

Bylaws  
WATERFALL COMMUNITY WATER USERS ASSOCIATION

ARTICLE I

Names, Objects, Purposes, and Principal Place of Business

Section 1. The corporate name is Waterfall Community Water User Association, Inc. (Association), a Nonprofit Association formed under New Mexico Statutes Annotated 1978, Article 29, Section 3-29, Sanitary Projects Act (SPA), amended 2019 whose address is 18 Waterfall Drive, Cloudcroft, New Mexico, 88317-9206.

Section 2. The object and purpose of the Association shall be to deliver water to its members at cost and to establish and implement procedures for fair and equitable utilization of the water supplies available to owners of property located within Section 14, 23, and 24 north of New Mexico State Highway 130 T16S R12E N.M.P.M., as shown on the Composite Waterfall Area Map issued August 4, 1983. The Association authorizes the Board of Directors to set charges for the use of the system, maintenance of the present system, provide solid waste disposal, and other special assessments or cooperative services, as stated in Article VI, Section 6.

ARTICLE II

The Seal

The seal of the Association shall be inscribed thereon the name of the Association, a “non-profit Association”. The Secretary of the Association shall have custody of the seal.

ARTICLE III

Fiscal Year

The fiscal year of the Association shall begin on the first day of June in each year.

ARTICLE IV

Membership

Section 1. Bona fide owners, occupants, and residents within the Waterfall area, as described in Article I, Section 2 herein, who are in need of water for domestic purposes and/or the removal of garbage are eligible for membership as provided by Article VI of the Association's Articles of Incorporation (AOI). Membership shall not be denied because of the applicant's race, color, creed, national origin or sex. Applicants shall be admitted to membership upon submitting to the Board of Directors a completed “Application for Service Connection”, payment of annual dues and service fees as specified by the Board, and the “Water User’s Agreement”. Membership shall be denied if the capacity of the Association’s system is totally allocated to meet the needs of its existing members and if it is impossible for the Association to acquire additional facilities to accommodate new members. In the event of a shortage of water, the Association shall take appropriate measures to provide adequate water to meet the needs of the current membership.

Section 2. Memberships are approved by the Board of Directors. Membership in this Association shall be contingent upon the execution of the Association's Water User's Agreement provided by the Board of Directors. Membership shall not be denied because of the applicant's race, color, creed, national origin, or sex.

Section 3. Each member household shall be entitled to one vote only. The rights, privileges, and obligations of all members of this Association shall be equal. Voting by proxy shall not be permitted. Voting by mail or email shall be permitted as provided in the following section. Voting can be done by members attending the meeting via a video conferencing call. These members will count toward a quorum at the meeting.

Section 4. At any time, a copy of a proposed agenda to be presented for a vote at a meeting of the membership shall be mailed or emailed by the Secretary to each member with the notice of said meeting. Members who are not present to vote at the meeting may cast their vote on all matters in the proposed agenda by mailing or emailing such vote to the Secretary. Ballots must be received no later than the time the meeting occurs, as specified in the notice. All such votes by mail or email, so received shall be counted in the same manner, and to the same effect, as votes cast in person by members in attendance at the meeting. In no event shall the members casting their ballots by mail or email be counted in determining a quorum as set out in Section 4 of Article V herein.

## ARTICLE V Meetings of Members

Section 1. The annual meeting of the membership of this Association shall be held at Cloudcroft, County of Otero, State of New Mexico, at am or pm on the third Saturday of June of each year.

Section 2. Special meetings of the members shall be called at any time by the President, or upon resolution of the Board of Directors, or upon written petition to the President of the Board and signed by 15 percent (15%) of the membership. The purpose of every special meeting shall be stated in the notice. Business not stated in the notice or not conforming to Article V, Section 5 herein shall not be transacted.

Section 3. Notice of meetings of the membership, both regular and special, shall be given by mail or email to each member of record, as defined in Article VI of the Association's AOI. The notice shall be mailed directly to the address shown in the payment record book of the Association or emailed to the email address shown in the payment record book not less than ten (10) and no more than fifty (50) days prior to the scheduled date of the meeting. The notice shall state the nature, time, place, and purpose of the meeting.

Section 4. Ten percent (10%) of the total membership shall constitute a quorum at any meeting of this Association for the transaction of business.

Section 5. The order of business at the regular meetings, and as far as possible at other meetings, shall be:

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

Section 6. The President of the Board or Board member presiding over the meeting may remove a person he/she feels is out of order during a meeting. Any person removed from two (2) meetings will not be allowed to attend future meetings. Anyone who has been barred from attending member meetings will not be eligible to serve on the Board of Directors.

## ARTICLE VI Board of Directors

Section 1. Functions of the Board of Directors: The business and affairs of the Association shall be managed by the Board of a minimum of five (5) and no more than seven (7) voting directors. Active members in good standing may be nominated to the Board of Directors. The Water Manager will be a non-voting member of the Board.

The function of the Board shall include:

1. The selection of and delegation of authority of officers necessary for the management of Association business
2. The determination of policies for guidance of the Association that will include no conflict of interest.
3. The control of expenditures by authorizing budgets
4. The causing of audits to be made from time to time as is necessary or required
5. The studying of water requirements of the membership
6. The prescribing of the form of Membership Certificates
7. The establishing of fees, the levying of special assessments and the collection of these items in accordance with provisions of the Association's Rules and Regulations for Water Service Connections and the laws of the State of New Mexico.

Section 2. Election and Term of Board Members: The Board of Directors shall be elected in the manner provided in Article V of the Association's AOI, and for terms as provided therein. Completion of the Sanitary Projects Act Board of Directors training is required during the member's term.

Section 3. The Board of Directors shall meet as soon as possible after holding of the annual election of directors, and in any event within ten (10) days of that time, and shall elect by ballot a President, Vice-President, Secretary, and Treasurer (identified as officers of the Board) from among themselves. Each officer shall hold office until the next annual meeting or until the

election and qualification of their successor unless sooner removed by death, resignation, or for cause. An assistant Treasurer or an assistant Secretary may be appointed by the Board of Directors.

Section 4. Compensation of Officers: The members of the Board of Directors shall receive no compensation for their services as directors. The assistants to the Secretary or Treasurer shall be compensated for their service at the rate to be fixed at any meeting of the Board of Directors.

Section 5. Meetings of the Board of Directors: In addition to the annual meeting, the Board shall hold meetings at such regular intervals as the Board may determine, and no less than four times each fiscal year. A majority of the Board present in person at any meeting shall constitute a quorum for conducting business.

Section 6. Powers of the Board: The Board of Directors shall have the general power to act for the Association in any manner not prohibited by New Mexico State Statute or the Association's AOI. The Board of Directors shall approve annual dues, fees, and special assessments as necessary. If the Association shall, at any time, borrow or receive by way of grant, any property of the United States or the State of New Mexico, through any of its agencies, the Board of Directors shall adopt such management methods, including accounting and audits, as such agency may prescribe. The Board of Directors shall be covered in the performance of these duties by liability insurance in an amount to be determined by the Board of Directors. Premiums for such insurance shall be paid by the Association.

Section 7. Vacancies: If the office of any director(s) becomes vacant by reason of death, resignation, retirement, disqualification, or otherwise except by removal for cause, a majority of the remaining directors, though less than a quorum, shall by majority vote to choose a successor who shall hold office until the next regular meeting of the membership. At that time, the membership shall elect a director for the balance of the term or terms, provided that in the call of such a meeting, notice has been given as provided in Article V Section 3 herein. Such a successor(s) shall meet the requirements of Article V of the Association's AOI.

Section 8. Removal of Directors and Officers: Any director or officer of the Association may be removed from office by a vote of not less than two-thirds (2/3) of the membership present at any annual meeting or at a special meeting called for the purpose. The director or officer shall be informed in writing of the charges at least ten (10) days before such meeting, and at such meeting shall have the right and opportunity to be heard in person or by counsel, and to present witnesses. Employees or agents, other than directors and officers, shall be removed from office or employment at any time by action of the Board of Directors.

## **ARTICLE VII**

### Duties of Officers

Section 1. Duties of the President: The President shall preside over all meetings of the Association and the Board of Directors, shall call special meetings of the Board of Directors, and perform all acts and duties usually performed by an executive or a presiding officer. The President shall sign all Membership Certificates, notes, bonds, mortgages, contracts and other

instruments on behalf of the Association. The President shall be an ex-officio member of all standing committees and shall have such powers and shall perform such other duties as shall be properly required by the Board of Directors.

Section 2. Duties of the Vice-President: The Vice-President, in the absence or disability of the President, shall perform the duties of the President. However, in the case of death, resignation, or disability of the President, the Board of Directors may declare the office vacant and elect a successor to fill the balance of the President's term.

Section 3. Duties of the Secretary: The Secretary shall keep a complete record of all meetings of the Association and of the Board of Directors and shall have general charge and supervision of the correspondence and records of the Association.

The Secretary shall attest the President's signature on all Membership Certificates and other papers pertaining to the Association unless otherwise directed by the Board of Directors.

The Secretary shall serve, mail, email, or deliver all notices required by the Bylaws, and shall make a full report of all matters and business pertaining to the office to the membership at the annual meeting or at such other times as the Board of Directors may require.

The Secretary shall keep the corporate seal and Membership Certificate records of the Association, complete and attest all certificates issued, and affix said Association seal to all papers requiring seal.

The Secretary shall make all reports required by law and shall perform such other duties as shall be required by the Association or the Board of Directors.

Upon the election of a successor, the Secretary shall turn over all books and other property belonging to the Association to the successor.

Section 4. Duties of the Treasurer: The Treasurer shall keep a complete record of all business transactions of the Association and of the Board of Directors and shall have general charge and supervision of the financial records of the Association.

The Treasurer shall collect all assessments and monies due the Association and deposit same in the depository designated by the Board of Directors, and shall disburse funds on the proper order of the Board of Directors and shall make a report on the business as requested.

The Treasurer shall serve, mail, email, or deliver all invoices, statements, or financial notices required by the Bylaws, and shall make a full report of all matters and business pertaining to the office to the membership at the annual meeting or at such other times as the Board of Directors may require.

The Treasurer shall keep a proper Membership Certificate record showing the name of each member of the Association and date of issuance, surrender, transfer, termination, cancellation or forfeiture.

The Treasurer shall make all reports required by law and shall perform such other duties as shall be required by the Association or the Board of Directors.

Upon the election of a successor, the Treasurer shall turn over all books and other property belonging to the Association to the successor.

Section 5. Other Employees or Agents: The Board of Directors may appoint in addition to the officers named above, a foreman and other agents or employees which shall be necessary to superintend the water and/or solid waste disposal of the Association and its construction, maintenance, and repair. Such agents or employees shall be authorized by the Board of Directors under its direction and pursuant to its rules and regulations to provide for the delivery of water and/or solid waste disposal for the members of the Association. Such agents or employees shall be paid a compensation for the performance of their duties in an amount to be determined by the Board of Directors. All agents or employees must provide the Board a copy of insurance before performing any work within the Waterfall community.

## ARTICLE VIII

### Annual Dues, Fees and Distribution of Water

Section 1. Water shall be delivered to the membership of the Association. If any member needs and desires service connections to the system in excess of one, such excess connections shall be made only upon application to and approval of the Board of Directors and upon payment of annual dues and service fees for each connection as described in the Rules and Regulations for Water Service Connection and Usage. No service connections shall be approved for any member or made pursuant to this section when the full capacity of the Association's systems are needed to serve the existing connections.

Section 2. The Board of Directors shall establish annual dues to be charged each member for services provided by the Association. The established annual dues shall apply to each service connection and become due at the beginning of the fiscal year. The annual dues may be paid per the options as listed on the billing statement. Annually, the Board of Directors shall review the established annual dues to assure that sufficient income shall be generated for the upcoming year.

Section 3. The Board of Directors shall establish additional fees for services to be charged each member for services beyond those of regular system maintenance provided by the Association. The established annual fee shall apply to each service connection and become due as specified by the Board. Annually, the Board of Directors shall review the established fees.

Section 4. If at any time, within ninety (90) days prior to the end of any fiscal year, it appears in the judgment of the Board of Directors that the amount derived or which shall be derived from the collection of fees during any fiscal year, shall be insufficient to pay the costs incident to the operation of the Association's system(s) and the payment of all debts of this Association, shall make and levy an assessment against the members of the Association. The total amount reasonably expected to be collected from the assessment shall fully pay when due all costs of

operations, maintenance, replacement and repayments on indebtedness, or other expenses of the year's operation. A proportionate amount of the necessary total of such assessment levied in the year shall be levied against each member in an amount which bears the same relation to the total assessment as the number of service connections serving such members bears to the total number of service connections with the system(s) of the Association.

Section 5. Member request to cancel water service: Cancellation of water service to a property with no livable building is possible if a member completes the "Water User's Agreement - Cancellation of Service", is a member in good standing with no outstanding invoices, and pays the fee. No annual payments will be required on that property until the cancellation is reversed. (See Water Usage Policy and Services for fees).

Section 6. Member request for resumption of service: Resumption of service to a property to reverse the cancellation of water service to the property is possible if a member completes the "Water User's Agreement - Resumption of Service" and pays the fee. If there has been any damage to the service line while the service was cancelled, a fee will be charged to fix it. (See Water Usage Policy and Services for fees).

## **ARTICLE IX**

### Membership Certificate

Section 1. Form of Membership Certificate: The Board of Directors shall determine the form of the Membership Certificate and the same shall be signed by the President and the signature attested by the Secretary. The Corporate Seal of the Association shall be affixed, provided that the form of certificate, in addition to any other matters required by the Board of Directors to appear therein.

Section 2. Membership Book: As a part of the records of the Association, there shall be kept a Membership Book that shall contain a list of the certificates of membership, which have been issued. The book shall note the number of each certificate, the date thereof, service connections, the fees collected, and the name and address of the person to whom issued.

Section 3. Transfer of Membership: Membership Certificates shall not be transferred. Membership certificates issued for an existing service connection shall not be transferred to the new Property Owner. Existing service connections transferred by sale of the property requires the submission to the Board of Directors of an "Application for Service Connection", "Water User's Agreement", and the payment of any outstanding water dues or service fees, as specified by the Board of Directors.

Section 4. Relocation of Existing Water Service Connections: An existing water service connection on unimproved property may be relocated for the convenience of the Association, or upon a request by the property owner holding a current Membership Certificate for that property. That water connection may be moved to another location/lot which is owned by the same property owner within the area described in Article 1, Section 2 upon request of that property owner. The cost of relocating the existing connection, due to a property owner's request, shall be paid by the property owner, and must meet all Association requirements.

**ARTICLE X**  
Distribution of Surplus Funds

Section 1. This Association is a non-profit cooperative association for the mutual benefit of its members and it is not intended to be operated in such a way as to accumulate funds in excess of those necessary for the operation of the system of the Association. In the event the Board of Directors determines that funds have been accumulated in excess of those necessary for the operation of the Association, the Board shall apportion such surplus funds among the members of the Association on the basis of their patronage during the year provided. However, before such distribution among the members, not less than ten percent (10%) of such surplus fund shall be placed in a fund to be used for the purpose of meeting contingent and unforeseen expenses of the Association. The Board of Directors shall determine the total amount of such contingent funds.

**ARTICLE XI**  
Amendments

These by-laws shall be repealed or amended by a vote of the majority of the membership present at any regular or special meeting of the Association called for that purpose.

I, Terry Todd Cooper, President of the Waterfall Community Water Users Association, an Association existing under the Laws of the State of New Mexico, hereby certify that the above is a true and correct copy of the bylaws, together with all amendments thereto, as of this 6th day of September 2025.

President: 

Association Seal



## DEFINITIONS

1. **Association** - A group of people organized for a joint purpose
2. **Non-profit association** – An organization created for purposes other than generating profit. Its primary aim is to serve the public interest, address social issues, or promote a particular cause. Any income generated is reinvested into the organization’s mission rather than distributed to owners or shareholders.
3. **Articles of Incorporation (AOI)** – Formal documents filed with a government body to legally document the creation of a corporation. They serve as a public record that includes key details about the corporation, such as its name, contact information, and the nature of its business.
4. **Member** – A person who has paid mandatory fees and has been issued a certificate as required by association bylaws. Each Member shall be entitled to one vote and only one vote, regardless of how many connections and/or memberships he or she owns. If there are multiple members listed on a Membership Certificate, only one Member shall vote on behalf of the Membership.
5. **Member Household** - A member of household can be a relative or a non-relative, but in order for a non-relative to be claimed as a member of household and be able to vote, they must meet the relationship requirements outlined by the IRS.
6. **Board Member** – An individual appointed or elected to serve on the board of directors of an organization, responsible for overseeing governance, strategy, and financial health. They represent the interests of the Association and supervise management, making significant decisions regarding the organization’s direction.
7. **Video Conferencing** – A form of online meeting that allows multiple participants to engage in a live audio-visual connection over the internet. It enables real-time transmission of video and audio data, facilitating communication without the need for physical presence. This technology is often used for meetings, presentations, and discussions among individuals or groups located in different places.
8. **Ex-officio member** – A person who is part of a committee or organization by virtue of holding another office. Ex-officio members have the same rights and responsibilities as other members, including the right to vote. They are not necessarily appointed or elected but hold their position due to their existing role.