

North Emery Water Users' Special Service District
By-Laws

ARTICLE 1
General Purposes and Governing Authority

The purpose for which this Special Service District is formed, and the powers which it may exercise, are set forth in these by-laws. The governing authority of this District is the board of Directors.

ARTICLE 11
Name and Location

Section 1. The name of this District is the NORTH EMERY WATER USERS' SPECIAL SERVICE DISTRICT.

Section 2. The principal office of this District shall be located at 1325 North Highway 155, Cleveland, Utah 84518, mailing address P.O. Box 129, Cleveland, UT. 84518, or at such other place as the Districts Board of Directors designates from time to time.

ARTICLE 111
Fiscal Year

The fiscal year of the District shall begin the 1st day of January and end December 31st of each year.

ARTICLE IV
Meetings

Section 1. The district's board of Directors shall meet on the first Thursday of each month to discuss the districts business.

Section 2. The districts yearly meeting schedule shall be advertised in the County News paper for two weeks prior to the first meeting of each new year. Each meeting will also be posted on the Public Notice Website.

ARTICLE V
OWNERSHIP OF CONNECTIONS

Section 1. For each new connection, a person must make application; this will then go to the next board meeting to determine if the line size and location is feasible for the applied for connection.

Section 2. If a person is buying a home from a previous owner, the new owner must show proof of ownership before the billing can be changed into their name.

Section 3. Loss of a connection can occur if the monthly bill goes unpaid for a period of time, or amount of money that the Board determines feasible.

ARTICLE V
Directors and Officers

Section 1. The board of Directors of this District shall consist of seven directors, all of whom shall live in the districts boundaries. There shall be 3 directors to serve a two year term. And 4 directors will serve a four year term. When a directors term is going to expire the district shall contact the county commissioners to start the process for applications of a new director by the following schedule.

<u>By this date</u>	<u>Event</u>
October 1	The district contacts the Emery County Commissioners to start the process.
October 25	The Emery County Commissioners put advertisement in the Emery County newspaper. With a deadline for applications.
November 15	The Emery County Commissioners review applications.
December 5	The Emery County Commissioners notifies North Emery Water of their Decision.
January 1	The newly appointed Directors will take office.

Section 2. The board of Directors shall meet as soon after the newly appointed directors take office as is possible, and shall elect a president and vice-president from among themselves and a secretary-treasurer. Each of whom shall hold office until the next appointments, when the same process will occur for directors.

Section 3. If the office of any trustee becomes vacant by reason of death, resignation, retirement, disqualification or otherwise, except by removal from office, a majority of the remaining directors, though less than a quorum, shall, by a majority vote, choose a successor who shall hold office for the unexpired term of his predecessor in office.

Section 4. A majority of the board of directors shall constitute a quorum at any meeting of the board. The affirmative vote of the majority of the trustees at a meeting at which a quorum is present shall be the act of the board.

Section 5. Compensation of directors and officers may be fixed at any regular or special meeting of the board of directors.

Section 6. Any director may be removed from office whenever, he has moved from the districts boundaries. Directors will be replaced by applications to the Emery County Commissioners.

ARTICLE VI
Duties of the Directors

Section 1. The board of directors, subject to restrictions of law, and these bylaws, shall exercise all of the powers of the district, and, without prejudice to or limitation upon their general powers, shall not be self serving, no one director will make decisions without majority of the board. All business must go before the board of directors, it is hereby expressly provided that the board of directors shall have, and are hereby given, full power and authority in respect to the matters as hereinafter set forth to be exercised by resolution duly adopted by the board.

- a. To approve connection applications for new water connections. The board may make binding commitments to approve connections and to permit the connection of properties to the system in the future cases involving proposed construction.
- b. To select and appoint all officers, agents or employees of the district. Remove such agents or employees of the district, fix their compensation and pay for faithful services.
- c. To borrow from any financial source, money, goods or services and to make and issue notes and other negotiable or nonnegotiable instruments evidencing indebtedness of the district, to make and issue bonds, pledges of revenue, trust agreements, security agreements and financial statements, and other instruments evidencing a security interest in the assets of the district, and, to do every act and thing necessary to effectuate the same.
- d. To prescribe, adopt; and amend, from time to time such equitable uniform policies and procedures as, in its discretion, may be deemed essential or convenient for the conduct of business and affairs of the district and guidance and control of its officers and employees and to prescribe adequate penalties for the breach thereof.
- e. To order, at least once each year, and audit of the books and accounts of the district, by a competent public auditor or accountant. The report prepared by such auditor or accountant shall be submitted to the Emery County Auditor along with the districts proposed budget for the ensuing year.
- f. To fix and alter the charges to be paid by each customer for services rendered by the district to the customer, including connection fees where such are deemed to be necessary by the directors, and to fix and alter the method of billing, time of payment, manner of connection, and penalties for late or nonpayment of the same. The board may establish one or more classes of users. All charges shall be uniform and non-discriminating within each class of users.

- g. To require all officers, agents and employees charged with responsibility for the custody of any of the funds of the district to give adequate bonds, the cost thereof to be paid by the district, and it shall be mandatory upon the directors to so require.
- h. To select one or more banks to act as depositories of the funds of the district and to determine the manner of receiving, depositing, and disbursing the funds of the district and the form of checks and the person or persons by whom the same shall be signed, with the power to change such banks and the person or persons signing such checks and the form thereof at will.
- i. To charge each customer the monthly fee that is deemed equitable, and to enforce collections of monthly fees by suspension of water service or other legal methods. The board of directors shall have the option to suspend the service of any customer who has not paid their monthly fee within 30 days from the date due. Provided the district must give the customer at least 15 days written notice at the address of the customer on the books of the districts intention to suspend such service if the bill is not paid. The water will not be turned back on until the full bill plus a reconnection fee is paid in full, then service will be promptly be restored to the customer.

ARTICLE VII
Duties of Officers

Section 1. Duties of President. The President shall preside over all meetings of the district and the board of directors, call special meetings of the board of directors, perform all acts and duties usually performed by an executive and presiding officer, and sign all legal and other papers of the district as he may be authorized or directed to sign by the board of directors, provided the board of directors may authorize any person to sign any or all checks, contracts and other instruments in writing on behalf of the district. The president shall perform such other duties as may be prescribed by the board of directors.

Section 2. Duties of the vice-president. In the absence or disability of the president, the vice-president shall perform the duties of the president, provided, however, that in case of death, resignation or disability of the president, the board of directors may declare the office vacant and elect a successor.

Section 3. Duties of the secretary-treasurer. The Secretary-Treasurer shall keep a complete record of all meetings of the district and of the board of directors and shall have general charge and supervision of the books and records of the district. He/She shall attest the president's signature on all papers pertaining to the district unless otherwise directed by the board of directors. He/ She shall serve, mail, or deliver all notices required by law and these bylaws from time or times as the board of trustees may require.

He/She shall make all reports required by law and shall perform such other duties as may be required of him by the district or the board of directors. Upon the election of this successor, the secretary-treasurer shall turn over to him/her all books and other property belonging to the district that he may have in his possession. He shall also perform such duties with respect to the finances of the district as may be prescribed by the board of directors.

ARTICLE VIII Benefits and Duties of Customers

Section 1. The district will install, maintain and operate a main distribution pipeline or lines from the source of water supply and service lines from the main distribution pipeline or lines to the property line of each customer of the district, or at such other point as the board of directors may determine if the board determines that it is not economically feasible to bring the water pipeline to the property line of the customer. At these points, designated as delivery points, meters may be purchased, installed, owned and maintained by the district. The cost of the service line or lines from the main distribution pipeline or lines of the district to the property line or such other point of delivery of each customer shall be paid by the district. The district also may purchase and install a cutoff valve in each service line from its main distribution line or lines, such cutoff valves to be owned and maintained by the district and to be installed on some portion of the service line owned by the district. The district shall have the sole and exclusive right to use of such cutoff valve. However, the provisions of this section shall not be construed to require the acquisition or installation of meters or cutoff valves where the directors determine under the circumstances of the system and the nature of the customer that the use of either or both of such devices is impractical or unnecessary to protect the system and the rights of the customer, and/or economically not feasible.

Section 2. Each customer will be required at his own expense (materials and labor) to install the service line or lines from the point of delivery to his dwelling or other portion of his premises, and to purchase and have installed the portion of the service from the point of delivery to the place of use on his premises. The customer will maintain such portion of such service line or lines which shall be owned by the customer, at his own expense.

Section 3. Each customer may be permitted to have additional service lines from the district's water system in the discretion of the board of directors upon proper application therefore and the tender of payment not to exceed the then existing connection charge. The approval by the board of directors of additional service lines to an existing customer may be made conditional upon such provisions as the board of directors determine necessary to protect the interests of other customers and to allow for the orderly expansion and extension of the system to serve other property that may need service along the distribution lines of the system. Each service line shall connect with the district's water system at the nearest available place to the place of desired use by the customer if the district's water system has sufficient capacity to permit the delivery of water through a service line at that point without interfering with the delivery of water through a prior

service line. If the district's water system is inadequate to permit the delivery of water through a service line installed at such a place without interfering with the delivery of water through a prior service line, then such service line shall be installed at such place designated by the district. A customer shall not enlarge or extend his service line without prior written approval from the district.

Section 4. Each customer may be permitted to purchase from the district, pursuant to such agreement as may from time to time be provided and required by the district, such water as is needed by him for his use only for domestic, commercial, agricultural, industrial or other purposes as a customer may desire, subject, however, to the provisions of these bylaws and to such rules and regulations as may be prescribed by the board of directors. Each customer shall be entitled to have delivered to him through his service lines only such water as may be necessary to supply the needs of each customer. Including his family, business, agricultural or industrial requirements. The water delivered through each service line may be metered separately, and the charges for such water may be determined separately, irrespective of the number of lines owned by a customer.

Section 5. In the event the total water supply shall be insufficient to meet all of the needs of the customer or in the event there is a shortage of water, the district may prorate the water available among the various members on such basis as is deemed equitable by the board of directors and may also prescribe a schedule of hours covering use of water for commercial, agricultural or industrial purposes by particular customers and require adherence thereto or prohibit the use of water for commercial, agricultural, or industrial purposes, provided, that if at any time the total water supply shall be insufficient to meet all of the needs of all the customers for domestic, livestock, commercial, agricultural and industrial purposes, the district must first satisfy all of the reasonable needs of the customer for domestic purposes before supplying any water for livestock purposes and must satisfy all of the needs of all the customers for domestic and livestock purposes before supplying any water for commercial or industrial purposes, and, provided further, that where a customer has more than one service line, the district may cut off the flow of water to the non-domestic service lines until such time as the supply of water from the system is sufficient to meet the needs of all of the customers for domestic, livestock, and garden purposes. During such periods of shutoff of additional service lines there shall be no minimum fee charged to the customers having such additional service lines and the cost, if any, of resuming the flow of water to such additional service lines shall be borne by the district.

Section 6. The board of directors shall, prior to the beginning of each calendar year, determine the flat minimum monthly rate to be charged to each customer during the following calendar year for a specified quantity of water, such flat minimum monthly rate to be payable irrespective of whether any water is used by a customer during any month, the amount of additional charges, if any, for additional water which may be supplied the customer and the amount of penalty for late payments and shall fix the date for the payment of such charges. A customer to be entitled to the delivery of water shall pay such charges at the office designated by the district at or prior to the dates fixed by the

board of directors. The failure to pay water charges duly imposed shall result in the automatic imposition of the following penalties.

- a. nonpayment within ten days from the due date will be subject to a penalty of ten(10) percent of the delinquent account, which percent may be changed at the discretion of the board of directors.
- b. Nonpayment within thirty days from the due date will result in the water being shut off from the customer's property without any notice thereof to such delinquent customer's assignee or successor in interest. Upon the payment of the delinquent water charges, penalties thereon, and reconnection charge, by the delinquent customer or by the delinquent customer's assignee or successor in interest of the delinquent customer's property serviced by the water connection, such customer, assignee, or successor in interest shall be entitled to resumption of the water supply. During the time of such suspension of water to such customer, assignee or successor in interest.
- c. Additionally, the district shall have the right to obtain a personal judgment for the delinquency, interest, attorneys fees and costs, and the right to obtain a judgment lien against the property of such customer, assignee, or successor in interest.

Section 7. The board of directors shall be authorized to require each customer to enter into a water users agreements which shall embody the principles set forth in the foregoing provisions of these bylaws.

ARTICLE IX Distribution of Surplus Funds

It is not anticipated that there will be any surplus funds or net income to the district at the end of the fiscal year after provisions are made for the payment of the expenses of operation and maintenance and the funding of the various reserves for depreciation, debt retirement, and other purposes, including those required by the terms of any borrowing transaction. In the event that there should exist such surplus funds or net income, they may be placed in an existing or new reserve account to be used for the early retirement of any outstanding indebtedness or be used for the improvement and /or extension of the districts facilities as the board of directors may determine to be in the best interest of the district and to the extent not otherwise provided for by any contractual arrangement. The occurrence in subsequent fiscal years of surplus funds or net income above the requirements of the district as above mentioned, including, if any, a reserve for improvements and extension of the facilities, shall be taken into consideration by the board of directors in determining the water rates to be charged the customers.

ARTICLE X Amendments

These bylaws may be repealed or amended by the board of directors, from time to time. The board of directors shall not have the power to change the purposes of the district so as to decrease its rights and powers under the laws of the State of Utah, or to waive any requirement of bond or other provision for the safety and security of the property and funds of the district or its customers, or so to amend the bylaws as to effect a fundamental change in the policies of the district.

We certify that the foregoing Bylaws as amended were duly approved and adopted by the board of directors on August 4, 2011.

Emery County Commissioner Chairman

Michael McCandless, President

Carl Fillmore, Vice President

Joy Barton, Secretary- Treasurer