

CHAPTER 13

UTILITIES

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ARTICLE 1. SEWER SYSTEMS

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§ 13.1.1 PURPOSE

The Board of Trustees of the Village find that use of private liquid waste systems is a contributing factor to the contamination of ground water and surface water in the Village and surrounding areas.

The purpose of this Article is to protect the health and welfare of present and future citizens of the Village of Los Ranchos de Albuquerque by providing for the prevention and abatement of public health hazards and surface and ground water contamination from private liquid waste systems and disposal practices.

§ 13.1.2 DEFINITIONS

(A) “Private liquid waste system” includes any septic tank, holding tank, cesspool, seepage pit, leach field or other such facility or area which receives liquid waste.

(B) “Liquid waste” shall mean the discharge of wastewater from any waste generator and includes, without limitation, human excreta and water carried from plumbing fixtures, wastes from toilets, sinks, showers, baths, clothes and dishwashing machines and floor drains. Liquid waste also includes non-water liquid discharges. Liquid waste, for purposes of this Article, does not include water discharged in normal and customary agricultural operations.

(C) “Ordinance” as used herein shall mean this Article.

(D) “Waste generator” shall mean any building or other facility or use that creates and/or discharges liquid wastes.

§ 13.1.3 PRIVATE LIQUID WASTE SYSTEMS PROHIBITED

Except as provided in §13.1.4(B)(4), no person shall install or modify a private liquid waste system or use a private liquid waste system that was installed or modified after public sanitary sewer service has become available. Public sanitary sewer shall be deemed available when a connection point is within two hundred (200) feet, as determined by § 13.1.4(B) for residential properties. Public sanitary sewer is deemed available to all commercial properties.



§ 13.1.4 MANDATORY CONNECTION TO PUBLIC SANITARY SEWER

(A) Every development or redevelopment in the Village Center or Commercial Zones of the Village shall be required to connect to the public sanitary sewer. All existing waste generators in the Village Center or Commercial Zones of the Village at the date of adoption of this Article shall be required to connect to the public sanitary sewer.

(B) Every waste generator not included in paragraph 4.a above shall connect to the public sanitary sewer within ninety (90) days following the date public sewer service is available. The two hundred (200) foot distance shall be measured as follows:

(1) In cases in which the connection point to the public sanitary sewer is located on a lot or parcel on which the waste generator is located (“Lot”) or is in a public or private right-of-way which abuts the Lot or property owned or controlled by the owner of the Lot, the two hundred (200) feet shall be measured in a straight line from the closest point of connection on the public sanitary sewer to the point at which the liquid waste disposal line of the waste generator connects to the existing private liquid waste system (clean out point). The straight line measurement may and in most cases will extend through the location of existing buildings on the Lot, including any residential structure located thereon and is not intended to be a measurement of the actual length of the sewer line that must be constructed in order to effect the connection.

(2) In cases in which the connection point to the public sanitary sewer is not located on the Lot or in a public or private right-of-way as described in § 13.1.4(B)(1) and would require construction of the connecting line to the public sanitary sewer across property not owned or controlled by the owner of the Lot, the two hundred (200) foot distance shall be calculated by a measurement beginning at the connection point to the public sanitary sewer along the public or private right-of-way or easement which can be used for the purpose of extending a sewer line, to the closest point at which such public or private right-of-way or easement has a common boundary with the Lot. From the point at which the right-of-way or easement has a common boundary with the Lot, the measurement shall then proceed in a straight line to the clean out point of the private liquid waste system in accordance with the procedure set out in § 13.1.4(B)(1) above.

(3) If a Lot has more than one private liquid waste system and one private liquid waste system is required to connect to the public sanitary sewer system pursuant to the foregoing requirements, use of all private liquid waste systems on the Lot shall be discontinued and all waste generators must connect to the public sanitary sewer.

(4) A private liquid waste system for a residence which was legally installed and is less than five (5) years old and which is operating in accordance with state and local regulations shall be exempt from mandatory connection until the fifth (5th) anniversary date of its installation at which time it shall be required to connect to the public sanitary sewer if connection is otherwise required hereunder. The repair, modification or reworking of an existing private liquid waste system shall not modify the original installation date for purposes of this subsection.

(C) When use of a private liquid waste system is discontinued by reason of connection to the public sanitary sewer or otherwise, every private liquid waste system shall be properly abandoned and certified by NMED or Bernalillo County.



(D) Every waste generator not required to connect to the public sanitary sewer under § 13.1.4(B) above shall have all private liquid waste systems permitted through the New Mexico Environment Department (“NMED”) and shall register such septic system(s) with the Village. A copy of the permit from NMED shall be submitted together with a registration form prescribed by the Village. There shall be a one-time fee of twenty-five dollars (\$25) for the registration. The owner shall have each registered system inspected not less often than biennially (every two years) by an engineer or technician approved by NMED to evaluate the condition of the private liquid waste system. The owner thereof shall immediately bring every private liquid waste system into compliance with NMED regulations as determined by the inspection. A copy of the inspection and confirmation of all required curative work shall be filed with the Village within thirty (30) days after the date of the inspection report. The Village is authorized to take legal action, including litigation seeking injunctive relief, to enforce compliance with this section and abate the nuisance caused by operation of a non-complying private liquid waste system.

(1) Failure to comply with the registration or biennial renewal shall be a violation of this Article punishable by a fine of not less than three hundred dollars (\$300) for each month until the violation is cured.

§ 13.1.5 MANDATORY CONNECTION DETERMINATION AND APPEAL PROCESS

The procedure for determining the requirements for connection to a public sanitary sewer line will be as follows:

(A) The Village Administrator will cause a review of all properties which may contain waste generators that are not currently connected to the public sanitary sewer which have not previously been found exempt from the requirement to connect to the public sanitary sewer, and will make a determination as to whether or not the waste generators are required to connect to the public sanitary sewer or are exempt. The decision of the Village Administrator will be made after consultation with the Director of Planning and Zoning for the Village and a representative of the New Mexico Environment Department.

(B) If a decision has been made by the Village Administrator that a connection is required, the Village Administrator shall cause the owner of the Premises to be notified by United States mail of the decision, together with a demand that the connection be made within thirty (30) days from the date of the notice. The notification letter from the Village shall include a copy of this Article.

(C) If the owner of the Lot disagrees with the decision of the Village Administrator, such owner may file a written notice of appeal to the Board of Trustees. The appeal letter shall state the reasons the owner believes the decision of the Village Administrator to be incorrect. The appeal letter shall be delivered to the Village Clerk within fifteen (15) days after the date of the notice of the Village Administrator’s decision. If no appeal is filed within such fifteen (15) day period, the right to appeal shall be deemed to have been waived and the decision of the Village Administrator shall be final. An appeal shall be heard by the Board of Trustees in accordance with a schedule established by the Board of Trustees. The decision of the Board of Trustees after a hearing on the appeal shall be final. The party(ies) appealing the decision shall pay the cost of providing public notice of the appeal hearing.

(D) If the owner has not completed the connection (a) within thirty (30) days after the notification required in § 13.1.5(B) above and such decision has not been appealed, or (b) if



the decision has been appealed and there has been a determination by the Board of Trustees that a connection must be made, and which connection has not been completed within the period of time specified in the Board of Trustees' decision, the Village Administrator is authorized to proceed with legal enforcement of this Article including, but not limited to, causing an action to be filed in the District Court for the Second Judicial District as specified in § 13.1.6.

(E) Notwithstanding the foregoing, if an owner, after proceeding with reasonable diligence, cannot complete the connection within the time period required either by the Village Administrator's decision or the Board of Trustees, the Village Administrator may extend the time for completion of the connection for a period which will reasonably allow completion of connection while at the same time assuring expeditious compliance with this Article.

§ 13.1.6 VIOLATIONS – ADDITIONAL REMEDIES

INJUNCTIONS. In addition to the penalties provided in § 7.4.1 for violation of any Village Ordinance, the use of a private liquid waste system in violation of this Article is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction relief issued by the District Court of the Second Judicial District, or if NMED is a party, by a court in the First Judicial District.

SEVERABILITY. If any section, subsection, paragraph, sentence, clause, phrase, or part hereof is for any reason declared unconstitutional or invalid, the validity of the remaining portions hereof shall not be affected since it is the expressed intent of the Board of Trustees to pass each section, subsection, paragraph, clause, phrase and every part thereof separately and independently of every other part.

§ 13.1.7 EFFECTIVE DATE, REPEAL AND PUBLICATION

This Article shall take effect and be in full force five (5) days after publication of adoption of this Ordinance.

Ordinance and State Law References regarding Chapter 13, Article 1 (f/k/a Chapter 22):

Ordinance #81, February 8, 1989;

Ordinance #102 changed the definition of when public sewer is deemed available, (Section 3), July 24, 1991;

Ordinance #116 changed the definition of when public sewer is deemed available, (Section 3), March 9, 1994;

Ordinance #134, enacted Feb. 14, 1996, codified the preceding ordinances as Chapter 22, with modifications;

Ordinance #184, November 12, 2003;

Ordinance #228, November 10, 2010; amending Chapter 22 of the Codified Ordinances and ORD #184;

Ordinance #231, March 14, 2012 repealing Chapter 22 of the Codified Ordinance 134 and Ordinance 184 in their entirety and replaced with this Ordinance.

Sewage facilities § 3-26-1, *et seq.*, NMSA 1978.

