

# RULES AND REGULATIONS OF

## Lower Arroyo Hondo MDWCA

#287 E. Vigil rd.

These rules and regulations are issued in compliance with the bylaws of the association, and **are designed to govern the supplying and taking of services rendered by the association.** They are subject to change from time to time by a majority vote of the board of directors.

If a provision of the rules and regulations should conflict with a provision of the bylaws, the bylaw provision will prevail.

### PROCEDURE FOR ESTABLISHING RULES & REGULATIONS

1. Proposals for establishing policies may be presented to the board of directors by either the employees or any director of the association.
2. Members of the association may also petition the board for implementation or amendment of the rules.
3. Each proposed policy will be evaluated by the board.
4. The final policy must be approved by majority vote of the board in order for it to become official.
5. The passage of a rule will be documented in the minutes of the board meeting at which the policy was approved.
6. Additional rules will be numbered according to the year passed and the sequence numbers as seeing in these Rules.

RULES AND REGULATIONS  
OF  
Lower Arroyo Hondo Mutual Domestic Water Consumers Association

DEFINITIONS

**Membership Certificate.** A document issued to approved members. Membership certificates can only be transferred to another property owner upon sale or conveyance of said property. Membership fees are non-refundable.

**Member.** One who holds a membership certificate that accompanies a physical property in the community and that has been approved by the board of directors.

**Membership Status.** A property owner (s) may own more than one membership certificate. However, they are entitled to one vote only.

**Membership in Good Standing.** One who is *not* past due or delinquent to the Association. An explanation of past due and delinquent is provided in these Rules.

**Residential Unit/dwelling.** It includes a garage, shed, barn, guest house, shop/studio, but not a set rental units. Any guest house/apartment/ or investment dwelling within the same property that is occupied by another family either, renters, friends or relatives will be considered a separate Unit/dwelling and must acquire its own membership. The Association may charge commercial rates to rental units in the same property which do not have its own membership.

**Commercial Unit:** a non residential establishment used for business or commercial purpose.

**Institutions:** churches, the community center, and other non profit organizations.

**Type of Membership:**

- **Active Users:** members who are using the service every day or most of the year.
- **Active Non-Users:** members who have a connection but are not using the service, for example a vacant home or an outside connection.
- **Active Seasonal:** members who have a connection and use the service seasonally, for example during the summer, holidays, some weekends.

- **Inactive Users:** members who have a certificate and have the option to connect to the association but have chosen not to do so. There is a membership on paper but no connection.

**Membership Fee:** A *non refundable* fee assessed to each certificate of membership to cover administrative expenses and meter maintenance. It is NOT the same as a hook up fee or any other fee.

**Hook up Fee:** The actual cost that must be paid to the association for the connection of water services from the association lines to the public right of way or association easement. By federal and state law, the connection must be completed with a certified operator present. The fee paid to the Association includes the meter. Other connection costs such as the metering facilities, the connection, labor, and materials will be paid by the member to contractors either hired by the member or the Association.

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MEMBERSHIP PURCHASE, APPROVAL, TRANSFER

**1.A. Application for Membership.** As stated in the bylaws water service will be available subject to the availability of water. Any person in the community who owns a house or who owns property or is inherited property in the community to build a house within the community water system, even if said person does not reside in the community at present but intends to reside within one year from the purchase date of the membership may apply to purchase a membership from this Association following the process below.

**1. B. Application Process:** To obtain water services, the applicant must purchase a membership certificate into the association following these steps.

**I. Bring the following to the secretary of the board or to the regular board meeting:**

1. A completed and signed Water Users Agreement/Certificate of Membership
2. Payment by check or Money Order of a non-refundable membership fee and a plan as to how you will pay for hook up fees and other fees as stated in the Water Users Agreement.
3. Proof of property ownership as stated in the Water Users Agreement
4. Approximate physical location to install the metering facility. Please draw a map of your property showing approximately location to install the meter. If you have a survey of the property, you can use that to show where you want the meter to be located.

**II. Approval of the Application.** Upon submitting of the requirements stated above the board will promptly review and make its decision. Incomplete applications may be grounds for denial of service. If membership application is disapproved, the membership fee will be returned.

**III. Notification of Approval.** Once the application has been approved, the member will be notified by the association along with any amount due, which must be paid in full before connecting to the system.

**IV. Services Ready to be Connected.** At the time the member is ready to be connected to the system and has completed all requirements as stated above, a

metering facility will be placed **by the Association's certified operator** at the main water line easement and all connection costs will be paid by the member. **Violation** of this policy will result in cancellation of membership and payment of any federal and/or state fines in case the water system gets contaminated.

**V. Issuance of a Certificate of Membership.** After all necessary fees have been paid in full a Membership Certificate and/or a copy of the signed Water Users Agreement will be issued and mailed or given to the new member.

**1.C. Water Services for Rental Property.** The property owner will be the member and responsible for all bills incurred to the association.

**1. D. Disconnection of Illegal/Unauthorized Connections.** Pursuant to the SPA, NMSA 1978, 3-29-6.D, the association will disconnect, after notice:

- a. unauthorized service connections (those who notify the association but proceed to connect before the application approval process has been completed);
- b. illegal service connections (those who connect without notifying the association);
- c. service connections for which charges are delinquent in payment.

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PROVIDING WATER SERVICES

2. A. Water Services Ready to Use: Minimum Charge. Water Services will be considered ready to use when the application process has been completed, the application has been approved, regardless of whether or not the member makes use of it, and charges will be made for services as of this date. Minimum charges will apply to **all membership certificates** and must cover at least the association's fixed expenses.

2. B. Service Deactivation and Reactivation. Members who temporarily will be **out** of their residence may choose to have the water services disconnected by the association during their absence. The service activation and deactivation will be completed by the Association's Certified Operator or by its agent as required by law and the member will pay actual costs incurred for these services. The request for this service must be made at a regularly scheduled meeting of the board or in writing and sent by certified mail and/or with proof of receipt.

2. C. Multiple Services Connections are illegal. As stated above each residential unit/dwelling must have its own membership certificate, thus meter facilities. Multiple residence connections into **one** residential meter are prohibited by funding agencies and are unfair to the members of the association. Water service is for the sole use of the member, his agent(s) or tenant(s) **at the location requested**, and does not permit the transfer or cross-connection of water by any means to another dwelling or place of business. Members who allowed multiple residence connections may be disconnected from the system.

2. D. Connection to Private System/Well. There will be no physical connection between any private water system/well and the water system of the association. Violation of this provision is cause for disconnection of a member's Water Services. If a back flow prevention valve is required to be installed, the member will pay for all expenses incurred.

2. E. Continuity of Service. The association will make all reasonable efforts to supply continuous, uninterrupted service. However, it will have the right to interrupt service for the purpose of making repairs, connections, line extensions, or for other necessary work. Efforts will be made to notify members who may be affected by such interruptions, but the association will not accept responsibility for losses, which might occur due to such necessary interruptions of service or shortage of water supply.



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THE METER/METERING FACILITIES

3. A. Metering of Water Service. Water service will be metered to each individual dwelling or place of business with an approved membership certificate.

- o Several residences/dwellings **will not** be connected to one meter.
- o Metering facilities **are owned by the association** and must be installed by the association.
- o The member is responsible for any activity from the meter to the home.

3. B. Tampering with Metering Facilities: Metering facilities will be installed and maintained by the association and will be paid for by the member. These will consist of a service clamp, corporation stop, service line, meter yoke, meter box, *back flow device* and meter. **Tampering with meter facilities is a violation of this association property thus against Federal Law. Anyone in violation will be penalized by the board or prosecuted in court. All community drinking water system facilities and operations are regulated by Federal and State laws.**

3. C. Location of Metering Facilities: Metering facilities will be located at the main line or at member's property line. In special cases where this is not practical, the location will be agreed upon jointly by the board of directors and the member. The member is responsible for any activity from the meter to the home.

3. D. Easement for the Metering Facilities. Should the location be within the member's property, he or she will grant the association an easement of right-of-way and the right of ingress and egress to said property for the purposes of servicing or removing the metering facilities. **Membership certificate will be cancelled for members who refuse to provide the required easement.**

3. E. Transfer of Meter. All the meters are the property of the Association and are permanently fixed at their respective service locations. Therefore, no meter is transferable from the property that it is intended to serve to any other location. Thus, in the event of the sale, transfer, assignment, lease or conveyance of the subject property by the owner of record, all of the rights to service from the meter that serves the subject property shall automatically be included in the sale, transfer, assignment, lease or conveyance of that property. This also applies to all duly authorized service connections that have inoperable meters or where no meters exist. In the event that a dwelling or place of service is permanently discontinued or eliminated by the owner of record, the Association

may, in its sole discretion, elect to either remove the meter or leave the meter to provide service for possible future users.

3. F. Meter Accuracy & Testing: Service meters, where errors do not exceed two (2%) percent fast or slow, will be considered as within the allowable limits of accuracy for billing purposes. Meter testing requested by members will be performed without cost to the member, if the meter is found to be off in excess of two (2%) percent. Otherwise, the member for whom the required testing was made will be charged for the cost of making the test.

3. H. Meter Reading: Meters will be read by the association per schedule set by the board. The meters may not be read in winter months November through February. Members will pay an average flat fee based on previous months readings. The board will keep a record of water used during the winter months. If usage is higher or lower than was charged then an adjustment will be made.

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SEWER SYSTEM

4. Sewer System. At this time the Association does not own and/or manage sewage facilities.



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BILLING AND PAYMENT FOR WATER SERVICES

5. A. Billing of Water Services. The association will bill the membership on or about the first week of each month for water services from actual meter readings and/or at the rates set forth on the approved water rate schedule.

In order to reduce cost to the members, during the time when the rates are a flat fee, meaning that we are not reading meters or charging for actual water used, the Association will not mail a bill.

5. B. Payment of Water Services: Bills for Water Services are due on the 30th of the month and become past due on the following month/billing period.

**Payment must be by check or money order only.**

5. C. Past due Accounts: Past due payments are subject to a ten dollar (\$10.00) fee. This fee will be applied to all accounts that have not been paid by the time the bill was due and will accumulate month to month.

5. D. Delinquent Accounts, Notification & Disconnection of Services:

- I. Members who fail to pay for water services and applicable late fees within two months/billing cycles will be considered **delinquent** and will be subject to disconnection procedures. The past due fee will continue to accumulate until account is brought current.
- II. All delinquent members or members in violation will be notified by mail or by certified mail at the discretion of the billing contractor on or about the first of the month after payment has not been received. The notification will include the amount due, date to comply, and a statement **saying, "If no payment is received by the date to comply water service will be disconnected."**
- III. The date to comply shall be the 20<sup>th</sup> day from the date the notice is sent to the member.
- IV. Failure to comply or pay as specified in the notice will result in water services being disconnected and/or meter pulled by the time the next billing is processed. By this time the member may be delinquent with his/her bill at least four months. No

further notice will be sent to the delinquent member. To reinstate services the reconnection fee must be paid in full. See below.

V. Delinquent amount cannot be paid to the person(s) making the disconnection.

5. F. Negotiating Monthly Payment Schedule (For members only).

- I. To avoid disconnection of services, the Association and the Member may negotiate, through a written Payment Agreement, a monthly payment schedule for the delinquent amount.
  - a. The member needs to keep current on their monthly fee and pay the additional amount as agreed on the "Payment Agreement"
  - b. From the time, the member signs the agreement, the association will not charge the late fee for the unpaid amount as long as the member keeps the agreement.
  - c. If the member becomes past due and delinquent there is a breach of contract and the association will disconnect services. No further notice of disconnect will be given to the delinquent member.
- II. If services are disconnected, the Association and the Member may still negotiate in writing a monthly payment schedule for the delinquent amount. Services will be reinstated provided the member pays the reconnection fee and agrees to pay the amount due to the association per written agreement.

5. G. Reconnection of Water Services: Any water service which has been disconnected due to a delinquent account or for other reasons, will not be reconnected until the account has been paid current or a written Payment Agreement has been signed **and** the reconnection fee is paid in full. **The member shall pay the above charges with a certified bank check or money order.**

5. H. Cancellation of Membership.

- I. If a member is delinquent for **six (6) months** after non-payment, the membership in the Association will be considered in default and shall be canceled, the meter should one exists will be removed and/or the line will be capped.
- II. All delinquent members having their membership cancelled will be notified by mail, certified mail and other means at the discretion of the billing clerk or the board of directors. As much as possible to avoid higher cost, the board will use regular mail.
- III. The notification will include the amount due and will provide a date to comply. The date to comply shall not be less than twenty (20) days from the date the notice

is sent to the member.

- IV. Failure to comply will result in loss of membership. After that date a request for reconnection will be subject to membership eligibility as defined in the Bylaws and Rules and Regulations of the Association. **Memberships may not be available.**
- V. In the event that the membership is canceled **by the Association**, a copy of the board minutes and of the notice of cancellation sent to the member must be kept in the association files.
- VI. After being disconnected and/or having the membership cancelled, a member may decide not to reconnect to the Association. The member must send a note in writing canceling the membership and must pay the amount due to the association. The Association will close the account. If no payment is received, the Association will collect any amount due to the Association by placing a lien on the property..

5.I. Collections: The association has the responsibility and the authority within state law to take all action necessary to collect the arrears through a collections agency or a lien on the property. Should this occur, the member will be responsible for all collection, legal and court costs, attorney fees and any fees not mentioned that are required to collect the money owed.

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SERVICE CONNECTIONS BEYOND THE SYSTEM SERVICE AREA

6. A. Extension of Water Mains Lateral Lines:

- Authorized mains and lateral lines to an individual applicant laid beyond the association's existing water system will **be installed to the association's specifications and paid for by the individual applying for membership.**
- The member(s) must provide easements to the system, should easements be necessary.
- Lateral lines may become the property of the Association and are to be maintained by the Association.
- In cases where a group of individuals or a business is applying for membership. The Board will consider such extension provided that the cost and water demand caused by such extension does not cause hardship on the current membership.
- The board of directors may enter into special service contracts to extend the lines in cases where the applicant has unusual service requirements. However, in no case will the association enter into such a contract before obtaining approval from the general membership.
- A lateral line is a transmission distribution line. It is not the line that the goes from the meter to the home or business- this is a service line.

6. B. Cost Sharing of New Hook-Ups to Existing Lines: In a situation where a "new" hook-up is requested to an existing line – where a member invested in the cost of installing the line – the new hook-up must reimburse the member for a proportional amount of the cost to run the water line. Additionally, the new hookup is subject to approval by the Association after verification of no adverse impact of the new hookup on existing connection (s).

Members cannot be required to pay in excess of 50% of the cost incurred to run the existing line, nor can this member be denied service because of such a claim by the existing member. The following provisions must be met in all such situations:

1. The Member that installed the initial line must document the initial cost.
2. The requesting Member, shall pay for the proportional cost, based on a formula which is based on linear feet of property owned, multiplied by the initial cost of the line installed. (linear feet of property of the member requesting X the cost per linear foot for initial installation = cost).
3. The term of limitation of this requirement for reimbursement is a total of six (6) years from the date of installation.

## Lower Arroyo Hondo Mutual Domestic Water Consumers Association

### **Fees & Rate Structure for Water Services Effective January 1, 2020**

#### New Membership Fees:

Residential: \$2,500.00 (Includes connection to meter/service line up to \$2,000)\*  
Commercial: \$2,500.00 (Includes connection to meter/service line up to \$2,000)

#### Other Fees:

Disconnect/Reconnect:	\$25.00 (plus any related costs)
Returned Check Fee:	\$25.00 (plus amount of check)
Voluntary Deactivation/Reactivation:	\$25.00 (plus any related costs)
Membership Transfer Fee:	\$100.00

### **Rate Structure As Of January 1, 2020**

Active Residential Rate (unmetered): \$52.00 per mo.  
Active Commercial Rate (metered): \$185.64 (up to \_\_\_\_gallons; Then \$\_\_\_\_/gal up to\_\_\_\_/gals.)  
Inactive Residential Rate: \$17.00 per mo.  
Inactive Commercial Rate: \$17.00 per mo.

The proposed rate includes gross receipt taxes and water conservation and it cover the Association expenses for the FY09 budget.

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**MEMBER SERVICE/MEMBER SERVICE**

8. A. Addressing & Recording Member Complaints. All member comments, complaints or suggestions must be addressed to the board. The member should file a complaint about a water bill within thirty (30) days of the date of the bill.

When the association receives member complaints about a balance on an account or a discrepancy, the association treasurer and/or bookkeeper will first research the account to determine the nature of the discrepancy and resolve it or bring it to the board for resolution.

8. B. Adjustments Due to Leaks on Member (s) Property:

The Board may consider adjustment of the water bill when a member experiences an unusually high water bill due to a break in their service line or a leak in their house/business. Only if the damage or leak is repaired as soon as possible and under the following conditions:

1. The member reports the damage or leak to the Association as soon as detected and the water service is terminated by the association until the damage/leak is repaired.
2. The board detects the leak notifies the member and the member takes all steps to repair the leak. The water service is terminated by the association until the damage/leak is repaired.
3. The member submits receipts and/or invoices documenting the repairs made.

The following schedule will be utilized for valid adjustments as considered and/or approved by the Board:

- 1<sup>st</sup> Time Adjustment: Adjust to prior year usage or prior month if not data for the previous year is available.
- 2<sup>nd</sup> Time Adjustment: 75% reduction of total bill at the time of damage/leak.
- 3<sup>rd</sup> Time Adjustment or Further Adjustment: 50% reduction of total bill at the time of damage/leak.

8. C. Member Overpayment. Overpayments should be applied toward future billings.



Overpayments on an account may be credited to the member account on a case by case basis. In cases where the account is being closed and the membership canceled, the overpayment may be refunded to the member.

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FISCAL MATTERS

Bank Accounts and Signatures. The Board shall have bank accounts established in the name of the Association. The Board shall determine which of the officers will be authorized to sign checks and to conduct financial transaction on behalf of the Association.

Audits. This Association shall be subject to audits as mandated under the Audit Act, 12-6-1 NMSA, 1978 et seq. and OMB Circular 133 when required.

Budgets: The Association shall prepare an annual operating budget at the beginning of each fiscal year. The budget should be realistic and consider historical data as well as inflationary factors.

Purchasing: In order to ensure compliance with all Federal and State laws and the New Mexico Procurement Code, all purchases of supplies, materials, equipment and contractual services for the Association shall be made in accordance with these procedures. Any purchases in the amount of \$500.00 or more must be pre approved by the board.

Reserve Funds: The Lower Arroyo Hondo MDWCA will maintain reserve funds as mandated by funders or state and federal laws or guidelines. The board shall maintain reserve funds for emergencies at the cost of at least the replacement of the well pump and to fix a major leak that can potentially leave the community without water.

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COMPLIANCE WITH THESE RULES AND REGULATIONS

Each employee, agent, contractor of this association is expected to fully enforce these Rules and Regulations without further approval of the board.

Board authority to approve and enforce these Rules and Regulations comes from the provisions of the State of New Mexico Sanitary Projects Act [3-29-1 to 3-29-19 NMSA 1978].

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**These Rules and Regulations we adapted by resolution of the board on**

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After theses rules have been adapted Provide a copy to each member of the Association.