater system without payment of an impact fee in accordance with the City's Impact Fee Ordinance.

No building permit shall be issued without payment of an impact fee in accordance with the City's Impact Fee Ordinance.

If impact fees have not been collected in accordance with the City's Impact Fee Ordinance and the  
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development has been connected to the water and/or wastewater system, EPWater may, upon written notice to the developer or owner, disconnect the service pursuant to Rules and Regulations No. 5, until such time as the impact fees are paid.

## SECTION XII. AFFORDABILITY REDUCTION OR WAIVER

Notwithstanding Section X and Section 15.20.130 of the Impact Fee Ordinance, the City Manager or designee shall administratively reduce or waive an impact fee for a service unit if the service unit once constructed, qualifies as affordable housing under 42 U.S.C. Section 12745, as amended. In addition to meeting the requirements of 42 U.S.C. Section 12745, the waiver or reduction must comply with the City's adopted fee waiver program established under the provisions of this section and will be subject to an affordability period established by the City and enforced by agreement, restrictive covenant, lien, or other binding obligation, as approved by the City Attorney. However, if affordable housing as defined by 42 U.S.C. Section 12745, is not constructed, the City may reverse its decision to waive or reduce the impact fee, and may assess and collect an impact fee at any time during the development approval or building process or after the building process if an impact fee was not already assessed.

## SECTION XIII. REFUNDS

Refunds of impact fees collected may be made under the following conditions:

### A. Refund if service is denied or not available.

1. On the request of an owner of the property on which an impact fee has been paid, EPWater shall refund the impact fee if: a) existing facilities are available and service is denied; or, b) EPWater has, after collecting the impact fee when service was not available, failed to commence construction within two (2) years; or, c) service is not available within a reasonable period considering the type of capital improvement or facility expansion to be constructed, but in no event later than five (5) years from the date of payment of the impact fee.
2. A request for refund shall be submitted to EPWater on a form provided for such purpose.
3. Any refund shall bear interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Section 302.002 of the Finance Code, or its successor statute.

### B. Refund if funds not spent.

1. Except as otherwise provided above, EPWater shall refund any impact fee or part of it that is not spent as authorized by the City's Impact Fee Ordinance within ten (10) years after the date of payment.
2. All refunds shall be made to the record owner of the property at the time the refund is paid. However, if the impact fees were paid by another political subdivision or governmental entity, payment shall be made to the political subdivision or governmental entity.

3. Any refund shall bear interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Section 302.002 of the Finance Code, or its successor statute.
4. For purposes of this section, an impact fee collected shall be considered expended if the total expenditures for capital improvements or facility expansions within a service area within ten (10) years following the date of payment of the impact fee, equal or exceed the total impact fees collected within the service area for such improvements or facility expansions during such period.

#### SECTION XIV. APPEAL PROCESS

The Property Owner or applicant for a new development has the right of appeal pursuant to EPWater Rules and Regulations No. 8 of any adverse determination.

Should the Property Owner or applicant for a new development not agree with the result of EPWater appeal, he or she may appeal the following administrative decisions to the City Manager or designee: 1. The applicability of an impact fee to the development or structure; 2. The amount of the impact fee assessed or collected; and 3. The amount of a refund due.

Appeals to the City Manager or designee must be in written form and submitted within thirty (30) days of the assessment or collection of an impact fee. The City Manager or designee shall give a written decision to the one making an appeal within forty-five (45) days of the appeal. Decisions on an appeal shall become final and binding to the maximum extent allowed by law thirty (30) days after being given.

A person who has exhausted all administrative remedies as stated above may appeal the determination of the impact fee in accordance with Texas Local Government Code Section 395.077.

#### SECTION XV. DELETED.

#### SECTION XVI. UPDATES TO PLANS AND REVISION OF FEES

The City shall update the Land Use Assumptions and Capital Improvements Plan at least every five (5) years, commencing from the date of adoption of such plans; and shall, if necessary, recalculate the impact fees based thereon in accordance with Chapter 395, Texas Local Government Code as provided for therein.

The City may review its land use assumptions, impact fees, capital improvements plan and other factors more frequently than provided in the Impact Fee Ordinance to determine whether the land use assumptions and capital improvements plan should be updated and the impact fees recalculated accordingly.

After conducting the review required in the Impact Fee Ordinance, if the City Council determines that no change to the land use assumptions, Capital improvements plan or impact fee is needed at the time of an update under the Impact Fee Ordinance, as amended, the City Council may dispense with the update in accordance with Local Government Code Section 395.0575.

EPWater, having been delegated administrative responsibility for the Impact Fee Ordinance, shall provide such information, reports and recommendations on its own initiative or as required by the City to enable timely completion of Updates and Revisions as may be necessary in this Section and in accordance with Chapter 395, Texas Local Government Code.

#### SECTION XVII. SEVERABILITY

These Rules and Regulations are part of other Rules and Regulations of the Public Service Board and persons accepting services agree to comply with the appropriate provisions and conditions of the Rules and Regulations. If any provision, paragraph, word, subsection, sentence, clause, phrase or section of these Rules and Regulations No. 16 or the application of the same to any person or set of circumstances is for any reason invalidated by a court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 16. The remaining provisions, paragraphs, words, or sections shall not be affected and shall remain in full force and effect.

#### SECTION XVIII. SAVINGS.

These Rules and Regulations is a part of the other Rules and Regulations of the Public Service Board, and, save and except as amended hereby, the remaining provisions of Public Service Board's Rules and Regulations shall remain in full force and effect.

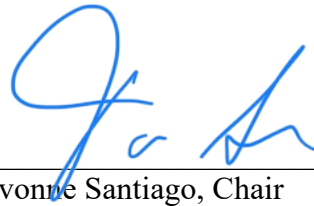
#### SECTION XIX. EFFECTIVE DATE.

These Rules and Regulations No.16 shall be and become effective from and after their adoption by the Public Service Board and shall remain in effect until otherwise amended by the Public Service Board or operation of law.

PASSED, APPROVED and ADOPTED RULES AND REGULATIONS NUMBER 16, CONCERNING WATER AND WASTEWATER IMPACT FEES at a regularly scheduled meeting of the El Paso Water Utilities Public Service Board, this 12<sup>th</sup> day of August, 2009 at which meeting a quorum was present, said meeting being held in accordance with the provisions of V.T.C.A., Government Code, Sections 551.001 et. seq.

RULES AND REGULATIONS NO. 16, Section VI(B), modified, Section XV deleted, APPROVED AND ADOPTED this 12<sup>th</sup> day of October, 2011.

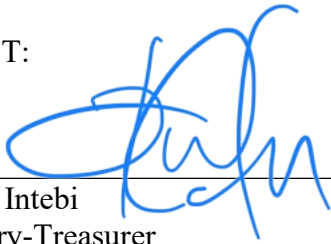
RULES AND REGULATIONS NO. 16, Section I, Section II, Section III (E) and (I), Section IV (A),(B),(C) and (D), Section V, Section VI (B),(C), and (D), Section VII, Section VIII, Section X (B) and (C), Section XI, Section XII, Section XIII (A) and (B), Section XIV, Section XVI, Section XVII, Section XVIII, Section XIX, APPROVED AND ADOPTED this 12<sup>th</sup> day of June, 2024, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.



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Ivonne Santiago, Chair

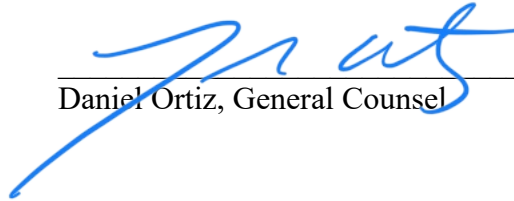
ATTEST:



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Charlie Intebi  
Secretary-Treasurer

APPROVED AS TO FORM:



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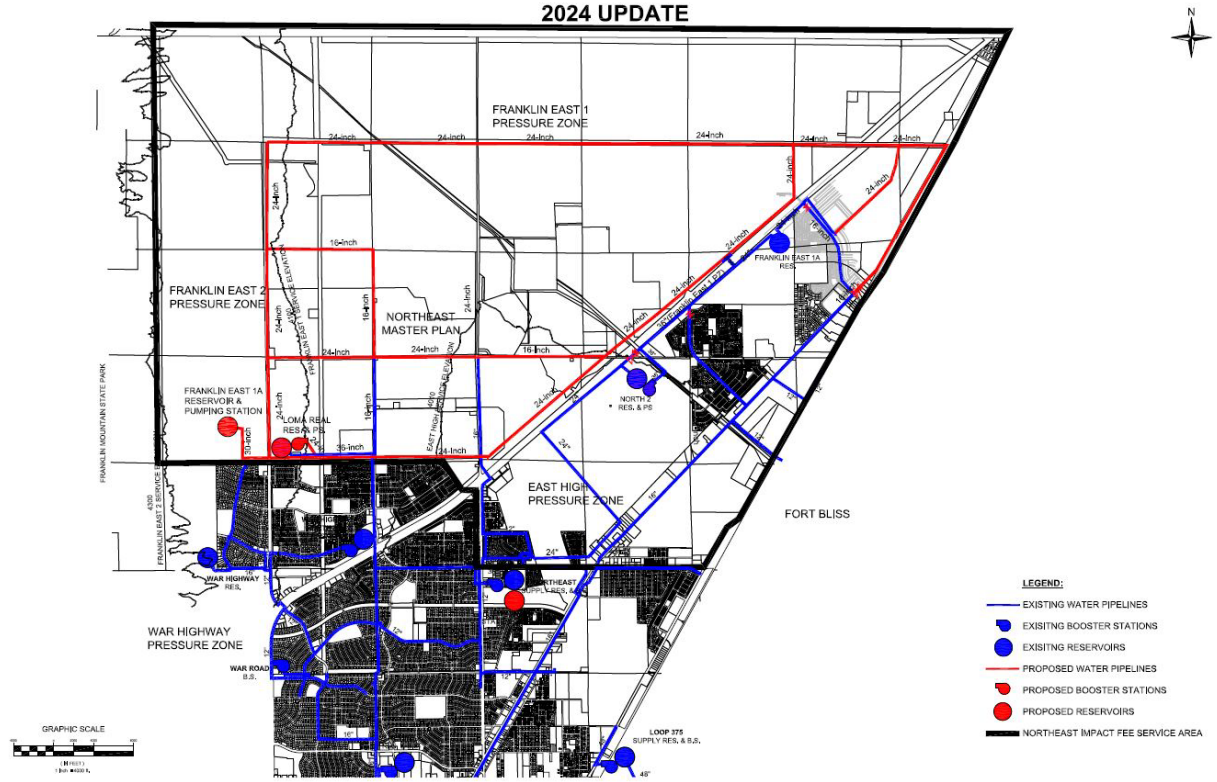
Daniel Ortiz, General Counsel

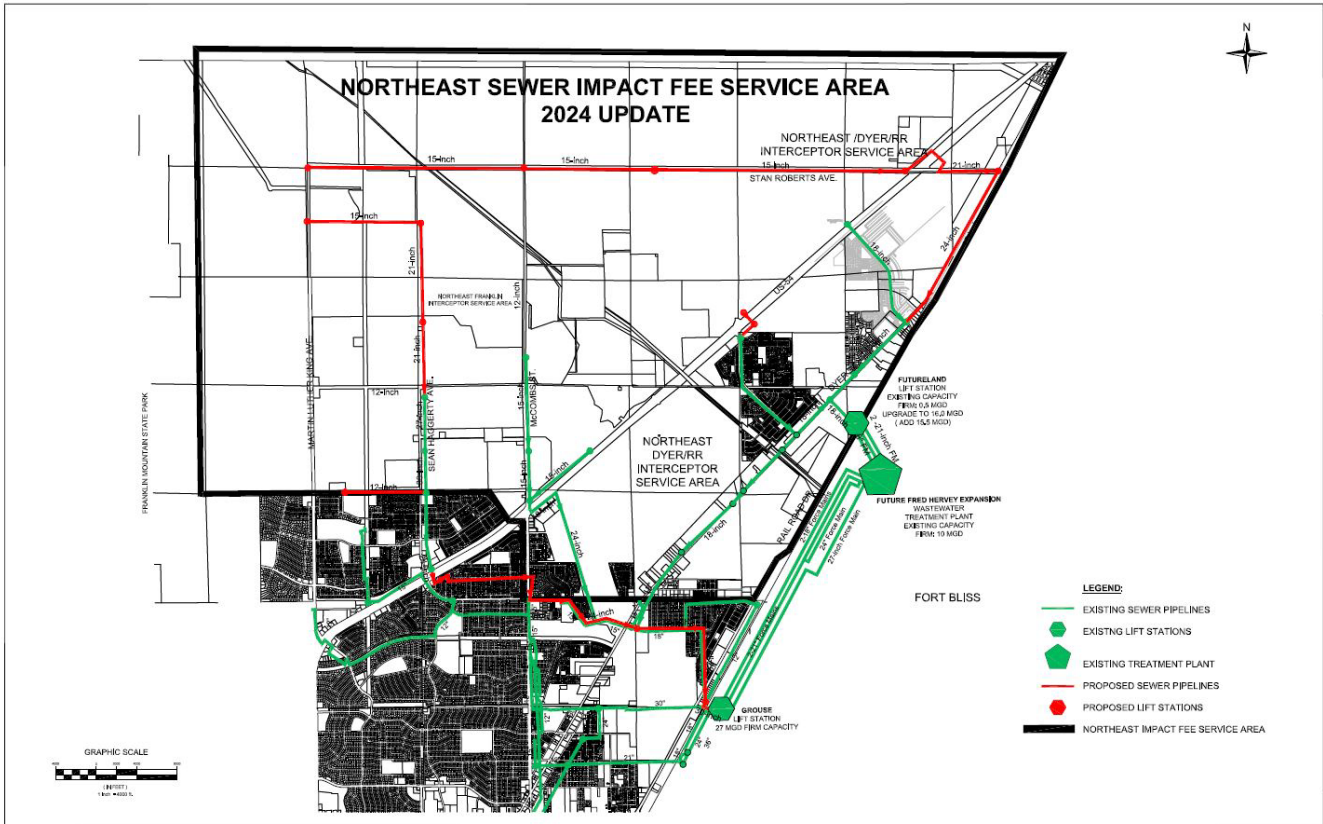
APPENDIX A

Service Areas

6 maps attached

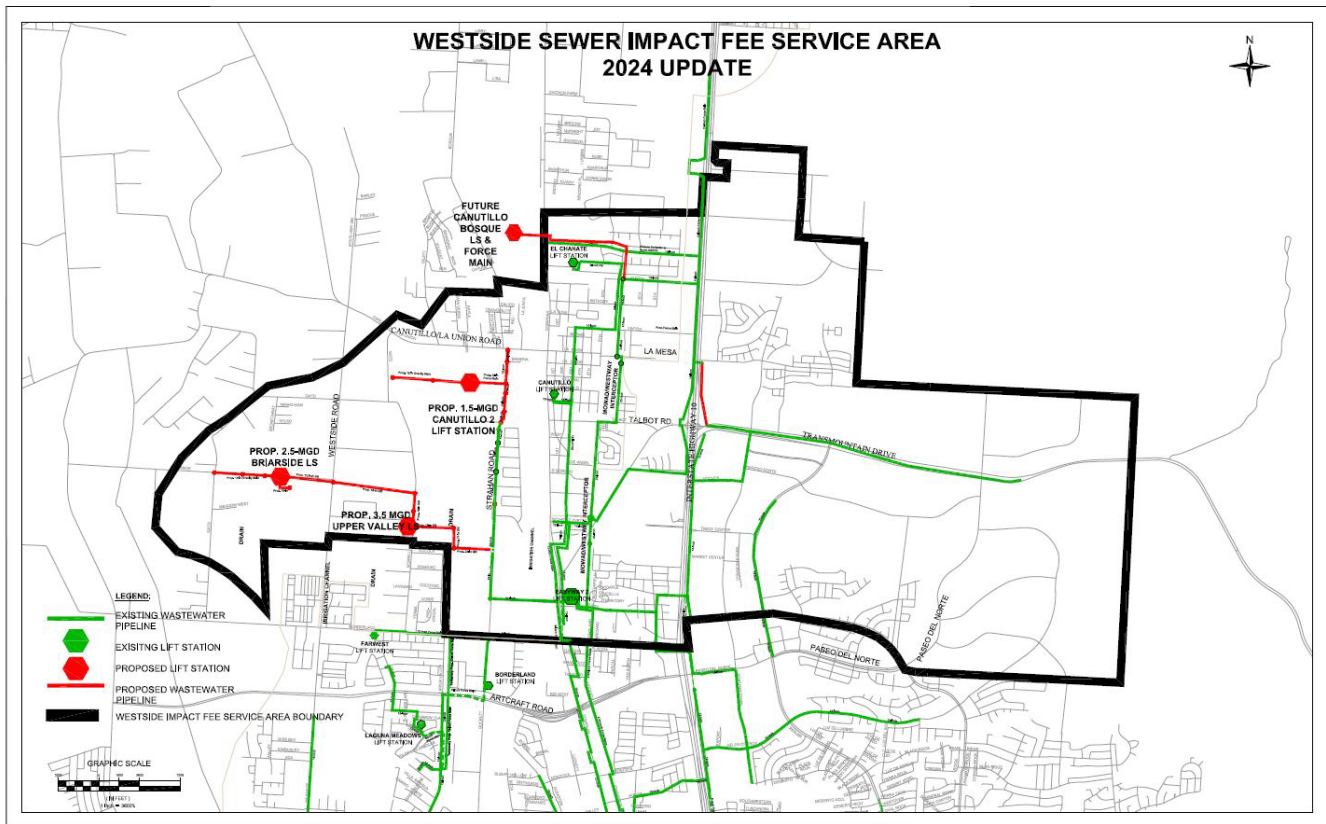
# NORTHEAST WATER IMPACT FEE SERVICE AREA 2024 UPDATE

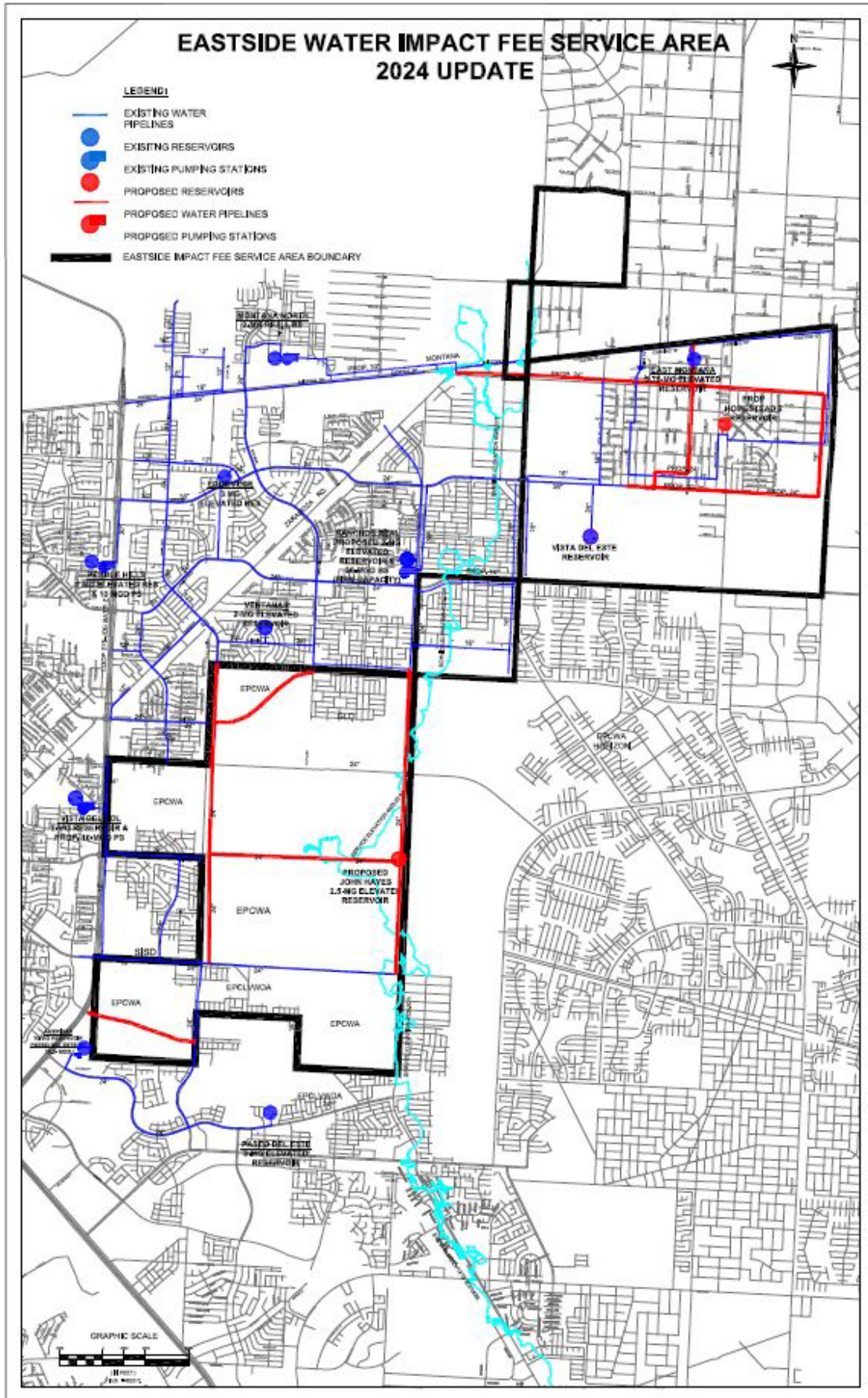




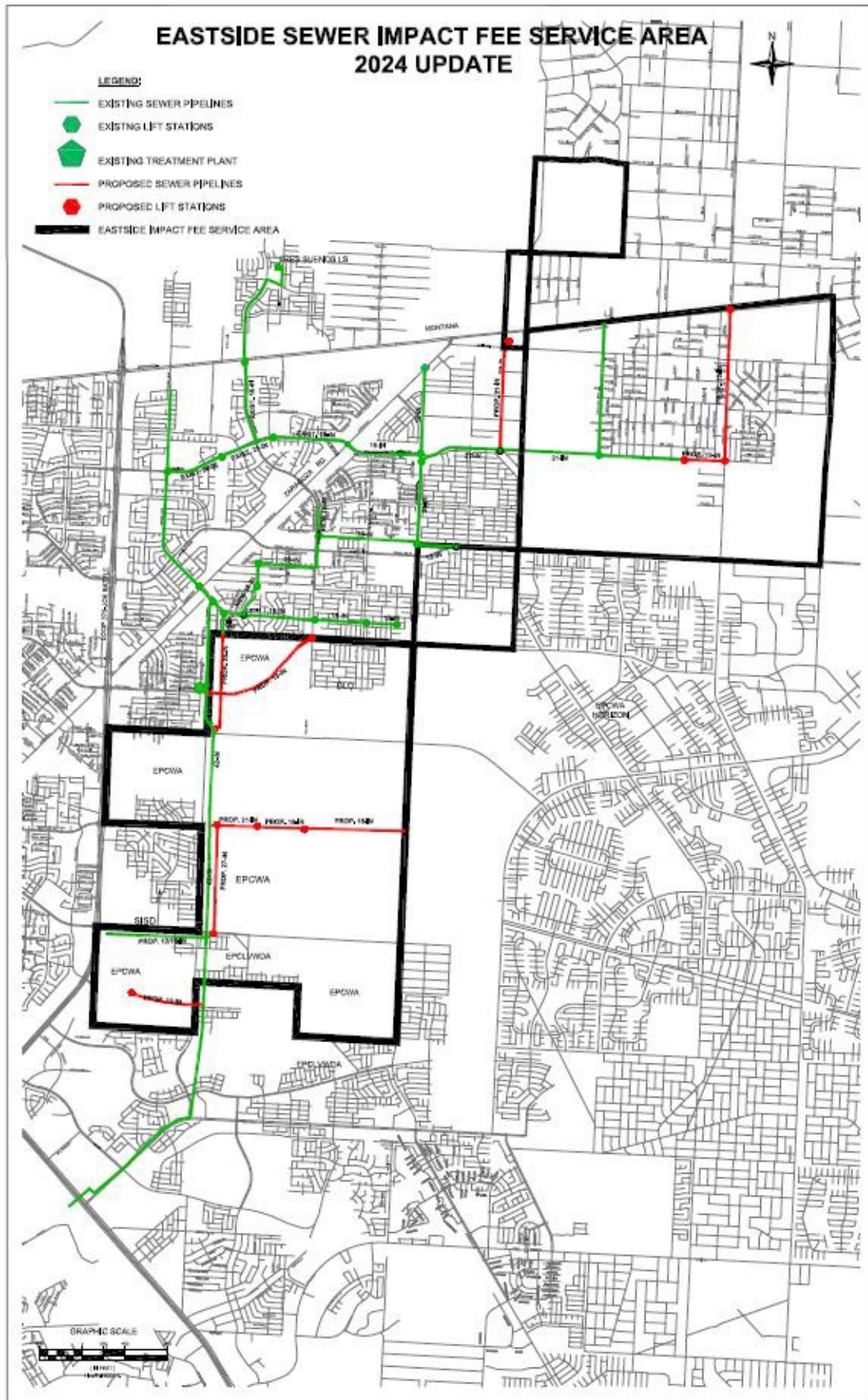












## RULES AND REGULATIONS NO.17

### RULES AND REGULATIONS GOVERNING THE THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD DROUGHT CONTINGENCY PLAN

BY THE AUTHORITY VESTED IN THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD, TRUSTEES, UNDER TEXAS GOVERNMENT CODE SECTION 1502.070, CITY ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS MAY 22, 1952, AS AMENDED, TITLE 30 TEXAS ADMINISTRATIVE CODE SECTIONS 288.20 AND 288.22 AND CHAPTER 15.13 WATER CONSERVATION OF THE EL PASO MUNICIPAL CODE; NOW THEREFORE BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULE AND REGULATION NO. 17 CONCERNING THE DROUGHT CONTINGENCY PLAN IS HEREBY ESTABLISHED.

#### SECTION I GENERAL

The El Paso Water Utilities-Public Board adopts the Drought Contingency Plan in Exhibit “A” of these Rules and Regulations No. 17 in compliance with the requirements with the Texas Administrative Code Sections 288.20 and 288.22. The attached Exhibit “A” is hereby incorporated to these Rules and Regulations No. 17.

#### SECTION II ENFORCEMENT

In accordance with Section 15.13.080 of the City of El Paso Municipal Code, any person violating any provision of these Rules and Regulations No. 17 shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not less than fifty dollars and not to exceed five hundred dollars. Each separate violation of the Drought Contingency Plan shall be deemed a separate offense and shall be punished accordingly.

Each Wholesale Customer shall be responsible for implementing and enforcing the measures of the Drought Contingency Plan as communicated by EPWater. Additionally, EPWater will seek any and all remedies available under each individual Wholesale Agreement if any Wholesale Customer fails to implement and enforce the provisions of the Drought Contingency Plan.

Nothing shall prevent either the Public Service Board from seeking compliance with or enforcement of these Rules and Regulations No. 17, from seeking injunctive relief in a court of competent jurisdiction, or from utilizing any other civil or equitable remedy to enforce these Rules and Regulations No. 17. The Public Service Board's attorneys are authorized to institute injunctive relief or any other civil action deemed necessary to enforce compliance with the provisions of this chapter.

### SECTION III VARIANCES

Customer-specific variances may be granted in cases of hardship or special conditions. After recommendation by the Water Conservation Manager, the President/CEO, Vice President of Operations and Technical Services, Vice President of Financial and Management Services, will consider a hardship or special conditions case to determine whether a particular circumstance warrants a variance. A variance shall be granted only for reasons of severe economic hardship, medical hardship or for a legitimate public health concern.

### SECTION IV RIGHT OF APPEAL

For matters other than variances, the Customer may appeal in writing any ruling or action of the Utility or its agents to the PSB in accordance with the procedures established in Rules and Regulations No. 8. Any Customer who does not appeal such a ruling or action in accordance with these procedures within 60 days of the date of the issuance of the ruling or action shall waive any right to contest such action or ruling. The PSB, at its own discretion, may affirm, modify, limit or condition the ruling of the Utility or may defer final decision on the appeal in accordance with Rules and Regulations No. 8.

### SECTION V SEVERABILITY

These Rules and Regulations are part of the other Rules and Regulations of the PSB and persons accepting service agree to comply with the appropriate provisions and conditions of all of the Rules and Regulations. If any provision, paragraph, section, subsection, sentence, clause or phrase of these Rules and Regulations No. 17 or the application of same to any person or set of circumstances is for any reason invalidated by any court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 17. The remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect.

### SECTION VI SAVINGS

These Rules and Regulations No. 17 are part of the other Rules and Regulations adopted by the El Paso Water Utilities Public Service Board, and, save and except as amended hereby, the remaining provisions of the El Paso Water Utilities Public Service Board's Rules and Regulations shall remain in full force and effect.

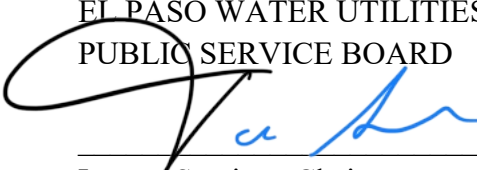
### SECTION VII EFFECTIVE DATE

These Rules and Regulations No. 17 shall be and become effective from and after its adoption hereby and shall remain in effect until otherwise amended by the El Paso Water Utilities Public Service Board.

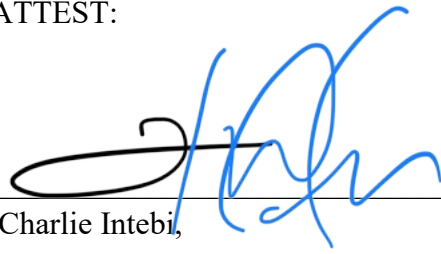
PASSED, APPROVED and ADOPTED this 14<sup>th</sup> day of March, 2012 by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

PASSED, APPROVED and ADOPTED this 10th day of April, 2024 by the El Paso Water Utilities Public Service Board,

EL PASO WATER UTILITIES  
PUBLIC SERVICE BOARD

  
\_\_\_\_\_  
Ivonne Santiago, Chair

ATTEST:

  
\_\_\_\_\_  
Charlie Intebi,  
Secretary-Treasurer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel Ortiz,  
General Counsel

**Exhibit "A"**

**Drought Contingency Plan**

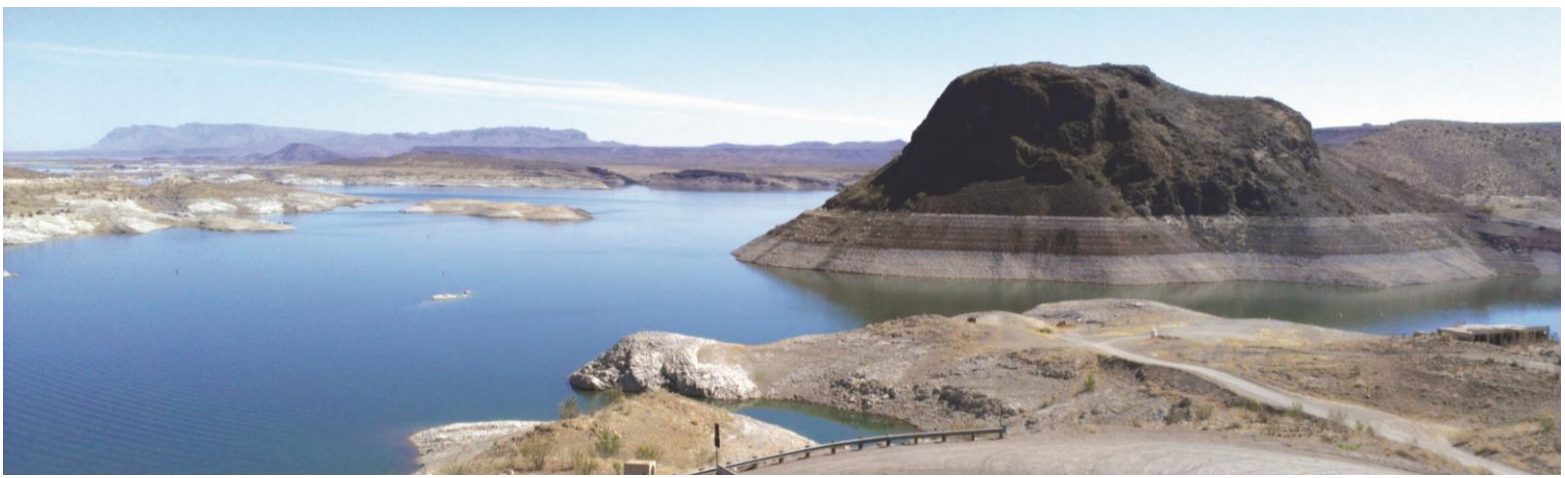




# Drought Contingency Plan

2024





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## Section 1: Introduction, Purpose, and Declaration of Policy

The City of El Paso is located in far West Texas in the heart of the Chihuahuan Desert and borders New Mexico and Mexico. This arid climate averages 8 to 10 inches of annual rainfall.

El Paso has relied on the Rio Grande River for almost half of its potable water supply with groundwater from two large aquifers – the Hueco Bolson and the Mesilla Bolson – serving as the other major source of water. Within the nearly 250 square mile service area, EPWater manages 2,767 miles of water lines, 76 reservoirs, 60 pump stations, 53 booster stations, and 153 wells. EPWater also has 4 water and 4 wastewater treatment plants that serve the city. EPWater continues to expand infrastructure and upgrade storage and delivery capacity as the community grows.

While drought is a naturally occurring phenomenon at the local level, El Paso is particularly affected by drought that occurs hundreds of miles away in the mountains of Southern Colorado and Northern New Mexico, a region that serves as the headwaters for the Rio Grande. Drought cycles are documented over the last century, with stretches of years with low

precipitation and snowpack, which directly impacts Rio Grande flows and related surface water available for use.

Building on earlier conservation efforts, the Water Conservation Ordinance (passed in 1991) established designated watering days year-round and specified water conservation requirements to include seasonal time-of-day restrictions. This puts El Paso in a constant state of drought awareness and has helped El Pasoans reduce water consumption over the last several decades. Since 1980, per capita water consumption has dropped by 35%, and it continues on a downward trend.

El Paso Water has strategically diversified its water supply portfolio to effectively mitigate drought conditions. The utility utilizes fresh groundwater, desalinated brackish groundwater, surface water, and water reuse (reclamation and indirect potable reuse) to meet community needs. Moving forward, EPWater will incorporate direct potable reuse through our Advanced Water Purification Facility, and water importation from the Dell Valley and Hudspeth County.

## Purpose

The purpose of this Drought Contingency Plan is to:

- Provide a framework to identify and manage a drought or water emergency;
- Conserve the available water supply; protect the integrity of water supply facilities (with particular regard for domestic water use, sanitation, and fire protection);
- Protect and preserve public health, welfare, and safety; and
- Minimize the adverse impacts of water supply shortage or other water supply emergency conditions.

With this Plan, El Paso Water sets regulations and restrictions on the delivery and consumption of water under certain drought or emergency conditions.

Water uses regulated or prohibited under this Drought Contingency Plan (the “Plan”) are considered to be non-essential, and continuation of such uses during times of water shortage or other emergency water supply conditions are deemed to constitute a waste of water that may subject offender(s) to enforcement action as defined in Section 12 of this Plan.

## Declaration of Policy

This Plan was developed to follow Texas Commission of Environmental Quality (TCEQ) guidelines and minimum requirements for the Drought Contingency Plan for municipal water suppliers and wholesale water suppliers contained in the Texas Administrative Code (TAC) Title 30, Part 1, Chapter 288, Subchapter B, Rules 288.20 and 288.22, respectively. Refer to Appendix B for the 30 TAC, Chapter 288, Subchapter B, Rules 288.20 and 288.22. This Plan follows the recommended structure provided in TCEQ Form 20191 (Rev. 12/2018).

This Plan also follows guidelines of the U.S. Bureau of Reclamation Water SMART Drought Response Program Framework and has been designed to include the six elements of a Drought Contingency Plan: (1) drought monitoring (Section 7), (2) vulnerability assessment (Section 13, with Mitigation), (3) mitigation actions (Section 13), (4) response actions (Section 9), (5) operational and administrative framework (with Monitoring, Section 7), and (6) plan update process (Section 11). The utility is eligible for certain drought funding opportunities by following the guidelines set by the Bureau of Reclamation.



## Section 2: Public Involvement

EPWater will solicit public input for preparation of the Plan through:

- Written public notice that a drought contingency plan is being prepared (or revised);
- Notification to all wholesale customers of the proposed draft plan;
- Publication of the Draft Plan available for download on the EPWater website;
- Public survey, available on the EPWater website; and
- Public meeting(s) for the purpose of soliciting public comment.

Comments will all be reviewed and taken into consideration. Public input prior to finalizing the Plan is welcomed and will help ensure the Drought Contingency Plan represents the interests of citizens of El Paso and its wholesale customers.

## Section 3: Public and Wholesale Water Customer Education

EPWater will periodically provide the public with information about the Plan in Spanish and in English, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information may be provided by some combination of communication methods, to include:

- Public service announcements on radio, television, and news channels
- Newspaper announcements
- Press releases
- Social media
- Public education forum(s)
- Mailed water bill inserts
- E-mail directly to customers and stakeholders
- Updates at regular Public Service Board meetings
- EPWater's conservation department water waste online form or hotline
- EPWater website

Effective communication will be maintained with all wholesale water customers or entities through meetings, mailings, and e-mailings.

## Section 4: Coordination with Water Planning Group

The service area of EPWater is located within the Texas Water Development Board's Far West Texas Water Planning Group (Region E). EPWater will solicit input on the Plan from Region E and provide a copy of this Plan to Region E when it is finalized in order to coordinate with Region E to ensure consistency with the appropriate approved regional water plan. Refer to Appendix D as documentation of coordination with Region E.

## Section 5: Authorization

The President/CEO of EPWater, or designee, is authorized by the Public Service Board to implement (initiate or terminate) any *voluntary* measures described in this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The Public Service Board is the governing body that may vote to implement any *mandatory* drought restrictions on customers. This action by the Public Service Board is separate from a Declaration of Local Disaster by the Mayor and City Council in accordance with Chapter 418 of the Texas Government Code or any other action by the City Council deemed necessary under the law for public health and safety purposes.

The President/CEO will be responsible for notifying the Executive Director of the TCEQ within five (5) days following the implementation of any mandatory water use restrictions. In the event that the drought, water



shortage, or water emergency is expected to continue for more than five (5) days, the President/CEO shall present a report to the Public Service Board, setting out the nature and expected severity of the drought, water shortage, or water emergency.

## Section 6: Application

The provisions of this Plan shall apply to all persons or entities using water supplied by El Paso Water, including all retail and wholesale customers.

## Section 7: Monitoring

El Paso is a naturally hot and dry city. In the summer months, water consumption increases to maintain landscaping, run air conditioners, and provide hydration. During long periods of acute heat and aridity, water demand monitoring is especially important.

Climate projections and preliminary outlook for annual surface water allocations help EPWater’s Water Resources Manager determine if a “Drought Resolution” (“Resolution”) is necessary. A Resolution may be passed by the Public Service Board as a call to action to prepare for possible drought conditions. This Resolution helps EPWater expedite the procurement of goods, services of consultants, and construction services for drought relief projects in accordance with exemptions to the bidding requirements under Texas law. Projects include but are not limited to drilling and equipping new wells, reconditioning existing wells and optimizing reclaimed and surface water production.

EPWater’s Central Control Operator monitors system demand and provides a daily report. The Water Production Manager monitors maximum system capacity on a daily basis. The Water System Division Manager graphs demand versus maximum system capacity as a percentage. During peak water season, this graph is monitored daily, and presented to the Drought Task Force. (See Section 11 for information on the Drought Task Force.) Anticipated system demand is assessed based on current consumption trends, year-to-year comparison of seasonal consumption trends, precipitation, temperature, and other factors. The system capacity for the utility is based on a summary of production inputs – reservoir levels, operating wells, pumping capacity, desalination production capacity, and surface water availability.

## Section 8: Criteria for Initiation and Termination of Drought Response Stages

Pre-Stage Watch		
<b>STAGE 0</b>	Criteria for Initiation	The Pre-Stage Watch is the continued observation of the Water Conservation Ordinance throughout the year.
	Conditions	In combination with the Drought Resolution by the PSB, these are steps El Paso Water is taking to help ensure the continued stability of our water resources.
	Criteria for Termination	This Stage is not entered into or out of; instead, it is a constant reminder to remain vigilant about water usage.

**Mild (Drought Watch)**

<b>STAGE 1</b>	<b>Criteria for Initiation</b>	Water demand has reached or exceeded 85% of delivery capacity for 4 consecutive days.
	<b>Conditions</b>	All El Paso Water customers shall be requested to reduce consumption through voluntary measures described in the corresponding stage of Section 9 of this Plan.
	<b>Criteria for Termination</b>	Stage 1 may be terminated when Stage 1 conditions no longer exist and would be unlikely to recur upon termination, or demand drops below 80% of delivery capacity.

**Moderate (Drought Advisory)**

<b>STAGE 2</b>	<b>Criteria for Initiation</b>	Water demand has reached or exceeded 90% of delivery capacity for 3 consecutive days.
	<b>Conditions</b>	<ul style="list-style-type: none"><li>• Residential and commercial customers shall be requested to reduce consumption through voluntary measures.</li><li>• City, County, and institutional customers shall be required to comply with the requirements and adhere to mandatory restrictions on certain non-essential water uses, described in the corresponding stage of Section 9 of this Plan.</li></ul>
	<b>Criteria for Termination</b>	Stage 2 may be terminated when Stage 2 conditions no longer exist and would be unlikely to recur upon termination, or demand drops below 85% of delivery capacity.

**Severe (Drought Warning)**

<b>STAGE 3</b>	<b>Criteria for Initiation</b>	Water demand has reached or exceeded 95% of delivery capacity for 2 consecutive days.
	<b>Conditions</b>	All customers shall be required to comply with the requirements and mandatory restrictions on certain non-essential water uses provided in the corresponding stage in Section 9 of this Plan.
	<b>Criteria for Termination</b>	Stage 3 may be terminated when Stage 3 conditions no longer exist and would be unlikely to recur upon termination, or demand drops below 90% of delivery capacity.

#### Extreme (Drought Action Stage)

STAGE 4	Criteria for Initiation	Water demand has reached or exceeded 95% of delivery capacity for 5 consecutive days.
	Conditions	All customers shall be required to comply with the requirements and mandatory restrictions on certain non-essential water uses provided in the corresponding stage in Section 9 of this Plan.
	Criteria for Termination	Stage 4 may be terminated when Stage 4 conditions no longer exist and would be unlikely to recur upon termination, or demand drops below 90% of delivery capacity.

#### Emergency Event (Urgent Action Stage)

EMERGENCY EVENT	Criteria for Initiation	<ul style="list-style-type: none"><li>• Water demand exceeds a reduced delivery capacity for all or part of the system, as determined by EPWater; or</li><li>• Water line breaks or pump or systems failures occur, which impact the ability of EPWater to provide treated water service; or</li><li>• Natural or man-made contamination of the water supply source(s) occurs.</li></ul>
	Conditions	All customers shall be required to comply with the requirements and mandatory restrictions on certain non-essential water uses provided in the corresponding stage in Section 9 of this Plan.
	Criteria for Termination	The Emergency Event stage of the Plan may be terminated when the Emergency Event stage conditions no longer exist and would be unlikely to recur upon termination.

## Section 9: Drought and Water Shortage Response Stages

#### STAGE 0: Pre-Stage Watch

Enforce the rules and restrictions laid out in the City of El Paso Municipal Code Water Conservation Ordinance 15.13.120 and EPWater Rules and Regulations.

#### STAGE 1: Drought Watch Response

**Target:** Achieve a voluntary **10% reduction** in total gallons per capita per day (GPCD).

##### Water Utility Measures:

- Increase public education and outreach regarding water use reduction
- Reduce landscape water consumption at all EPWater facilities by 10%
- Increase output by employing reserve wells, and maximizing reservoir holdings
- Cease routine line flushing and testing
- Cease routine fire hydrant flushing and testing
- Increase targeted outreach to high consumption ICI customers to urge water use reductions

### **Voluntary Water Use Restrictions:**

- Request residential customers reduce consumption by 10%
- Request all Industrial, Commercial, and Institutional (ICI) customers reduce consumption by 10%
- Request all other wholesale water purveyors comply with voluntary measures set forth by EPWater unless they have standing contracts with EPWater that detail existing drought measures

### **Mandatory Water Use Restrictions:**

None

## **STAGE 2: Drought Advisory Response**

**Target:** Achieve a voluntary **15% reduction** goal in total GPCD.

### **Water Utility Measures:**

- Increase public education and outreach regarding water use reduction
- Reduce landscape water consumption at all EPWater facilities by 15%
- Increase output by employing reserve wells, and maximizing reservoir holdings
- Cease routine line flushing and testing
- Cease routine fire hydrant flushing and testing
- Increase targeted outreach to high consumption ICI customers to urge water use reductions

### **Voluntary Water Use Restrictions:**

- Request residential customers reduce consumption by 15%
- Request all Industrial, Commercial, and Institutional (ICI) customers reduce consumption by 15%
- Request all other water purveyors comply with voluntary measures set forth by EPWater unless they have standing contracts with EPWater that detail existing drought measures

### **Mandatory Water Use Restrictions:**

Under threat of penalty for violation, the following water use restrictions shall apply to all institutional customers:

- All institutional customers (EPWater, City, County, Schools) are **required** to reduce non-essential water consumption by 15%

The Public Service Board may vote to implement any *mandatory* drought restrictions to its customers including both residential and commercial business accounts. This action by the Public Service Board is separate from a Declaration of Local Disaster by the Mayor and City Council in accordance with Chapter 418 of the Texas Government Code or any other action by the City Council deems necessary under the law for public health and safety purposes.

## **STAGE 3: Drought Warning Response**

**Target:** Achieve a **15% reduction** goal in total GPCD.

### **Water Utility Measures:**

- Increase public education and outreach regarding water use reduction
- Facilities landscape watering shall be reduced to 2 days a week
- Increase output by employing reserve wells, and maximizing reservoir holdings
- Cease routine line flushing and testing
- Cease routine fire hydrant flushing and testing
- Increase targeted outreach to high consumption ICI customers to urge water use reductions

**Mandatory Water Use Restrictions:**

All mandatory requirements of Stage 1 shall remain in effect during Stage 2, to also include:

- Landscape watering limited to 2 days a week
- No at home washing of cars, trailers, or trucks
- No draining or filling pools (except to maintain levels for filter function)
- Restaurants may only serve water upon request
- No use of ornamental fountains
- Tier 1 and 2 parks (as defined by City of El Paso Parks) may water as normal, tiers 3-5 reduce watering to twice a week, per table below
- Businesses that derive 75% of their income from watered plants (such as nurseries) shall be exempt from watering restrictions
- EPWater may also authorize additional personnel to issue notices of violation to enforce the Water Conservation Ordinance and the Drought Contingency Plan as well as increase public education and outreach regarding water use reduction.

**STAGE 4: Drought Action Stage Response**

**Target:** Achieve a **20% reduction** goal in total GPCD.

**Water Utility Measures:**

- Increase public education and outreach regarding water use reduction
- Facilities landscape watering shall be limited to one day a week
- Increase output by employing reserve wells, and maximizing reservoir holdings
- Cease routine line flushing and testing
- Cease routine fire hydrant flushing and testing
- Increase targeted outreach to high consumption ICI customers to urge water use reductions

**Mandatory Water Use Restrictions:**

All requirements of Stage 2 shall remain in effect during Stage 3, to also include:

- Fines for violations of DCP/Water Conservation Ordinance will be doubled
- Residential watering shall be limited to one day a week
- All permits and variances will be suspended, and no new ones will be issued
- Recreational use of potable water supplied by EPWater, to include waterparks/splashpads, is prohibited
- No potable water shall be used in construction for dust control
- No potable water shall be used in street sweeping operations
- Tier 1 and 2 parks (as defined by City of El Paso Parks) may water as normal, tiers 3-5 reduce to once a week, per table below

Property Type	Stage 3 (Twice per Week)	Stage 4 (Once per Week)
Residential – EVEN	Tuesday/Saturday	Tuesday
Residential – ODD	Wednesday/Sunday	Wednesday
Commercial/Multifamily	Tuesday/Friday	Friday
Schools/Parks	Monday/Thursday	Monday

**Emergency Event: Urgent Action Stage Response**

**Target:** Achieve a reduction goal to be determined by EPWater based on the nature of the emergency.

**Mandatory Water Use Restrictions:**



All requirements of previous stages shall remain in effect during the Emergency Stage, to also include:

- Landscape irrigation is prohibited
- Use of water to wash any vehicle or part of property is prohibited
- Fines for violation of any of the aforementioned restrictions will triple while in the Emergency Stage

## Section 10: Notification

### Notification of the Public:

The Chief Communications & Government Affairs Officer or designee shall notify the public with voluntary actions requested or mandatory actions needed according to given drought stages by using any combination of the following:

- public service announcements (radio/TV)
- social media announcements
- news media (online/print)
- signs posted in public places

### Additional Notification:

The President/ CEO or designee shall notify directly the following individuals and entities:

- Mayor
- City Manager
- Public Service Board
- City and/or County Emergency Management Coordinator(s)
- TCEQ (required when mandatory restrictions are imposed)
- Wholesale Customers
- Critical water users, i.e. hospitals
- Parks / street superintendents & public facilities managers

## Section 11: Operational and Administrative Framework

### Drought Task Force

The Vice President of Operations and Technical Services will convene the Drought Task Force at least annually and when drought conditions are anticipated to provide strategic direction on drought preparedness, planning, and response strategies. The Drought Task Force is made up of the following EPWater participants: President/CEO, Vice President of Operations and Technical Services, Vice President of Financial and Management Services, Chief Technical Officer, Chief Operations Officer of Treatment and Production, Conservation Manager, Water Systems Division Manager, Water Production Manager, Water Resources Manager, Chief Communications and Government Affairs Officer, and Chief Water Quality Officer. Senior leaders and additional members of the Task Force may participate depending on utility needs during the potential drought situation.

The following outlines roles and responsibilities for those undertaking each action necessary for each element of the plan.

DCP Process	Responsibility	Action
Review and Update of the Plan	Conservation Manager	Lead the review and update of the Plan with Task Force input ( <i>See Section 15</i> )
Public Involvement	Conservation Manager	Solicit public involvement to changes in the Plan ( <i>See Section 2</i> )
Region E Coordination	Water Resources Manager	Apprise Region E Planning Group of changes to DCP, solicit input, ensure coordination for Water Plan updates ( <i>See Section 4</i> )

<b>Monitoring</b>	Central Control Operator	Monitors system demand and provides daily report
	Water Production Manager	Monitors maximum system capacity daily
	Water Systems Division Manager	Graphs demand versus maximum system capacity. During peak season, this graph is monitored daily and presented to the Drought Task Force. <i>(See Section 11)</i>
<b>Recommendation to President/CEO</b>	Vice President of Operations & Technical Services	Notify the President/CEO with a recommendation to initiate drought stage when demand exceeds the percent capacities described in each stage of triggers.
<b>Determination to Initiate or End Drought Stages 1 and/or 2, and Emergency Stage</b>	President/CEO	Review the recommendation and make the administrative decision to initiate applicable voluntary drought stages 1 or 2 or emergency stage, or recommend to the PSB to initiate <i>(See Section 5)</i> mandatory drought stages 3, 4, or 5
<b>Determination to Initiate or End Drought Stages 3, 4 and 5</b>	Public Service Board (PSB)	Review the President/CEO recommendation, and vote to initiate mandatory drought stages 3, 4, or 5
<b>Stakeholder and Public Notifications of Drought</b>	President/CEO (or designee)	Notify key stakeholders of drought stage <i>(See Section 10)</i>
	Communications Manager	Provide public outreach of drought stage, requesting voluntary or mandatory reductions in consumption <i>(See Section 10)</i>
<b>Enforcement</b>	Chief Water Quality Compliance Officer	Lead enforcement activities <i>(See Section 12 and Appendix B)</i>
<b>Ongoing Customer Education</b>	Communications Manager	Develop and implement strategies annually to increase awareness of the DCP <i>(See Section 3)</i>

## Section 12: Enforcement and Variances

In accordance with Section 15.13.080 of the City of El Paso Municipal Code, any person violating provisions of this Drought Contingency Plan shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine not less than fifty dollars and not to exceed five hundred dollars. Each separate violation of the Drought Contingency Plan shall be deemed a separate offense and shall be punished accordingly.

Each Wholesale Customer shall be responsible for implementing and enforcing the measures of this Drought Contingency Plan as communicated by EPWater. Additionally, EPWater will seek any and all remedies available under each individual Wholesale Agreement if any Wholesale Customer fails to implement and enforce the provisions of this Drought Contingency Plan.

Nothing shall prevent either the Public Service Board from seeking compliance with or enforcement of this Drought Contingency Plan, from seeking injunctive relief in a court of competent jurisdiction, or from utilizing any other civil or equitable remedy to enforce this Drought Contingency Plan. The Public Service Board's attorneys are authorized to institute injunctive relief, or any other civil action deemed necessary to enforce compliance with the provisions of this chapter.

Any Customer seeking a variance to the Plan shall file an appeal in accordance with Section III Variances of EPWater Rules and Regulations No. 17.

## Section 13: Wholesale Water Customers

In accordance with Texas Water Code Section 11.039, when necessary, as determined by EPWater, water deliveries to wholesale water customers may be curtailed on a pro-rata basis. Every wholesale water contract entered into or renewed after adoption of this Plan, including contract extensions, shall include a provision that in the case of a drought, water shortage, or water emergency declaration, water is to be distributed in accordance with Texas Water Code Section 11.039.

All stages of this Drought Contingency Plan are applicable to wholesale water customers. Each wholesale customer shall include in their Drought Contingency Plan appropriate provisions to implement and enforce the response stages of this Plan. Each Wholesale Customer shall be responsible for implementing the measures of this Drought Contingency Plan as communicated by EPWater and to enforce the restrictions with their respective retail customers.

## Section 14: Mitigation Actions based on Assessment

EPWater has completed a comprehensive Drought Vulnerability Assessment that identifies three critical resources in the El Paso Water service area (surface water, groundwater and infrastructure) and how drought impacts these resources. The assessment considered future water conditions and uncertainties, including climate variability and changing demand, and identified a range of potential drought mitigation strategies. These are classified herein as long-term drought resilience projects and shorter-term drought stress relief projects.

As part of the Drought Vulnerability Assessment and consistent with El Paso Water's 2021 Integrated Water Management Strategies Report, five long-term water management strategies are identified to address potential future water supply deficits. Collectively, El Paso Water estimates that these alternative supplies and conservation programs could amount to over 60,000 AFY by 2070.

**Table 8.1 El Paso Water Recommended Water Management Strategies per the 2021 IWMS Report**

Strategy Number	Recommended Water Management Strategy	Source	Affected Aquifers	Strategy Supply by Decade (Acre-Feet Per Year)					
				2020	2030	2040	2050	2060	2070
R-1	Municipal Conservation Programs	Conservation	Both	4,950	5,530	5,080	9,950	13,140	17,820
R-2	Advanced Water Purification Facility at the Bustamante WWTP	Municipal Wastewater	Hueco	8,500	9,200	9,900	10,600	10,600	10,600
R-3	Hueco Bolson Artificial Recharge <sup>1</sup>	Rio Grande	Hueco		5,000	5,000	5,000	5,000	5,000
R-4	Surface Water Augmentation	Irrigation Canal	Mesilla		(begin)	4,480	6,940	6,940	6,940
R-5 <sup>2</sup>	GW from Dell City Area (Phase I)	Capitan Reef Complex Aquifer	Hueco			10,000	10,000	10,000	10,000
	GW from Dell City Area (Phase II)	Bone Spring–Victorio Peak Aquifer					10,000	10,000	10,000
Total				13,450	19,730	34,460	52,490	55,680	60,364

<sup>1</sup> The 2021 IWMS Report indicates that “the Hueco Bolson Aquifer has been successfully recharged with tertiary treated wastewater from the Fred Hervey Water Reclamation Plant” up to rates of 10,000 AFY. It is assumed that the additional 5,000 AFY cited above is in addition to this, up to a total of 15,000 AFY.

<sup>2</sup> Whether in one or two phases, the impacts on water reliability for the purposes of this study would be the same: Full capacity of 20,000 AFY by 2050, and all of this water used to offset water needs from the Hueco Bolson Aquifer.

- **Municipal Conservation Programs and Water Reuse:** El Paso Water has been implementing an aggressive water conservation program for over 30 years with actions such as adoption of a rate structure that encourages conservation, restrictions on residential watering, rebate programs for residential and commercial customers, public education, and enforcement. Water Reuse is also considered a conservation strategy by the TWDB. El Paso currently has a ‘purple pipe’ water reuse program that provides treated wastewater for irrigation of golf courses, city parks, school grounds, and apartment landscapes, construction and industrial use, and aquifer recharge. Over time, this has significantly helped reduce demand on fresh water to current levels.
- **Advanced Water Purification.** El Paso Water is also in the process of implementing direct potable reuse through an Advanced Water Purification Facility adjacent to the Roberto R. Bustamante Wastewater Treatment Plant. The wastewater plant currently discharges approximately 27 mgd into the Riverside Irrigation canal and 1.5 mgd to reclaimed water “purple pipe” customers as part of the Mission Valley Reclaimed Water Project. The Advanced Water Purification strategy includes additional conventional wastewater treatment at the existing plant to remove nutrients, an advanced treatment facility (microfiltration/ultrafiltration, nanofiltration or reverse osmosis, ultraviolet/advanced oxidation process, activated carbon, and chlorine disinfection) and storage. The purified water will be placed directly into the distribution system with anticipated additional supply of 10,600 AFY by 2050.
- **Reclaimed Water for Increased Groundwater Recharge**  
Aquifer recharge using both treated wastewater effluent and available surface water can mitigate aquifer overdraft and potentially restore groundwater supplies. El Paso Water has recharged approximately 80,000 AF of wastewater treated to drinking water standards back into groundwater since the mid-1980s. This equates to approximately 2,000 AFY over that period, on average. This value could increase to approximately 15,000 AFY based on existing and new facilities discharging to the Hueco Bolson aquifer. This increase is evaluated in the simulation scenarios that follow.
- **Surface Water Augmentation:** El Paso Water plans to implement this project in multiple phases. The first phase will begin in the decade of 2030 with new supply of about 4 MGD (4,480 AFY). The second phase will be in the decade of 2040 with new supply of 6.4MGD (6,940 AFY). It is expected to primarily offset demand in the Mesilla Bolson aquifer.

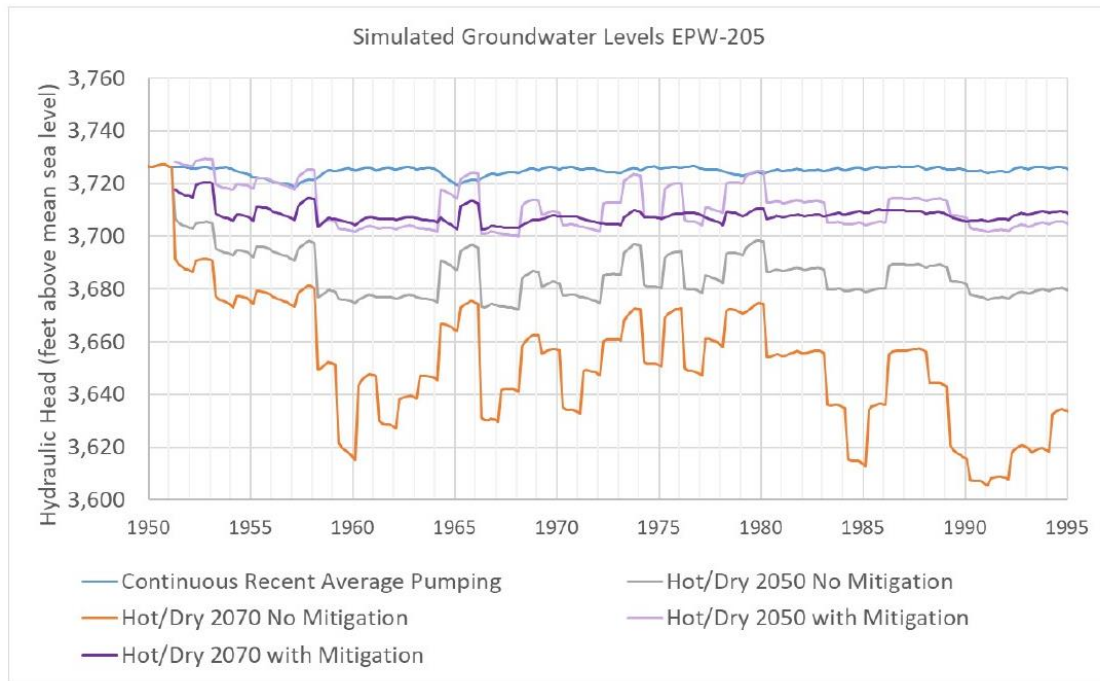
The Drought Vulnerability Study simulated climate and demand scenarios with the combined effect of aquifer recharge and multiple demand offsets. Results of the Hot/Dry scenario are shown below.

**Table 8.2 Drought Mitigation Simulation Scenarios**

Aquifer	Scenario ID	Climate Scenario <sup>1</sup>	Mitigation	Mitigation: Demand Offsets				Total Demand Offsets <sup>4</sup>
			Aquifer Recharge <sup>5</sup>	Conservation <sup>2</sup>	Advanced Purification	Surface Water Augmentation	Importation <sup>3</sup>	
Hueco Bolson	9	Hot/ Dry 2050	15,000 AFY	7,463 AFY	10,600 AFY	--	20,000 AFY	28,063 AFY
	10	Hot/ Dry 2070	15,000 AFY	13,365 AFY	10,600 AFY	--	20,000 AFY	33,965 AFY
Mesilla Bolson	11	Hot/ Dry 2050	---	2,488 AFY	--	6,940 AFY	--	19,428 AFY
	12	Hot/ Dry 2070	---	4,455 AFY	--	6,940 AFY	--	21,395 AFY

1. These scenarios focus on worst case climate and demand conditions, with most aggressive drought mitigation strategy. All scenarios use a hydrologic input 1950-1999 altered by climate change scenario factors.
2. Conservation estimates assume approximately 75 percent of the conserved volume in **Table 8.1** can be attributed to the Hueco Bolson and 25 percent to the Mesilla Bolson.
3. Importation estimates assume that the 20,000 AFY R-5 total in **Table 8.1** will offset demand from the Hueco Bolson only.
4. Total demand offsets represent the collective impact of future conservation efforts in the form of decreasing gpcd, advanced water purification for direct potable reuse, and water importation – See **Table 8.1**.
5. 15,000 AFY of Aquifer Recharge Assumes an upper limit of 10,000 AFY of existing capacity and 5,000 AFY of new capacity by 2030.

In the graph that follows, comparisons show current groundwater pumping with projections for pumping in 2050 and 2070 with no mitigation projects and with implementation of mitigation projects under a hot/dry climate scenario.



In addition to the long-term drought resilience projects that will contribute to water supply sustainability, El Paso Water has identified the following shorter-term projects to consider for drought stress relief. Most of these projects can be implemented in a shorter timeframe of 1-3 years.

Shorter Term Drought Stress Relief Projects	Implementation Timeline
Drilling and equipping new groundwater wells in the Hueco Bolson	< 1 year to implement
Optimizing lower valley well heads	< 1 year to implement
Acquisition of water rights from farmers or others for additional source water augmentation	< 1 year to implement
Agricultural Public-Private partnership agreements (i.e., water efficient irrigation investments in exchange for certain water rights)	< 1 year to implement
Installation of additional water control and measurement structures throughout the service area	< 1 year to implement
Rehab and optimize existing wellheads	< 1 year to implement
Reverse Osmosis Systems and/or CERRO projects on wellheads to take more advantage of brackish groundwater supplies	< 2 years to implement
Water storage projects to expand storage during drought and be able to better move water around the city per demand	< 3 years to implement
Larger diameter pipelines to better move system water to locations for aquifer recharge	< 3 years to implement
Industrial private-public partnerships to take cooling process water and treat for ASR	< 3 years to implement

Stormwater projects with green infrastructure elements that allow infiltration and aquifer recharge	<3 years to implement
Regulating reservoir in conjunction with the El Paso County Water Improvement District #1	3-5 years to implement

## Section 15: Review and Update of the Plan

EPWater will review and update the Plan consistent with State law requirements. If the Plan is implemented during a water shortage, data obtained during the Plan implementation will be used to make any necessary modifications to the Plan. Additionally, the Plan will be updated as appropriate based on new or updated information regarding the system's delivery capacity. The Plan is to be submitted to TCEQ concurrently every 5 years with EPWater's Water Conservation Plan.

## Section 16: Actions to Recover from a Drought

In the event of service disruptions as a result of drought or an emergency, EPWater will develop a lessons-learned document and/or after-action report to keep a record of response activities. Based on these lessons learned, updates should be made to vulnerability assessments, Emergency Response Plan, and the Drought Contingency Plan. Other actions following the drought should include:

- Be prepared for a spike in water demand. Once normal service has been restored after a period of time with restricted usage, customers will address those domestic water needs that were postponed.
- Continued communication to customers to thank them for cooperation and to encourage sustained water conservation measures and practices.
- Identify and prioritize mitigation and long-term adaptation measures that can prevent damage and increase utility resilience.



## Appendix A

For the purposes of this Plan, the following definitions shall apply:

**Aesthetic water use:** water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

**Available Capacity:** the projected firm capacity of the EPWater system to deliver water based on the number of wells in service, water treatment plant production capacity and available river supplies and/or allotments, in-service booster pumping capacity impacted by equipment outages and/or other factors. The capacity is usually expressed in available million gallons per day and shall be as stated or expressed by the EPWater's Water Systems Division Manager.

**Brackish groundwater:** distastefully salty water less saline than seawater (between 1,000 and 10,000 ppm [parts per million] in total dissolved solids).

**Commercial and institutional water use:** water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

**Conservation:** those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling reuse of water so that a supply is conserved and made available for future or alternative uses.

**Customer:** any person, corporation, partnership, association, organization, or other legal entity using water supplied by El Paso Water.

**Drought Contingency Plan (DCP):** A drought contingency plan or DCP is a strategy or combination of strategies that a water supplier develops and implements to monitor and respond to a drought or other temporary water supply shortage that can severely disrupt the supply of water to customers.

**Domestic water use:** water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

**Drought Management Task Force (Task Force):** the internal group of representatives from various sections of the utility including (but not limited to), to President/CEO, Vice President of Operations and Technical Services, Vice President of Financial and Management Services, Chief Technical Officer, Chief Operations Officer of Treatment and Production, Water Conservation Manager, Water Systems Division Manager, Water Production Manager, Water Resources Manager, Chief Communications and Government Affairs Officer, and Chief Water Quality Officer.

**Essential Water Use:** water use necessary for firefighting, health and safety, water needed to sustain human and animal life, and water necessary to satisfy federal, state and local public health, safety and environmental protection requirements.

**ICI:** Industrial, Commercial, and Institutional

**Potable Water:** water that is suitable for drinking by the public.

**Non-Essential Water Use:** water use that does not have any health or safety impacts and is not required by regulation or required by the City. **Task Force:** **(see Drought Management Task Force)**

**Water Conservation Plan (WCP):** EPWater's documentation showing water conservation progress and future that is updated and released every 5 years.

**Water Supply Portfolio:** diversification of water sources to include groundwater, surface water, conservation, water recycling and reuse, importation, harvesting and desalination.

**Wholesale:** any water supplier that receives all or a portion of its treated water supply from EPWater

## Appendix B

### RULES AND REGULATIONS NO.17

RULES AND REGULATIONS  
GOVERNING THE  
THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD DROUGHT CONTINGENCY PLAN

BY THE AUTHORITY VESTED IN THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD, TRUSTEES, UNDER TEXAS GOVERNMENT CODE SECTION 1502.070, CITY ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS MAY 22, 1952, AS AMENDED, TITLE 30 TEXAS ADMINISTRATIVE CODE SECTIONS 288.20 AND 288.22 AND CHAPTER 15.13 WATER CONSERVATION OF THE EL PASO MUNICIPAL CODE; NOW THEREFORE BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULE AND REGULATION NO. 17 CONCERNING THE DROUGHT CONTINGENCY PLAN IS HEREBY ESTABLISHED.

#### SECTION I GENERAL

The El Paso Water Utilities-Public Board adopts the Drought Contingency Plan in Exhibit “A” of these Rules and Regulations No. 17 in compliance with the requirements with the Texas Administrative Code Sections 288.20 and 288.22. The attached Exhibit “A” is hereby incorporated to these Rules and Regulations No. 17.

#### SECTION II ENFORCEMENT

In accordance with Section 15.13.080 of the City of El Paso Municipal Code, any person violating any provision of these Rules and Regulations No. 17 shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not less than fifty dollars and not to exceed five hundred dollars. Each separate violation of the Drought Contingency Plan shall be deemed a separate offense and shall be punished accordingly.

Each Wholesale Customer shall be responsible for implementing and enforcing the measures of the Drought Contingency Plan as communicated by EPWater. Additionally, EPWater will seek any and all remedies available under each individual Wholesale Agreement if any Wholesale Customer fails to implement and enforce the provisions of the Drought Contingency Plan.

Nothing shall prevent either the Public Service Board from seeking compliance with or enforcement of these Rules and Regulations No. 17, from seeking injunctive relief in a court of competent jurisdiction, or from utilizing any other civil or equitable remedy to enforce these Rules and Regulations No. 17. The Public Service Board's attorneys are authorized to institute injunctive relief or any other civil action deemed necessary to enforce compliance with the provisions of this chapter.



### SECTION III VARIANCES

Customer-specific variances may be granted in cases of hardship or special conditions. After recommendation by the Water Conservation Manager, the President/CEO, Vice President of Operations and Technical Services, Vice President of Financial and Management Services, will consider a hardship or special conditions case to determine whether a particular circumstance warrants a variance. A variance shall be granted only for reasons of severe economic hardship, medical hardship or for a legitimate public health concern.

### SECTION IV RIGHT OF APPEAL

For matters other than variances, the Customer may appeal in writing any ruling or action of the Utility or its agents to the PSB in accordance with the procedures established in Rules and Regulations No. 8. Any Customer who does not appeal such a ruling or action in accordance with these procedures within 60 days of the date of the issuance of the ruling or action shall waive any right to contest such action or ruling. The PSB, at its own discretion, may affirm, modify, limit or condition the ruling of the Utility or may defer final decision on the appeal in accordance with Rules and Regulations No. 8.

### SECTION V SEVERABILITY

These Rules and Regulations are part of the other Rules and Regulations of the PSB and persons accepting service agree to comply with the appropriate provisions and conditions of all of the Rules and Regulations. If any provision, paragraph, section, subsection, sentence, clause or phrase of these Rules and Regulations No. 17 or the application of same to any person or set of circumstances is for any reason invalidated by any court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 17. The remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect.

### SECTION VI SAVINGS

These Rules and Regulations No. 17 are part of the other Rules and Regulations adopted by the El Paso Water Utilities Public Service Board, and, save and except as amended hereby, the remaining provisions of the El Paso Water Utilities Public Service Board's Rules and Regulations shall remain in full force and effect.

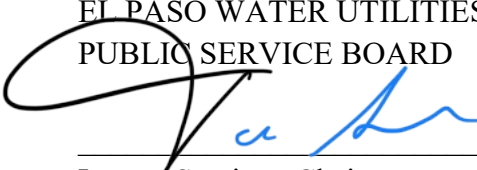
### SECTION VII EFFECTIVE DATE

These Rules and Regulations No. 17 shall be and become effective from and after its adoption hereby and shall remain in effect until otherwise amended by the El Paso Water Utilities Public Service Board.

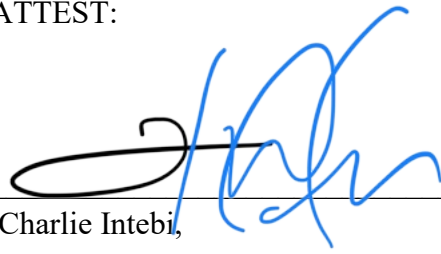
PASSED, APPROVED and ADOPTED this 14<sup>th</sup> day of March, 2012 by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

PASSED, APPROVED and ADOPTED this 10th day of April, 2024 by the El Paso Water Utilities Public Service Board,

EL PASO WATER UTILITIES  
PUBLIC SERVICE BOARD

  
\_\_\_\_\_  
Ivonne Santiago, Chair

ATTEST:

  
\_\_\_\_\_  
Charlie Intebi,  
Secretary-Treasurer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel Ortiz,  
General Counsel

**Exhibit "A"**

**Drought Contingency Plan**

## Appendix C

### **Texas Administration Code Title 30, Chapter 288, Subchapter B, Rule § 288.20 Drought Contingency Plan for Municipal Uses by Public Water Suppliers**

(a) A drought contingency plan for a retail public water supplier, where applicable, must include the following minimum elements.

(1) Minimum requirements. Drought contingency plans must include the following minimum elements.

(A) Preparation of the plan shall include provisions to actively inform the public and affirmatively provide opportunity for public input. Such acts may include, but are not limited to, having a public meeting at a time and location convenient to the public and providing written notice to the public concerning the proposed plan and meeting.

(B) Provisions shall be made for a program of continuing public education and information regarding the drought contingency plan.

(C) The drought contingency plan must document coordination with the regional water planning groups for the service area of the retail public water supplier to ensure consistency with the appropriate approved regional water plans.

(D) The drought contingency plan must include a description of the information to be monitored by the water supplier, and specific criteria for the initiation and termination of drought response stages, accompanied by an explanation of the rationale or basis for such triggering criteria.

(E) The drought contingency plan must include drought or emergency response stages providing for the implementation of measures in response to at least the following situations:

(i) reduction in available water supply up to a repeat of the drought of record;

(ii) water production or distribution system limitations;

(iii) supply source contamination; or

(iv) system outage due to the failure or damage of major water system components (e.g., pumps).

(F) The drought contingency plan must include specific, quantified targets for water use reductions to be achieved during periods of water shortage and drought. The entity preparing the plan shall establish the targets. The goals established by the entity under this subparagraph are not enforceable.

(G) The drought contingency plan must include the specific water supply or water demand management measures to be implemented during each stage of the plan including, but not limited to, the following:

(i) curtailment of non-essential water uses; and

(ii) utilization of alternative water sources and/or alternative delivery mechanisms with the prior approval of the executive director as appropriate (e.g., interconnection with another water system, temporary use of a non-municipal water supply, use of reclaimed water for non-potable purposes, etc.).

(H) The drought contingency plan must include the procedures to be followed for the initiation or termination of each drought response stage, including procedures for notification of the public.

(I) The drought contingency plan must include procedures for granting variances to the plan.

(J) The drought contingency plan must include procedures for the enforcement of mandatory water use restrictions, including specification of penalties (e.g., fines, water rate surcharges, discontinuation of service) for violations of such restrictions.

(2) Privately-owned water utilities. Privately-owned water utilities shall prepare a drought contingency plan in accordance with this section and incorporate such plan into their tariff.

(3) Wholesale water customers. Any water supplier that receives all or a portion of its water supply from another water supplier shall consult with that supplier and shall include in the drought contingency plan appropriate provisions for responding to reductions in that water supply.

(b) A wholesale or retail water supplier shall notify the executive director within five business days of the implementation of any mandatory provisions of the drought contingency plan.

(c) The retail public water supplier shall review and update, as appropriate, the drought contingency plan, at least every five years, based on new or updated information, such as the adoption or revision of the regional water plan.

## **Texas Administration Code**

### **Title 30, Chapter 288, Subchapter B, Rule § 288.22**

### **Drought Contingency Plan for Wholesale Water Suppliers**

(a) A drought contingency plan for a wholesale water supplier must include the following minimum elements.

(1) Preparation of the plan shall include provisions to actively inform the public and to affirmatively provide opportunity for user input in the preparation of the plan and for informing wholesale customers about the plan. Such acts may include, but are not limited to, having a public meeting at a time and location convenient to the public and providing written notice to the public concerning the proposed plan and meeting.

(2) The drought contingency plan must document coordination with the regional water planning groups for the service area of the wholesale public water supplier to ensure consistency with the appropriate approved regional water plans.

(3) The drought contingency plan must include a description of the information to be monitored by the water supplier and specific criteria for the initiation and termination of drought response stages, accompanied by an explanation of the rationale or basis for such triggering criteria.

(4) The drought contingency plan must include a minimum of three drought or emergency response stages providing for the implementation of measures in response to water supply conditions during a repeat of the drought-of-record.

(5) The drought contingency plan must include the procedures to be followed for the initiation or termination of drought response stages, including procedures for notification of wholesale customers regarding the initiation or termination of drought response stages.

(6) The drought contingency plan must include specific, quantified targets for water use reductions to be achieved during periods of water shortage and drought. The entity preparing the plan shall establish the targets. The goals established by the entity under this paragraph are not enforceable.

(7) The drought contingency plan must include the specific water supply or water demand management measures to be implemented during each stage of the plan including, but not limited to, the following:

(A) pro rata curtailment of water deliveries to or diversions by wholesale water customers as provided in Texas Water Code, §11.039; and

(B) utilization of alternative water sources with the prior approval of the executive director as appropriate (e.g., interconnection with another water system, temporary use of a non-municipal water supply, use of reclaimed water for non-potable purposes, etc.).

(8) The drought contingency plan must include a provision in every wholesale water contract entered into or renewed after adoption of the plan, including contract extensions, that in case of a shortage of water resulting from drought, the water to be distributed shall be divided in accordance with Texas Water Code, §11.039.

(9) The drought contingency plan must include procedures for granting variances to the plan.

(10) The drought contingency plan must include procedures for the enforcement of any mandatory water use restrictions including specification of penalties (e.g., liquidated damages, water rate surcharges, discontinuation of service) for violations of such restrictions.

(b) The wholesale public water supplier shall notify the executive director within five business days of the implementation of any mandatory provisions of the drought contingency plan.

(c) The wholesale public water supplier shall review and update, as appropriate, the drought contingency plan, at least every five years, based on new or updated information, such as adoption or revision of the regional water plan.

## Appendix D



Annette Gutierrez – Executive Director  
8037 Lockheed, Ste. 100  
El Paso, Texas 79925

Phone: (915) 533-0998  
Fax (915) 532-9385  
[www.riocog.org](http://www.riocog.org)

Wednesday, March 27, 2024

Alex Fashing  
Water Conservation Specialist, El Paso Water  
10751 Montana Avenue  
El Paso, Texas 79961-0511

Dear Alex,

As the sponsoring entity of Region E's Water Planning group, known as the Far West Texas Water Planning Group, I am writing this letter to document that our group has reviewed your 2024 Drought Contingency Plan. We do not have any concerns with the document, and we are in support of your efforts.

If you have any questions, please contact me at 915-533-0998, ext. 114, or [annetteg@riocog.org](mailto:annetteg@riocog.org). Thank you.

Sincerely,

A handwritten signature in black ink that reads "Annette Gutierrez".

Annette Gutierrez  
Executive Director

## RULES AND REGULATIONS NO. 18

### RULES AND REGULATIONS GOVERNING CERTAIN EL PASO WATER PROCUREMENTS NECESSARY TO PRESERVE OR PROTECT THE PUBLIC HEALTH OR SAFETY

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111-1118, REVISED CIVIL STATUTES OF TEXAS, AND ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON MAY 22, 1952, AND AS THEREAFTER AMENDED, CHAPTER 552 OF THE TEXAS LOCAL GOVERNMENT CODE, AS AMENDED AND ORDINANCE 016668, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS ON JUNE 19, 2007; NOW, THEREFORE BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, THAT THE FOLLOWING RULES AND REGULATIONS ARE HEREBY ESTABLISHED:

#### SECTION I - GENERAL

The El Paso Water Utilities Public Service Board ("EPWater") is vested with complete authority and control of the management and operation of the water, wastewater, and stormwater systems ("Systems"). As part of the management and operation of the Systems, EPWater procures goods and services in accordance with all applicable procurement laws. Under Section 252.022(a)(2) of the Texas Local Government Code, procurements necessary to preserve or protect the public health or safety of EPWater's customers are exempt from the bidding requirements under state law. The public health or safety exemption does not require a public calamity or emergency to exist. EPWater has a fiduciary duty to conduct all procurements in a fiscally responsible manner so as to achieve the best value.

When operational circumstances permit, EPWater achieves the best value by issuing a solicitation that expressly reserves the right to award to one or more bidders to provide essential services or goods necessary to preserve or protect the public health or safety.

These Rules and Regulations only apply to procurements that meet four conditions: 1) public health or safety exemption applies to the procurement; 2) the procurement falls under a category described in Section II of these Rules and Regulations; 3) it is necessary to engage more than one vendor; and 4) time allows for a bid to receive the best value for the Utility.

#### SECTION I-A – BOARD FINDINGS WHEN AWARDING BIDS

For each procurement under these Rules and Regulations, the Public Service Board ("Board") shall make a motion to approve the award of the solicitation and to adopt the following findings:

1. That the Texas public health or safety bidding exemption applies;
2. That multiple vendors are required to ensure continuity of utility services; and
3. That the public notice requirements under these Rules and Regulations have been satisfied.

#### SECTION II – CATEGORIES OF GOODS AND SERVICES

The Board identifies the following categories of goods and services that are necessary to preserve or protect the public health or safety of EPWater's customers for which EPWater will issue a solicitation, if operational circumstances permit, and which may be awarded to more than one bidder if there is more than one bidder that is responsive and responsible:

1. Water/Wastewater Treatment
2. Water/Wastewater Quality Monitoring
3. Lab Equipment and Testing Services
4. Paving
5. Traffic Control and Safety Services
6. Maintenance of Critical Infrastructure
7. Other categories as expressly identified by the Board in its findings as essential to preserve public health or safety

The Board identifies the above categories are essential to the continuity of critical infrastructure and provision of services directly related to delivering safe and reliable water, wastewater and stormwater services. The potential award of more than one vendor for these goods and services will ensure that EPWater will timely, efficiently and effectively be able to preserve and protect the good health and safety of EPWater customers in advance of any single vendor's inability to perform.

### SECTION III – PUBLIC NOTICE

These Rules and Regulations acknowledges that although a statutory bidding exemption applies to the identified categories of goods and services, EPWater may engage in a transparent notice and bidding process. The Board prefers to engage in a public competitive process to ensure the best value for ratepayers when circumstances permit.

In addition to the notice requirements under the bidding statute, any solicitation issued by EPWater, in accordance with these Rules and Regulations, will contain language to provide notice to potential bidders of the potential for EPWater to award to more than one bidder.

These Rules and Regulations do not prevent EPWater from exercising its discretion to procure goods and services without competitive bidding requirements pursuant to an applicable bidding exemption under state law.

### SECTION IV - SEVERABILITY

These Rules and Regulations are part of the other Rules and Regulations of the Board and persons accepting service agree to comply with the appropriate provisions and conditions of all of the Rules and Regulations. If any provision, paragraph, section, subsection, sentence, clause or phrase of these Rules and Regulations No. 18 or the application of same to any person or set of circumstances is for any reason invalidated by any court of competent jurisdiction, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of these Rules and Regulations No. 18. The remaining provisions, paragraphs, words or sections shall not be affected and shall continue in full force and effect.

### SECTION V - SAVINGS

These Rules and Regulations are a part of the other Rules and Regulations of the Board and, save and except as amended hereby, the remaining provisions of the Board's Rules and Regulations shall remain in full force and effect.

### SECTION VI - EFFECTIVE DATE


These Rules and Regulations No. 18 shall be and become effective from and after its adoption hereby and shall remain in effect until otherwise amended by the El Paso Water Utilities Public Service Board.

[Signatures on the Following Page]



RULES & REGULATIONS NO. 18 PASSED, APPROVED and ADOPTED the 10<sup>th</sup> day of September 2025, by the Public Service Board of the City of El Paso, Texas.

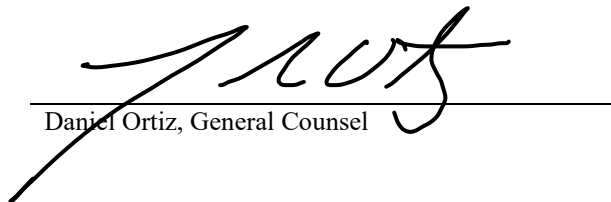
PUBLIC SERVICE BOARD

  
\_\_\_\_\_  
Bryan Morris, Chair

ATTEST:

  
\_\_\_\_\_  
Stefanie Block Uribarri, Secretary-Treasurer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel Ortiz, General Counsel