

RULES AND REGULATIONS

El Creston Mutual Domestic Water Consumers' Association

**Approved August 3, 2017 by Resolution 2017-08
Revised and Approved on March 4, 2021 by Resolution 2021-05**

TABLE OF CONTENTS

| | |
|---|---------|
| Procedure for Establishing Rules & Regulations | Page 2 |
| Definitions..... | Page 3 |
| 1. Membership Purchase, Approval, Transfer..... | Page 4 |
| 2. Providing Water Services..... | Page 6 |
| 3. The Meter/Metering Facilities | Page 8 |
| 4. Sewer System..... | Page 10 |
| 5. Billing and Payment for Water Services | Page 11 |
| 6. Service Connections beyond the System Service Area | Page 13 |
| 7. Member Service | Page 14 |
| 8. Compliance with These Rules and Regulations | Page 15 |

RULES AND REGULATIONS OF El Creston MDWCA

These rules and regulations are issued in compliance with the bylaws of the El Creston MDWCA, and **are designed to govern the 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 the employees, contractors working directly for the association, or any member of the association.
2. Each proposed policy will be evaluated by the board.
3. The final wording of the policy must be approved by majority vote of the board in order for it to become official and will be documented in the minutes of the board meeting at which it was approved.
4. Upon adoption of a policy by the board, rules and regulations to set out procedures for the policy will be developed and approved by the board.
5. Members of the board of directors may implement or amend these rules and regulations at any time.
6. The passage of a rule will be documented in the minutes of the board meeting at which it was approved.

RULES AND REGULATIONS OF El Creston MDWCA

DEFINITIONS

Membership certificate: a document issued for each residential unit/dwelling or commercial establishment that has been approved to be a member of the association
Certificates of membership are for a physical property owned by the member.

Member: any person, group of persons, or entity, owning a house or property and has joined El Creston MDWCA

Member in good standing: one who is *not* overdue or delinquent to the association

Residential unit/dwelling: includes a house, garage, shed, barn, guesthouse, or shop/studio.
Any other permanent dwelling(s) within the same property that is occupied by another family, renters, friends or relatives must have its own certificate of membership

Commercial unit: a non-residential establishment used for business purposes

Types of membership:

- **Active users:** members who are using the service every day
- **Stand-by user:** members who have a connection (metering facilities or hook up) but are not currently using the service (a vacant home or seasonal user)
- **Non-active users:** members who have had the option to connect to the system but have chosen not to do so There are no metering facilities. There is a membership on paper but no connection. (Note that this applies to members where the line has been laid.)

Membership fee: a *non-refundable* fee assessed to each certificate of membership to cover administrative expenses

Annual assessment: a fee to cover administrative costs, which is rolled into the monthly bill once a member is connected

Hook up fee: In the event a member requests a new connection to an existing line, the full cost of installing a meter and connecting line is the responsibility of the property owner, and then becomes the property of El Creston. The current estimate for material and labor to install the meter is \$1500. In addition, the connection must be inspected by a certified water system operator before service is turned on. The fee for the inspection is listed on the Association fee schedule.

**RULES AND REGULATIONS OF
El Creston MDWCA**

1. 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. All persons wishing to obtain membership from this Association must own the property for which they wish to obtain water services, and complete a membership application.

1. B. Application Process

To obtain water services, the landowner must purchase a membership certificate into the association following these steps. **Each permanent dwelling must have its own certificate of membership and connection.**

i. Provide the following to the secretary of the board, membership committee chair, or bring to the regular board meeting:

- a. A completed and signed Membership Application
- b. A completed and signed Water Users Agreement
- c. A completed, signed and notarized Quit Claim Deed
- d. Payment of a non-refundable membership fee
- e. Approximate physical location to install the meter
- f. A determination of whether service is residential or commercial
- g. An official "Right of Way Easement" if the line or meter is located inside the member's property, as stated in the Application for Water Service and Membership Certificate

ii. Approval of the Application Upon the submission of the requirements stated above, the board will review the application at its next regular board meeting, and make its decision. Incomplete applications may be grounds for denial of service. If the membership application is disapproved, the membership fee will be returned.

1. C. Additional Memberships

Members may purchase additional memberships for other properties they own following the same process as stated above.

1. D. Transfer, Cancellation, Selling of the Membership

- i.** Proof of membership in the association will be required prior to a membership transfer, cancellation or sale.
- ii.** The new member must complete and sign a Membership Transfer application.
- iii.** In the event that the membership is canceled **by the association** as stated in the bylaws and these rules and regulations, a copy of the board minutes and of the notice of cancellation sent to the member must be kept in the association files.

1. E. Water Services for Rental Property/Non-Members

The property owner will be the member and responsible for all bills incurred to the association. The association bills renters under the member's name.

**RULES AND REGULATIONS OF
El Creston MDWCA**

1. F. Water Service from One Household to Another

Members must receive board approval prior to permitting non-members to regularly draw water from a member's property for use away from the property to fill containers for non-member domestic use or to fill animal stock tanks. If a meter is found to be connected to more than one dwelling, the illegal connection will be disconnected immediately and the disconnect fee charged to the member.

RULES AND REGULATIONS OF El Creston MDWCA

PROVIDING WATER SERVICES

2. A. Services Ready to be Connected

Water service will be considered ready to use when the application process has been completed, fees and assessments are up-to-date, and a meter has been installed. Unless installed as a part of a waterline construction project, the installation of an approved metering facility is the responsibility of the member/property owner. Prior to activating service, the meter installation and connection to the Association main line must be inspected by the Association's Certified Operator. The cost of this inspection is the responsibility of the member. Once installed, the meter becomes the property of the association.

Once a meter is in place, the member may elect to not immediately connect to the point of use (residence). In that case the member will be billed at the standby rate then in effect.

- i. The member has 90 days to lay service lines from the dwelling or business and connect to the meter. After that date, a minimum charge, specified as the "standby rate" in the approved rate and fee schedule, will be applied, regardless of whether or not the member makes use of it.
- ii. The OSE requires that once a member is connected to the system, they must either cap or meter their well.
- iii. Contingent on available funds, the Association may offer financial assistance to a member in good standing to allow for the installation of the metering facility at the main water line. The assistance will be in the form of a short-term loan offered at 5% interest for a period of not-to exceed three years. The member will remain responsible for the installation of a line from the metering facility into the residence. All rules and regulations under Section 5, Billing and Payment for Water Service will apply to the loan. (Note: As of January 2020, the estimated cost of the installation of the metering facility is \$1500. The estimated monthly payment for a loan of this amount for the full three years would be approximately \$45.)

2. B. Service Deactivation and Reactivation

Members may upon written notice choose to temporarily suspend service at a residence – a seasonal vacancy for example. There will be an administrative fee for this action. If the suspension entails removal and reinstallation of the meter, the work will be done by the Association's Certified Operator and the costs of the action will be the responsibility of the member.

2. C. Multiple Service Connections are illegal

As stated above each permanent 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 allow multiple residence connections will be disconnected from the system and assessed actual costs and charges as specified in the approved fee schedule.

**RULES AND REGULATIONS OF
El Creston MDWCA**

2. D. Connection to Private System/Well

Physical connections between a private well and the water system of the association are prohibited. Per state law, a representative of the association has the right, at all reasonable hours, to enter upon a member's premises for the purpose of inspection and enforcement of the provision. Violation of this provision is cause for disconnection from the association's water system and appropriate costs and fees will apply.

2. E. Connection to Another Water source

Connection to another water source, a rain collection system for example, will require the installation of a back-flow preventer with the installation inspected and approved by the association's certified operator.

2. F. Outdoor Spigots

All outdoor spigots shall be equipped with anti-siphon valves.

2. G. 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 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.

**RULES AND REGULATIONS OF
El Creston MDWCA**

3. 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. Multiple connections to a single meter are not permitted. Metering facilities are the property of the Association.

3. B. Tampering with Metering Facilities

The metering facility will be deemed to consist of the meter, back flow device, meter box, meter yoke, service line, corporation stop, and service clamp. **Tampering with meter facilities owned by the Association is a violation of Association property and federal law and will be penalized by the Association and may be prosecuted in court.**

3. C. Location of Metering Facilities

Metering facilities will be located at the main line. The user fee, active or standby, covers maintenance for meters to include the connection to the main line. The metering facility and the line to the member's property line, is not to exceed 25 feet. If the distance from the metering facility to the members' property line is greater, the member agrees to pay any additional costs. Where an easement is required, the member agrees to provide it. In special cases, the location of the meter may be negotiated between the board of directors and the member. The member is responsible for any activity from the meter to the home including water leaks, installation of a shut off valve, etc.

3. D. Easement for the Metering Facilities

Should the location of the meter 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. **The 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

**RULES AND REGULATIONS OF
El Creston MDWCA**

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. G. 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.

3. H. Meter Area

The member is responsible for keeping the area around the meter clean at all times. The member will be notified that the meter area must be cleaned by a specified date. If the meter area is not cleaned by the specified date, the association will charge the member for a maintenance person to clean it.

**RULES AND REGULATIONS OF
El Creston MDWCA**

4. SEWER SYSTEM

4. Sewer System.

At this time, the association does not own and/or manage sewage facilities.

**RULES AND REGULATIONS OF
El Creston MDWCA**

El Creston MDWCA

5. BILLING AND PAYMENT FOR WATER SERVICE

5. A. Billing of Water Services

The association will bill the membership monthly, on a schedule determined by the board for water services from actual meter readings and/or at the rates set forth on the approved water rate schedule. **All water metered as used by the member will be subject to the rate schedule, including water leaked from a member's line.**

5. B. Payment of Water Services

Payment for Water Services are due on the 25th of the same month and become overdue at the end of the month (the last day).

5. C. Delinquent Accounts/Notification & Disconnection of Services

Members who fail to pay for water services and applicable late fees within two billing cycles will be considered **delinquent** and will be subject to disconnection procedures. All delinquent members or members in violation will be notified by mail. 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 shut off."

5. D. Date to Comply

The date to comply shall be within twenty (20) days from the date the notice is sent to the member (not to go over a third billing cycle). **Failure to comply or pay as specified in the notice will result in water services being disconnected and/or the meter pulled.** To reinstate services a fee must be paid. SEE below.

5. E. Negotiating Monthly Payment Schedule

To avoid disconnection of services, the association and the member may negotiate a monthly payment schedule for the delinquent amount provided that at the time of the agreement, the member pays a percentage of the unpaid amount as agreed between the member and the association through a signed agreement and agrees to stay current with future bills. If services are disconnected, the association and the member may still negotiate a monthly payment schedule for the delinquent amount. Services will be reinstated when the member pays the reconnection fee and a percentage of the unpaid amount.

5. F. Disconnection 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 or a binding contract has been signed **and** the reconnection fee (see current fee schedule) plus related expenses are paid in full. All meter disconnections and reconnections must be completed by the association's certified operator. The member shall pay the above charges with a certified bank check or money order.

5. G. Cancellation of Membership

If a member is delinquent for **SIX (6) months** after non-payment for active, standby or non-

RULES AND REGULATIONS OF El Creston MDWCA

active user services/membership, the amount due to the association will be considered uncollectible and the membership in default shall be cancelled and the line capped. A lien will be placed on the property and will not be eligible to clear escrow. All delinquent members having their membership cancelled will be notified by mail and phone. After that date, a request for reconnection will be subject to membership eligibility if memberships are available and the new membership fee is paid in full.

5. H. 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.

5 I. Rate and Fee Schedule

The current rate schedule is available at www.elcreston.org, or from an El Creston board member-

**RULES AND REGULATIONS OF
El Creston MDWCA**

6. SERVICE CONNECTIONS BEYOND THE SYSTEM SERVICE AREA

6. A Extension of Water Mains/Lateral Lines

i. Definitions:

- a. Water mains are the principal distribution lines for the water system.
- b. A lateral is a distribution line from the main to the meter.
- c. A service line is the line from the meter to the residence or business.

ii. An individual, individuals, or a business, may apply for membership in the association for the purpose of extending lateral distribution lines beyond the association's existing system infrastructure. The Board will first determine if the water demand for such extension is within the capacity of the system, and whether any costs associated with the extension will cause a hardship on the current membership.

- a. The cost of any such lateral lines will be paid for by the individual or individuals making application for membership.
- b. Such lateral lines will be installed to the association's specifications and will be subject to inspection by the association's certified operator at all times during construction. Costs for the certified operator will be paid by the applicant.
- c. Such lateral lines will become the property of the association and will be maintained by the association.

6. B. Cost Sharing of New Hook-ups to Member for Installed Lateral Lines

i. In a situation where a new hook-up is requested to a lateral line already installed at a member(s)' expense, the new hook-up must pay a proportional share of the cost incurred to install the lateral line and will be paid to the original member who installed the line. The requested hook-up is also subject to board approval using the same criteria applied to the initial extension request.

- a. The member(s) that installed the initial line must provide the board with documentation of all actual costs of the installation.
- b. The proportion of the initial cost of the installation of the line to be billed to the member requesting a new hook-up will be based on a formula using the linear feet of property owned adjacent to the line multiplied by the per linear foot cost of the initial installation.
- c. The new requesting member cannot be required to pay in excess of 50% of the initial cost of installation.
- d. The term of limitation of this requirement for reimbursement is seven (7) years from the date of installation.

**RULES AND REGULATIONS OF
El Creston MDWCA**

7. MEMBER SERVICE

7. 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.

7. 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 and will be addressed as follows:

- i. The first time a leak occurs, the bill will be adjusted upon proof of repair, and charged the price of the previous month usage.
- ii. The second leak with the same owner will only be adjusted by 50% upon proof of repair, based upon the bill of the previous month.
- iii. Subsequent leaks in the same dwelling with the same owner will be charged at the actual amount of water used.

7. 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.

7. D. Rate Schedule

The current rate schedule is available at www.elcreston.org, or from an El Creston board member-

**RULES AND REGULATIONS OF
El Creston MDWCA**

8. COMPLIANCE WITH THESE RULES AND REGULATIONS

Each employee, agent and 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].

These rules and regulations are adopted by resolution of the board on August 3, 2017.