

**BRAZOS MUTUAL DOMESTIC WATER  
CONSUMERS ASSOCIATION, INC.**

**RULES AND REGULATIONS**

Adopted April 6, 2008, Modified July 18, 2010, Modified July 15, 2012 (sections VIII.4, 5;  
XII.6),

Modified September 16, 2012 (section VII.5), Modified September 22, 2013 (sections VI, VII,  
IX; modifications effective June 1, 2014), Modified January 26, 2017 (section II.1, 2), Modified  
12/19/2021 (section VII, 1,2,5,6,7,8), Modified 2/27/22 (section VII, 1,2,5,6,7,8), Modified July  
23, 2022 (section VII, 5,6,7,8)

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## **I. INTRODUCTION**

In accordance with the Association Bylaws, these Rules and Regulations are issued to the membership and govern the fees and services rendered by the Association.

In the event any provision of these Rules and Regulations will be found in conflict with the Association Bylaws or applicable State or Federal regulations, then the more stringent rules will prevail.

These Rules and Regulations may be amended as required by the Board of Directors and become effective upon approval of the Board of Directors. They will accompany each application for membership and, as amended, be available to each member, other persons and State or Federal agencies as may be required.

Gender terms, as used herein, will refer to the male or female gender.

## **II. COMMUNICATIONS**

1. Members are strongly encouraged to: (a) contact Board members regarding questions and concerns about system operation and status; (b) frequently monitor the Association web site at [www.bmdwca.com](http://www.bmdwca.com) where members can find system status, meeting announcements, contact information, and the latest version of the rules and regulations; and, (c) provide the Association with their e-mail addresses to enable rapid communications.
2. In the event of water shortages, use restrictions and other situations that negatively impact the availability of water, the Board will make a reasonable attempt to notify all members of such shortages, restrictions and other situations. Notification methods may include signs in the Brazos area, announcements on the Association web site at [www.bmdwca.com](http://www.bmdwca.com) and e-mail messages to those members who have provided their e-mail addresses to the Association.

## **III. DEFINITIONS**

1. APPLICATION FEE: A fee charged by the Association for processing an application for membership of a new member.
2. ASSOCIATION: The BRAZOS MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION, INC.
3. BOARD: The Association's Board of Directors.
4. Brazos MDWCA: The Association.
5. CATEGORIES OF MEMBERSHIP:
  - a. Residential: A single member-owned unit suitable for occupation by one or more persons for domestic use.
  - b. Multiple Residential: Multiple member-owned residential units on a single lot in one or more structures, with each unit suitable for occupation by one or more persons for domestic use. This category includes a water service that can permit the transfer of water by an approved permanent underground system to a reasonable number of different locations or multiple residential structures on the same property. Although the member is responsible for the system on the member's lot, the Board of Directors must approve the underground water distribution system before connection to the Association system.
  - c. Single Business Commercial: Water service to a place of business that does not permit the transfer of water by any means to another unit or location on the same lot. This category includes restaurants or similar facilities where domestic use of water is part of the commercial product, such as washing dishes, cooking, restroom facilities, etc.
  - d. Multiple Commercial: The same as Single Business Commercial except it has a water service that can permit the transfer of water by an approved permanent underground system to a reasonable number of different locations on the same property. Although the member is responsible for the system on the member's lot, the Board of Directors before connection to the Association system must approve the underground water distribution system.
6. CATEGORIES OF WATER USE:
  - a. Residential Use of Water: The application of domestic use of water in a privately owned residence by the owner or authorized occupant. See Domestic Use of Water definition that applies to this category (Sec. III.7.c).
  - b. Commercial Use of Water: The application of domestic use of water in the conduct of a business by a person who operates a business. See Domestic Use of Water definition that applies to this category (Sec. III.7.c).
7. OTHER DEFINITIONS:

- a. Change of Status: Changing the type of service granted by the existing certificate.
- b. Commercial: Property used to operate a licensed or unlicensed business for the member or his designee.
- c. Domestic Use Water: Water that is used for normal "in home" activities, such as cooking, drinking, washing and use of bath facilities. In addition, external use of water is allowed for normal operation, maintenance and improvement of residential structures. Other external uses for cleanliness of equipment may be allowed if sufficient water storage supplies are available. Water for irrigation and the washing of cars and trucks is prohibited due to the fragile water supply for the community.
- d. Member: Any person, group of persons, trust, entity or commercial venture whose property lies within the Brazos Lodge Estates subdivision and/or service area of the Brazos MDWCA, and by application, has received membership in the Association.
- e. Membership Transfer Fee: An administrative fee charged to the recipient of an existing membership as that membership is transferred to the recipient from the former member. The amount of the transfer fee is stated in Sec. VII.3. A membership transfer fee is not charged to a transfer of an existing membership among family members.
- f. New Membership Fee: A fee charged to a new applicant to join the Brazos Mutual Domestic Water Consumers Association. A New Membership Fee is charged to recognize the capital investment provided by the current and preceding members. (Sec. VII.2)
- g. User: A member who is connected to the Brazos MDWCA water service. The user is entitled to connect the water service to his residence and any outbuilding that is used to support living in the main residence, such as an outbuilding with a clothes washer.
- h. Non-User: A member of the Brazos MDWCA who is not connected to the water distribution system. For purposes of connection to the water system a non-user membership has priority over a new membership. (Application for this type of membership was suspended in 1986.)

#### **IV. MEMBERSHIP APPLICATION**

1. The person applying for Brazos MDWCA membership must complete a form approved by the Association. The completed application, application fee and a copy of the Warranty Deed or other proof of ownership must be returned to the Association's Secretary for inclusion on the agenda of the next regular Board meeting.
2. The applicant may appear before the Board and have these Rules explained and any questions answered. The Board will approve, disapprove or table the application and determine the type of service (user, commercial, etc.).

3. Upon approval of the application, the applicant must pay the membership fee at the current rate in full.
4. Existing non-user members must notify the Board in writing to request a change of status. Upon completion of the Change of Status form, payment of fee(s) and Board concurrence, the member will be advised of the status change.
5. The Board will be under no obligation to approve an application for residential or commercial membership if such membership would exceed the current capacity of the Brazos MDWCA system. The water usage of a new Commercial Business will be estimated based upon the type of business and standard New Mexico usage guidelines for that type of business. The Board will not allow connections to the system if the projected business results in a total usage of water from all connections that exceed the production capacity of the Brazos MDWCA. The estimate will be based on the assumption that a single family residence will use, on the average, 120 gallons per day.

## **V. WATER SERVICE**

1. Water service is for the sole use of the member, agent or tenant and does not permit the transfer of water by any means to another dwelling, activity or place of business, except as permitted under the User or Commercial definitions.
2. The water service will consist of present or future facilities of the Brazos MDWCA to supply water at normal operating system pressure to one residence or place of business. Service will be considered available when the Brazos MDWCA maintains the water supply at normal pressure at the point of delivery for the member's use, whether or not the member makes use of it. Charges will reflect service from the date of availability.
3. Any member with a private water system, such as a well, in addition to an Association connection, will protect the Association's water system by the installation of a backflow prevention device approved for a potential hazard, such as water flow of a private water system into the Association's water system or water flow of the Association's water into the private system. The cost of such a device and installation will be the responsibility of the member. Connection of a private system to the Brazos MDWCA system will not be made without Board approval.
4. The Association will make a reasonable effort to supply continuous service, but will have the right to suspend water service for making repairs, connections, extensions or other necessary work. Additionally, loss or reduction of well capacity due to unforeseen circumstances, such as well depletion, reduction in the water table or reduction in water infiltration into the well housing, may lead to disruption of continuous water service. A reasonable effort will be made to notify those members who may be affected by such interruptions, but the Brazos MDWCA will not accept responsibility for losses occurring due to necessary and/or accidental interruptions of service or shortage of water.

5. Representatives of the Brazos MDWCA will have the right to enter the member's premises during reasonable hours for the purpose of meter reading, inspection, repair and/or service.

## **VI. BILLINGS**

1. The fiscal year will run from April 1 of that year until March 31 of the following year.
2. All annual fees will be billed by April 15th of each year and due on June 1.
3. Service fees including fines, fees based on meter readings, and any other charges will be billed within one month of the time the charges are incurred and are due and payable in full by the first day of the second month following the billing date.
4. All payments sent by U.S. Mail must be postmarked on or before the due date. If the due date falls on a Saturday or Sunday, the payment must be postmarked on or before the following Monday.
5. All overdue accounts will be assessed a 5% late payment service charge monthly until the accounts are made current.
6. All annual and service fees are subject to New Mexico Gross Receipts Tax. In the event of disconnection or other exception, the fee(s) will not be pro-rated and are not subject to refund.
7. Exception to payment can be made only by a written arrangement with the Board.
8. When the account is four months delinquent, the member's service meter will be locked in accordance with section 3-29-6D of the New Mexico Sanitary Projects Act and Section IX-2 of the BMDWCA By-Laws. The lock will remain in place until the account is paid in full.
9. When the account is eight months delinquent, the account will be turned over to a collection agency if the Association has contracted with a collection agency. All fees charged by the collection agency will be added to the account.
10. When the account is twelve months delinquent, a lien will be placed upon the property in accordance with the New Mexico Sanitary Projects Act section 3-29-6C. The lien will remain in place until the account is paid in full. In accordance with the Sanitary Projects Act, the Association shall be entitled to recover all costs and attorney fees related to the lien.
11. When the account is delinquent for three years, a process for cancelling the membership certificate will be initiated in accordance with BMDWCA By-Laws, Section IX-3.

12. For memberships cancelled involuntarily under item 11 or voluntarily, liens put in place under item 9 will remain in place. Furthermore, the BMDWCA will take whatever additional steps are appropriate to recover all funds in accordance with section 3-29-6D of the New Mexico Sanitary Projects Act. Liens will be removed after all funds have been recovered.
13. All delinquent accounts will be sent an updated statement monthly. The statement will indicate the original delinquency date.
14. Delinquent members will be notified by the Secretary or designee as appropriate (including notifications required by Section 3-29-6D of the New Mexico Sanitary Projects Act and Section IX-2 of the BMDWCA By-Laws) that steps 8, 9, and 10 are about to be taken or have been taken.

## VII. RATE SCHEDULE

The rate schedule herein will be reviewed by the Board on an annual basis and is subject to change if sufficient income is not being generated to cover the Association's anticipated expenses. The Board will notify the Association bookkeeper whenever an account should be billed any amount other than the annual fee and subsequent service charges.

1. New Mexico Gross Receipts Tax will be added where applicable. (\*\* Indicates a non-taxable item.)
2. New Membership fee (Residential or Commercial): \$ 6,000.00
3. New Application/Transfer fee: \$ 50.00\*\*
4. Change of Status fee: \$ 15.00\*\*
5. Residential fees:
  - User \$ 602.00/year
  - Non-User \$ 154.00/year
6. Multiple residential fees:
  - First unit \$ 602.00/year
  - Each additional unit No additional charge

Note: At this time the Board chooses not to assess a charge for additional units. A fee may be charged in the future should the load on the water system of multiple residential units be a cause for concern.

7. Single Commercial Business: \$ 1050.00/year
8. Multiple Commercial Businesses:
  - First unit \$ 1050.00/year

Each additional unit \$ 602.00/year

9. Late payment service charge: 5% of balance due monthly
10. Excessive Water Usage Charges: If water use is deemed excessive, the Board may implement additional charges based upon the amount (total number of gallons) of water used. Members will be notified if and when such charges are implemented.
11. Fines for excessive leakage due to negligence or improper shut-off:

First occurrence	\$ 250.00
Subsequent occurrence	\$ 500.00
12. Late membership transfer fee: \$ 25.00/month  
after 90 days from date of property transfer. (See section XII, 1.)

### **VIII. WATER AVAILABILITY, USE, AND USER OBLIGATIONS**

1. Every effort will be made by the Brazos MDWCA to have an adequate supply of water for all users, but due to the forces of nature the Brazos MDWCA cannot ensure an unlimited supply. In the event of an emergency or water shortage, the Board has the right to restrict water usage in any manner that will ensure an equitable availability of water to all users.
2. Water is permitted only for domestic use. Due to the fragile nature of our system, water for irrigation and the washing of cars and trucks is prohibited (Section III.7.c).
3. It is the individual property owner's responsibility to properly shut off his/her water when his/her cabin is not in use.
  - a. Since the property owner is responsible for all plumbing from the meter to the property improvement as well as in the improvement itself, the property owner's shut off valve should be located in as close proximity to the meter can as is feasible, typically 3 to 5 feet. If the valve is not in close proximity, a change should be accomplished during maintenance of the waterline or at the earliest opportunity.
  - b. From time to time, the Association will read the individual water meters to determine whether there may be any leakage at the property, in which case, the water will be shut off at the meter and a tag placed on the property indicating that the action has been taken and how the property owner can get water service restored.
  - c. If it is determined that a leakage is occurring or has occurred at a property that is the result of negligence on the part of the property owner and the owner has failed to install and/or use an effective shut off valve, the property owner may be fined (Sec. VII.11).
4. Property owners are prohibited from using the meter can valve to turn on and shut off the water to their property except for an emergency or maintenance. The valves are not

designed for repetitive use. Owners will be held financially responsible for damage resulting from unauthorized use. Furthermore, unauthorized tampering with a community water system is a federal offense.

5. All properties to which water is supplied must have an operable shut-off valve separate from the meter can valve. The valve is intended for owner use. Properties not meeting this regulation after August 20, 2014 will be locked out and the lock-out will remain in place until this requirement is met.

#### **IX. DISCONNECTS AND RECONNECTS**

1. Water service that has been disconnected due to account delinquency or for other reasons will not be reconnected until the account is current.

#### **X. VIOLATIONS**

1. Violations of these Rules and Regulations will be justification for the Board to disconnect the service or in the case of a non-user repossess the membership.
2. The member will be advised in writing by the Brazos MDWCA President of a violation, impending action by the Board and the date, time and location of the next regular Board meeting.
3. The member and/or the member's representative will have the right to appear before the Board to explain any circumstances surrounding the violation.
4. Based on the evidence presented and upon a two-thirds (2/3) majority, the Board may take the following action(s):
  - a. Warning
  - b. Individual assessment to recover expenses
  - c. Disconnection of service
  - d. Dispossession of membership
  - e. Any combination of the above or other action as appropriate
5. The member who has had an action taken against him by the Board will have the right of appeal to the Brazos MDWCA membership at large, either by mail-in appeal or at the next regular annual meeting. All costs associated with such an appeal will be the responsibility of the member.
6. Should a member lose the appeal, he may re-apply for membership one year after the final action by the Board.

#### **XI. INSTALLATIONS, MAINTENANCE & REPAIRS**

1. The Brazos MDWCA is responsible for the maintenance and integrity of the main line(s), extensions for service supply and meters. All other lines beyond the meter or extensions will be the responsibility of the member.
2. Installations requiring Brazos MDWCA line extensions will require approval by the Board and meet the Association's specifications. All costs will be the responsibility of the member requesting the extension. Line extensions will become the property of the Association when installed.
3. New members requiring service, line extensions, installation and meters will require approval by the Board and meet the Association's specifications. All costs with the exception of the system meter, meter can, frost free hydrant and shut off valve will be the responsibility of the member requesting such service. Line extensions will become the property of the Association when installed.
4. New installations will include Brazos MDWCA approved: (a) insulated meter can; (b) ¾" meter with remote readout; (c) frost-free hydrant; (d) nylon ball type member shut off valve.
5. Only appropriately New Mexico licensed and insured contractors will make connections to the Brazos MDWCA system. A copy of the contractor's license and a certificate of insurance will accompany the request for installation.
6. Except in emergencies, all water system work will be approved by the Board and a purchase order will be issued before any maintenance is performed. The Board will not assume responsibility for payment of a bill without a purchase order number attached. Members needing maintenance or repair to the system may contact any Board member.
7. It is the policy of the Association that members of the Association or their companies may not charge or invoice the Association for providing their services to assist in resolution of operational or management problems faced by the Association. The Association may reimburse any member for costs of materials or supplies provided to the Association. The reason for this policy is that this is a "Mutual Domestic Association" and each member has a stake in the proper performance of operations and management of the Association and the contribution of any member is for the betterment of the Association and the Community. This policy does not preclude the Association from contracting with any member for services that are in line with their normal area of expertise.
8. Except for system emergencies, repairs and/or extensive maintenance during the winter months will be made only if the Board deems the costs reasonable.

## **XII. TRANSFER OF MEMBERSHIP**

1. A member who wishes to transfer his/her membership must state such a request in writing to the Brazos MDWCA Secretary. Upon request for transfer, the new member

will be sent an Application for Transfer and a copy of these Rules and Regulations. In the event that a property is sold or transferred, the Brazos MDWCA membership goes with the property unless otherwise approved by a majority vote of the Board of Directors. Application for transfer of membership must be submitted to the Brazos MDWCA Secretary within 90 days of the legal property transfer. In the event the transfer is not requested within 90 days, the new potential member will have a late fee attached to his/her membership transfer fee up to six months (Section VII.13). If the membership is not requested with appropriate documentation at the end of the six-month period, the membership will be terminated.

2. A copy of the Warranty Deed or other proof of transfer of the property in the name of the new owner, the old Water Certificate to be transferred, and the current Transfer Fee will accompany the completed Application for Transfer form.
3. The member transferring the Water Certificate will be paid up and in good standing with the Association. In the event of default and/or repossession the previous holder of the transferred membership will have all rights and privileges restored upon payment of any fees in arrears.
4. Upon completion of the requirements herein, the Board will take the appropriate action to transfer membership.
5. Anyone without a valid Water Certificate will not be considered a member of the Association.
6. Subject to Board approval, a non-user membership not in arrears may be transferred to another lot within the Association service area (including line extensions as covered in Section XI of these rules). A request for transfer by the non-user membership owner, the old non-user Water Certificate to be transferred, the current transfer fee, a copy of the Warranty deed of the property to which the membership is to be transferred, and a completed Application for Transfer must be submitted to the Board for approval. Upon transfer, the non-user membership becomes a standard user membership. If ownership of the membership is also transferred, a copy of the Bill of Sale or other proof of the original owner's intent to transfer ownership must be provided.

### **XIII. PROBLEMS**

1. Problems should be presented to the Board in writing and either given or mailed to the Brazos MDWCA Secretary for inclusion on the agenda of the next regularly scheduled Board meeting.
2. The member in person may also present problems to the Board, but the Board will be under no obligation to resolve the problem at that meeting.
3. After the problem is resolved, the Secretary will advise the member in writing of the Board's decision.