

EXHIBIT A

CITY OF SANTA FE

ANNUAL WATER BUDGET

ADMINISTRATIVE REGULATIONS AND PROCEDURES

Adopted by:	Resolution No. 2002-55
Date Adopted:	September 25, 2002
Revised:	December 10, 2003

Article I

(Title, Authority, Applicability, Purpose & Interpretation)

1. **Title.** These administrative procedures and regulations shall be cited and referred to variously herein as the “Annual Water Budget Administrative Regulations and Procedures,” “Water Budget Regulations and Procedures,” and “Regulations.”
2. **Authority.** Annual Water Budget Administrative Regulations and Procedures are adopted pursuant to the City of Santa Fe Annual Water Budget Ordinance (Ordinance No. 2002-29, hereinafter the “Water Budget Ordinance”) and City of Santa Fe Resolution No. 2002-55.
3. **Applicability.** Pursuant to the Water Budget Ordinance (§14-8.13 SFCC 1987), these Water Budget Regulations and Procedures apply to the following types of applications filed on or after September 11, 2002:

3.1 **Building Permit and Water Service Applications.** All building permit applications for the construction or placement of new dwelling units, accessory dwelling units, or any non-residential structure, which after completion will require water service (whether or not a water meter for service has been previously installed) from the city water system, applications for alterations or additions to residential or non-residential structures that result in increased water use or applications for water service from any project that is described in this section shall only be issued when the applicant has received an Administrative Allocation Assignment and complied with the conditions thereof or has received approval for the use of offset at time of building permit application.

3.1.1 Building permit applications requesting authority to construct additions or to remodel existing structures shall not be subject to the water provisions unless such an addition or remodel shall result in increased water use. As a condition of the issuance of such permit to construct additions or to remodel not resulting in an increase in water use, all existing plumbing fixtures within the existing structure shall be replaced with water saving fixtures. All additions or remodels that result in an increase in water use shall retrofit enough fixtures to completely offset their increased water use determined by residential square footage of lot and commercial square footage and or use of commercial building. In cases where a remodel or addition results in additional dwelling unit(s), the applicant shall retrofit to the level prescribed in these procedures for each new dwelling unit.

3.1.2 The following are exceptions to item 3.1.1 above: situations where there is only a new fixture installed; situations where there is only an increase in building area with no additional fixture; situations where there is both an increase in building area and installation of a water fixture provided that the increased building area does not exceed 500 square feet; installation of a spa not exceeding 500 gallons; installation of an oversized tub not exceeding 100 gallons; installation of a swamp cooler;

installation of a recirculating fountain not exceeding 1000 gallons of containment area; or installation of a garden pond not exceeding 2000 gallons. These exceptions do not apply to multiple installations in either commercial or multifamily residential uses.

- 3.1.3 The ordinance shall not apply to building permits for shell only permits which will later require permits for tenant improvement permits. The ordinance shall apply to the tenant improvement permit instead.
- 3.1.4 The ordinance shall apply to secondary plumbing permits if the building permit results in an increase of water use.
- 3.1.5 The ordinance shall apply to property use changes resulting in an increase in water use.
- 3.1.6 The ordinance shall apply to construction when replacing more than 66 and 2/3 % of an existing building. New construction and manufactured buildings shall receive any credit of the previous water consumption history by that prior use of the building which was demolished or replaced provided that the building to be demolished or replaced was actually occupied no less than 12 months prior to application for a demolition permit. The credit shall only be given to the replacement of a similar land use on that site. These projects shall be required only to offset for the difference in water use.
- 3.1.7 As of September 11, 2002, and subject to legal review, applicants who have received a building permit in the 12 months prior to September 11, 2002, shall be subject to the following regulations:
 - 3.1.7.1 Building permits for which there has been no work done within six months of issuance shall expire. For purposes of this section, placing a water meter on the property shall not constitute work having been done.
 - 3.1.7.2 Holders of building permits shall not be allowed to seek administrative approval for substantial changes to the awarded permit that result in increased water use. Such changes caused by unforeseeable and unpreventable circumstance shall be approved by the Planning and Land Use Department. Changes not deemed such, shall complete the offset for their increased water use.
 - 3.1.7.3 If a building permit for a project that has already acquired a water hookup expires, water service to that property shall be discontinued and any new request for a water hookup shall be subject to requirements of the code.
- 3.3. **Water Meter Service.** All water meter service applications for residential and non-residential structures located inside and outside the City of Santa Fe whether or not subject to the City's building permit application

process;

- 3.4. **Development Review Applications.** All applications for subdivision approvals under §14-3.7 SFCC 1987 (except subdivisions considered by the Summary Committee of the Planning Commission and Inheritance or Family Transfer Subdivisions under § 14-3.7(E) SFCC 1987) and for development proposals requiring a development plan approval under Chapter 14 SFCC 1987; and
 - 3.5 **Government Development.** Projects, connecting to the Water System which serve a public function where the land and building are owned by a government agency, such as the city, the county, the state, the federal government, or a public school district, shall be required to comply with these Regulations as may be limited by the City's jurisdiction.
4. **Purpose.** These Regulations are adopted for the express purposes of:
- 4.1. Providing for the implementation of the requirements of the Water Budget Ordinance, including without limitation:
 - 4.1.1. Establishing a process for the preparation, presentation and review of the Annual Water Budget;
 - 4.1.2. Establishing a process for the issuance and administration of all Administrative Allocation Assignments made pursuant to the Annual Water Budget;
 - 4.1.3. Establishing a process for the consideration and processing of all applications subject to compliance with the Annual Water Budget Ordinance;
 - 4.1.4. The adoption of all fees and charges to be paid under the Annual Water Budget Ordinance;
 - 4.1.5. Establishing a process for appeals from decisions of the Planning and Land Use Director made under the authority granted under the Annual Water Budget Ordinance and these Regulations; and
 - 4.1.6. Authorizing the development of forms to be used in accordance with and under the Regulations.
5. **Interpretation.** These Annual Water Budget Administrative Procedures are subject to interpretation and clarification by City staff. To the extent of ambiguity, omission or clear error in these Procedures, the City Manager shall have authority to clarify any such matter during implementation of these Annual Water Budget Administrative Procedures so as to effectuate the intent of the Water Budget Ordinance and these Water Budget Administrative Procedures.

Article II

(Definitions of Terms and Phrases)

1. **Incorporation of Defined Terms and Phrases.** The definitions contained in Chapter 14 SFCC 1987.

2. **Additional Defined Terms and Phrases.** The following defined terms and phrases shall apply to the Regulations:

- 2.1. **“Administrative Allocation Assignment”** means and refers to an amount of water assigned by the Planning and Land Use Director to a Request for Administrative Allocation pursuant to Article V §4 of these Regulations.
- 2.2. **“Allocation Holder”** means and refers to the Eligible Applicant who timely accepts an Administrative Allocation Assignment in accordance with Article V §4.3 below.
- 2.3. **“Alternative Water Budget”** means and refers to a written document which demonstrates that a proposed structure or development will or will not increase Total System Demand and is presented in compliance with retrofit option “B” described in Article VI §1.3.2 and which shall contain the following information:
 - 2.3.1. A description of all proposed and existing structures on the subject parcel of land together with a complete description of all proposed and existing water fixtures and other water using devices and equipment to be installed or constructed on the subject parcel (not including water to be used during and for construction);
 - 2.3.2. A description of all proposed water uses proposed for the subject parcel of land, separating such uses by indoor and outdoor categories and including the total area of proposed and existing landscaping;
 - 2.3.3. A quantification in gallons and acre-feet of the total proposed water usage to be made on the subject parcel of land on an annual, an average and maximum monthly, and an average and maximum daily basis;
 - 2.3.4. A complete description of all Approved Landscaping Water Conservation Measures which are proposed or existing on the subject parcel; and
 - 2.3.5. The name, address and telephone number of the person who prepared the Alternative Water Budget, together with all information, including a bibliography of all published and unpublished sources, relied upon in quantifying the proposed water usage and Water Offsets on the subject parcel.
- 2.4. **“Annual Water Budget”** means and refers to the Annual Water Budget adopted by the Governing Body of the City pursuant to §14-8.13 SFCC 1987 and Article IV §4 below.
- 2.5. **“Approved Landscaping Water Conservation Measures”** means and refers to the use of active and passive water harvesting methods and devices approved by the Planning and Land Use Director to meet the irrigation requirements for landscaping, in whole or in part, and which include but are not limited to the following: cisterns, constructed rain

gardens, French drains, gray water (where and when approved by law), infiltration fields or galleries, rain barrels, swales, rain catchments, water tanks and pumps. The use of such active and passive water harvesting techniques may be used to reduce the projected overall water use in an Alternative Water Budget.

- 2.6. **“City Manager”** means and refers to the City Manager of the City of Santa Fe.
- 2.7. **“Covered Applications”** means and refers to applications for building permits or final subdivision plat or final development plan approvals or a water meter service covered by the Regulations as provided in Article I §3 above and for which the applicant has already demonstrated compliance with the water budget ordinance and these regulations by allocation, retrofit or offset and specifically refers to:
 - 2.7.1. All applications for permits for construction of single family residences, accessory units, multi-family residences, nonresidential, alterations, additions and remodels as set forth in Article I, item 3, “Applicability” which after completion will require water service from the Water System;
 - 2.7.2. All applications for final subdivision approvals under §14-3.7 SFCC 1987 (except subdivisions considered by the Summary Committee of the Planning Commission and Inheritance or Family Transfer Subdivisions under § 14-3.7(E) SFCC 1987) and for final development plan approvals under Chapter 14 SFCC 1987; and
 - 2.7.3. All applications for water meter service.
- 2.8. **“Development Allocation”** means and refers to an Administrative Allocation Assignment which has been timely accepted in writing by an Eligible Applicant pursuant to Article V §4.3 below.
- 2.9. **“Dwelling Unit, High Water Use”** means and refers to a lot of 10,980 square feet or more upon which a dwelling unit, remodel or addition is proposed to be built and is deemed under these Regulations to use on average approximately .32 acre-feet of water per year.
- 2.10. **“Dwelling Unit, Low Water Use”** means and refers to a lot of 6,000 square feet or less upon which a dwelling unit, remodel or addition is proposed to be built and is deemed under these Regulations to use on average approximately .20 acre-feet of water per year.
- 2.11. **“Dwelling Unit, Medium Water Use”** means and refers to a lot of more than 6,000 square feet but less than 10,980 square feet upon which a dwelling unit, remodel or addition is proposed to be built and is deemed under these Regulations to use on average approximately .25 acre-feet of water per year.
- 2.12. **“Eligible Applicant”** means and refers to a party meeting the qualifications contained in Article V §1.1 below.

- 2.13 **“Fixture”** whether new or replacement means a toilet.
- 2.13a **“Increase in Water Use”** means water consumption that increases historical water use for a specific address or specific site for a specific use.
- 2.14 **“Low Priced Dwelling Unit”** means a dwelling unit that is affordable to a household with an income at or below 80% of the area median income, using a four person household for buyers and a three person household for renters.
- 2.15. **“Non-residential Development”** means and refers to a building or buildings constructed in whole or in any part for the purpose of activities that are non-residential.
- 2.16. **“Permit Allocation”** means and refers to the Administrative Allocation Assignment granted by the Planning and Land Use Director and accepted by an Eligible Applicant pursuant to Article V §4 below and the holder of which is required to file a Covered Application pursuant to Article III §1 below.
- 2.17. **“Planning and Land Use Director”** means and refers to the Director of the Planning and Land Use Department of the City or his or her designee.
- 2.18. **“Priority Category”** means and refers to the categories of water service and use to which the water is allocated and the priority to be given to the category by the Governing Body at the time of the allocations made by the Governing body in accordance with Article IV §5 below.
- 2.19. **“Public Utilities Director”** means and refers to the Director of the Public Utilities Department.
- 2.20. **“Request for Administrative Allocation Assignment”** means and refers to a full and complete request submitted to the Planning and Land Use Director for a permit or development allocation pursuant to Article V §1 below.
- 2.21. **“Required Water Offsets”** means and refers to the level of water savings which must be achieved by a Covered Application as specified in these Regulations in Article VI §1.2.
- 2.22. **“Reserve Use”** or **“Reserve Requirements”** means and refers to reserve margins to be available on the Water System as determined by the Governing Body in adopting the Annual Water Budget.
- 2.23. **“Retrofit Approval”** means and refers to the approval granted by the Planning and Land Use Director under Article VI §3 below.
- 2.24. **“Retrofit Proposal”** means and refers to a proposal submitted to the Planning and Land Use Director for review, consideration and approval under Article VI §1.3. At a minimum, a Retrofit Proposal shall include a description of the total number of toilet retrofits required under these Regulations, the address of the property where the proposed toilet Retrofits are located, the name and number of the owner of the property where the proposed toilet retrofits are located, and whether the Retrofit

Proposal will utilize Article VI §1.3.4.1 or Article VI §1.3.4.2 below.

- 2.25. **“Retrofit”** and **“Water Fixture Retrofit”** means and refers to the replacement of **“Eligible Existing Water Fixtures”** with a **“Qualified Replacement Water Fixture”** specifically replacing a toilet that uses more than 1.6 gallons per flush with a toilet that uses 1.6 gallons per flush or less.
- 2.26. **“Total System Demand”** means and refers to Total System Demand as defined in §14-8.13(B) SFCC. Current system demand shall be based on actual use in years that have not been governed by the city’s Drought Ordinances.
- 2.27. **“Total System Supply”** means and refers to Total System Supply as defined in §14-8.13(B) SFCC. Current system supply shall be reported to reflect that, under §14-8.13(D)(3), the supply from future supplemental Buckman wells (#9 through #13) shall be allocated only to existing customers and reserve and emergency uses.
- 2.28a **“Water Hookup”** means a metered service connection and consists of the tap into the water distribution main, a service line, a meter setter and a meter box or a water service agreement with the City for the metered service connection.
- 2.28b **“Water Meter”** means a device that counts the water flowing from the city’s water system to the customer.
- 2.29. **“Water Offsets”** means and refers to allowed, approved, and achieved water savings produced in the Water System by person submitting a Covered Application through the use of Retrofits and the other methods allowed under Article VI §1 below.
- 2.29a **“Water service”** means water provided to a customer through the City’s water system.
- 2.30. **“Water System”** means and refers to the water utility system owned and operated by the City, and includes without limitation all the physical plant, wells, pumps, transmission and distribution facilities, water treatment facilities, storage facilities and all water rights and rights to water owned by the City for use in its water utility.

Article III

(Requirement of Permit and Development Allocations and Retrofit Approval)

1. **Covered Applications; Prerequisites.** No Covered Application shall be accepted by the City for review or consideration until and unless the person submitting the Covered Application shall, in accordance with these Regulations, obtain a Permit or Development Allocation and/or a Retrofit Approval which in combination demonstrate the Required Water Offsets for the Covered Application.
2. **Other Applicable Requirements.** In addition to the Permit or Development Allocation and/or Retrofit Approval, the person submitting the Covered Application shall comply with all other requirements of Chapter 14 for the applicable Covered

Application.

Article IV

(Preparation, Presentation and Review of Annual Budget)

1. **Compilation of Data and Reports.** Not later than January 5 of each year the Public Utilities Director and the Planning and Land Use Director shall jointly compile and prepare reports which set forth their opinion as to Total System Supply and Total System Demand. The reports shall include all of the available information relevant to a determination of Total System Supply and Total System Demand. The reports shall also include the total water available from all sources utilized in the Water System by virtue of permits, contracts or other authority allowing water to be diverted and utilized in the Water System; the total amount of water diverted from each such source during the preceding 12 months period; the total water actually delivered from the Water System in the preceding twelve-month period for each use or other destination of that water.
2. **Preparation of Draft Budget.** Not later than January 10 of each year, the City Manager shall prepare a draft of the Annual Water Budget. The draft Annual Water Budget shall include the following elements:
 - 2.1. Total System Supply and Total System Demand as quantified by the Public Utilities Director and the Planning and Land Use Director under Article IV §1;
 - 2.2. Total water obligated to be delivered from the Water System pursuant to legally enforceable obligations of the City; and
 - 2.3. Total water available from new sources for allocation which shall include the following information:
 - 2.3.1 A description of the legal authority, including all contracts and permits, pursuant to which the City may utilize such water;
 - 2.3.2 A description of the actual physical source of such water;
 - 2.3.3 A description of the date upon which such water will actually be available for use in the Water System; and
 - 2.3.4 A description of any and all limitations and restrictions on the legal or physical use of such water.
3. **Presentation of Draft Budget.** At a meeting of the Governing Body in February of each year, the City Manager shall present to the Governing Body the draft budget.
4. **Review and Adoption of Budget.** At the same or a later meeting of the Governing Body in February, the Governing Body shall review, consider and adopt an Annual Water Budget which shall be in effect from March 1 until the later of the end of February of the following year or the adoption of a subsequent Annual Water Budget.
5. **Annual Water Allocation.** At the meeting in February at which the Annual Water Budget is adopted, the Governing Body shall make its Annual Water Allocation

determined under the Annual Water Budget. The Annual Water Allocation shall include the total amount of water to be allocated and shall set the Priority Categories for that year's allocation. Residential development in which the average sales price or rent of at least 70 percent of all units for sale or for rent are affordable to households with incomes at or below 80 percent of the area median income, using a four person household for homebuyers and a three person household for renters shall receive the Governing Body's highest Priority Category.

6. **Initial Annual Allocation; Assumption of Full Allocation.** As of September 11, 2002, it is deemed that Total System Supply has been fully allocated to Total System Demand and no water is available for allocation.
7. **Semi-Annual Review and Update of Budget.** Not later than the last meeting of the Governing Body in October, of each year, the City Manager shall update the information provided to the Governing Body in the preparation of the Draft Budget. At the last meeting of the Governing Body in October of each year, the Governing Body shall review and if it deems appropriate, revise the Annual Water Budget to reflect any additional allocation of water made available to the Water System since September 11, 2002 and any shortage of water that has been experienced by the Water System since the last semi-annual review.

Article V

(Administrative Allocation Assignments)

1. **Request for Administrative Allocation Assignments.** A party making a request for an Administrative Allocation Assignment of water made available under the Annual Water Budget, as it may be revised each year, shall make such request in writing in accordance with these Regulations and the calendars for submitting applications but no earlier than the first date for acceptance of applications for the period for which the allocation is sought. Before any such request may be reviewed or considered by the Planning and Land Use Department, the request must be complete and contain all information required by these Regulations.
 - 1.1. **Eligible Applicants.** In order to request an Administrative Allocation Assignment under these Regulations, a person must verify by sworn statement that he is eligible to apply for an Administrative Allocation Assignment because such person:
 - 1.1.1 Owns land which may be served by the Water System according to City regulations and policies or is authorized in writing by the owner of the land;
 - 1.1.2. Intends to file a Covered Application for such parcel; and
 - 1.1.3. Has provided with the statement the following information:
 - 1.1.3.1. A copy of the latest recorded deed and recorded plat of survey for the parcel of land;
 - 1.1.3.2. A copy of the written permission to file the request from the owner of the parcel if the person making the request is anyone other than the owner; and

1.1.3.3. In the case of a building permit or water hookup, a description of all the improvements the requesting party intends to erect, place or construct on the parcel of land, including the proposed use of the improvements, and the total square footage of the lot; or

1.1.3.4. In the case of a development approval other than a building permit, a description of all of the improvements the requesting party intends to seek approval for on the parcel of land, including the proposed use of the improvements, the current zoning for parcel of land, the total square footage of all improvements to be erected, placed or constructed on the parcel of land.

2. **Preparation of List of Pending Requests.** Not later than the deadlines shown on the calendar for submitting applications, the Planning and Land Use Director shall prepare a list of all Requests for Administrative Allocation Assignments appropriately received for each submission period. The Planning and Land Use Director shall make such list available in the office of the City Clerk not later than two weeks following the close of each submission period. The list shall include but not be limited to the following:

2.1. The name and address of the Eligible Applicant for each Request for Administrative Allocation Assignment;

2.2. The Priority Category within which each Request for Administrative Allocation Assignment falls under the Annual Allocation made by the Governing Body; and

2.3. The ordered ranking of each application within each Priority Category determined by the date and time of the receipt by the Planning and Land Use Department of each completed Request for Administrative Allocation Assignment.

3. **Notice of Categorical Ranking.** Not later than five (5) business days following the preparation of the list of pending Request for Administrative Allocation Assignments, the Planning and Land Use Director shall provide each Eligible Applicant with written notice sent first-class mail of the list of pending requests compiled pursuant to this Article V.

4. **Administrative Allocation Assignments; Procedure.** In making the Administrative Allocation Assignments under these Regulations, the Planning and Land Use Director shall follow the procedures set forth in this Article V.

4.1. **Assignment.** Not later than ten days following the close of each submission period, the Planning and Land Use Director shall, beginning with the highest Priority Category and the highest ordered ranking within that Priority Category and assign to each Request for Administrative Allocation Assignment an amount of water required for the project

contemplated by the Covered Application. This process shall be followed until all water available for allocation has been allocated. If the last Request for Administrative Allocation Assignment for which there is water available to assign requests more water than remains then a partial assignment shall be made.

4.2. Notice of Assignments and Partial Assignments.

4.2.1. Not later than fifteen days following the close of each submission period, the Planning and Land Use Director shall notify each Eligible Applicant and the members of the Governing Body of the Administrative Allocation Assignment made by the Planning and Land Use Director.

4.2.2. For any Request for Administrative Allocation Assignment for which there is only available a partial allocation for the amount of water requested by the Eligible Applicant, the Planning and Land Use Director shall so notify the Eligible Applicant of the same, and the Eligible Applicant shall have the option of accepting the Administrative Allocation Assignment, provided that the Eligible Applicant reduce the scale of the project contemplated by the Request for Administrative Allocation to meet the amount of water available under the proposed Administrative Allocation Assignment and/or file an application for a Retrofit Approval pursuant to Article VI §1 which retrofit approval need only account for the difference between the amount of water being requested and the amount of water allocated. Such application for Retrofit Approval shall be filed not later than ten (10) business days of the date of the notice of partial Administrative Allocation assignment from the Planning and Land Use Director.

4.3. **Acceptance.** Not later than ten (10) business days following the receipt of the notice from the Planning and Land Use Director provided in Article V §4.2 above, the Eligible Applicant shall notify the Planning and Land Use Director in writing of the Eligible Applicant's acceptance of the Administrative Allocation Assignment. Upon a timely written acceptance by an Eligible Applicant, the Administrative Allocation Assignment shall become a Permit Allocation or Development Allocation until such time as the Permit Allocation or Development Allocation shall expire or terminate in accordance with these Regulations. If the Eligible Applicant shall fail to timely notify the Planning and Land Use Director of his acceptance, then the Administrative Allocation Assignment shall be deemed rejected by the Eligible Applicant and it shall be reassigned in accordance with these Regulations.

5. Permit and Development Allocation; Conditions; Validity; Effect; Transferability.

5.1. **Conditions of Approval.** Every Permit Allocation and Development Allocation shall be subject to the following conditions:

- 5.1.1. Not later than six (6) months from the Date of the acceptance of an Administrative Allocation Assignment, an Allocation Holder shall file a completed Covered Application for which the Allocation Holder has received an Administrative Allocation Assignment;
- 5.1.2. After the date of the filing of the Covered Application, an Allocation Holder shall take all actions necessary and required under the applicable provisions of Chapter 14 to seek the final approval of the Covered Application, including without limitation, the submission of documentation and information required under the applicable provisions of Chapter 14 and the timely taking of appeals from adverse decisions; and
- 5.1.3. An Allocation Holder shall take the actions necessary under the applicable provisions of Chapter 14 for the Covered Application to remain a valid authorization to develop in accordance with the approvals that may be granted for the Covered Application.
- 5.2. **Permit and Development Allocation Period.** A Permit Allocation and a Development Allocation shall remain valid and in full force and effect for so long as the Allocation Holder's Covered Application is pending before any administrative official or body authorized to consider the same or is pending as an appeal pursuant to these Regulations or the laws of the State of New Mexico, and for so long as the approvals granted pursuant to the Covered Application shall remain valid and shall authorize the actions permitted under the approvals which may have been granted for the Covered Application, including any extensions thereof permitted and granted under Chapter 14.
- 5.3. **Transferability.** Permit and Development Allocations shall apply to the parcel of land for which the Request for Administrative Allocation Assignment was filed. Permit and Development Allocations are only transferable and assignable by an Allocation Holder to a party(s) who acquires the parcel of land for which the Request for Administrative Allocation Assignment was filed. If an Allocation Holder transfers and assigns a Permit or Development Allocation pursuant to this Article V §5.3, the transferee of the Permit or Development Allocation shall be responsible for notifying the Planning and Land Use Director in writing of the name, address, and telephone number to which any and all notices should be sent under these Regulations. Until such time as the transferee shall so notify the Planning and Land Use Director, any and all notices sent pursuant to these Regulations shall be deemed properly sent when sent first-class mail to the Allocation Holder on record with the office of the Planning and Land Use Director, and all applicable time periods shall begin to run under these Regulations as a result of such notice so sent by the Planning and Land Use Director.
- 5.4. **Termination and Expiration; Notice.** If an Allocation Holder shall at any time fail to meet and satisfy the conditions of approval of the Permit

or Development Allocation specified in this Article V §5.1 above, the Planning and Land Use Director shall notify the Allocation Holder in writing of the failure to meet or satisfy the conditions of approval and of the proposed termination of the Permit or Development Allocation held by the Allocation Holder as provided in this Article V §5.4 and the actual termination of the Permit or Development Allocation as provided in Section 5.4.1 and 5.4.2 below.

5.4.1. If the failure to meet or satisfy a condition of approval consists of the failure by the Allocation Holder to submit documentation or information required by Chapter 14 for the consideration of the Covered Application, the Allocation Holder shall have ten (10) business days from the date of the notice from the Planning and Land Use Director in which to submit the documentation or information required by Chapter 14.

5.4.2. If the Allocation Holder shall fail to make a timely submission after receipt of the notice from the Planning and Land Use Director of the failure to meet or satisfy a condition, the Planning and Land Use Director shall notify the Allocation Holder of the termination of the Permit or Development Allocation. Neither a Permit Allocation nor a Development Allocation, in and of itself, guarantees a right to any specific permit or development approval. The person receiving a Permit Allocation or a Development Allocation must meet and comply with all other applicable requirements and standards necessary for the approval of the Covered Application.

5.4.3. If the failure to meet or satisfy a condition of approval consists of the failure by the Allocation Holder under this Article V §5.1.3 above and no timely request for an extension or a timely appeal has been filed, the Planning and Land Use Director shall notify the Allocation Holder of the expiration of the Permit or Development Allocation.

6. **Reallocation and Reassignments.** If an Eligible Applicant does not timely accept the Administrative Allocation Assignment or timely appeal the same, or if any Administrative Allocation Assignment shall expire or terminate, the water allocated pursuant to the expired or terminated Administrative Allocation Assignment shall be reassigned by the Planning and Land Use Director in accordance with the Annual Allocation from the Governing Body within thirty (30) days of the non-acceptance, expiration or termination (as the case may be) of the Administrative Allocation Assignment. Such reassignment shall be in accordance with the Governing Body's highest unfulfilled Priority Category determined in the most recent Annual Allocation.
7. **New Allocation.** No new allocations of water can be made until such time as 50% of the projects permitted by the building permits that are open as of September 11, 2002, and that constitute a new demand on the Water System have been completed.

Article VI
(Water Offsets and Water Fixture Retrofits)

1. **Water Offsets.** In accordance with these Regulations and pursuant to the standards as set forth in this Article VI the Planning and Land Use Director is authorized to review, consider, determine, approve and/or deny applications for Water Offsets submitted pursuant to Article VI §2 below.

- 1.1. **Applicability.**

- 1.1.1. Until such time as the Governing Body shall adopt an Annual Water Budget and make the Annual Allocation of water, the requirements of this Article VI applies to all Covered Applications.
 - 1.1.2. After the date the Governing Body adopts an Annual Water Budget and makes an Annual Allocation of more than zero, the requirements of this Article VI shall be met for any and all Covered Applications for which no Permit Allocation or Development Allocation was made by the Planning and Land Use Director.
 - 1.1.3. For any Covered Application, a person may rely, in whole or in part, upon a Retrofit Approval granted under this Article VI §3 below to establish Water Availability for purposes of filing of a Covered Application.

- 1.2. **Required Water Offsets.** For all covered applications, the following Water Offsets shall be achieved at the time of building permit issuance:

- 1.2.1. For Covered Applications for Dwelling Units, the applicant may chose to offset their anticipated water use in the following ways:
 - 1.2.1.1 For Low Water Use Dwelling Units, Water Offsets in the amount of .2 acre-feet annually shall be achieved through any combination of Permit Allocation, Development Allocation, or retrofits as described in Article VI, § 1.3;
 - 1.2.1.2 For Medium Water Use Dwelling Units, Water Offsets in the amount of .25 acre-feet annually shall be achieved through any combination of Permit Allocation, Development Allocation, or retrofits as described in Article VI, § 1.3;
 - 1.2.1.3 For High Water Use Dwelling Units, Water Offsets in the amount of .32 acre-feet annually shall be achieved through any combination of Permit Allocation, Development Allocation, or retrofits as described in Article VI, § 1.3; or
 - 1.2.1.4 If an applicant chooses not to offset at the average levels listed in Article VI, § 1.2.1, the applicant shall offset an amount equal to the water requirements shown by an Approved Alternative Water Budget, and this shall be

achieved through any combination of Permit Allocation, Development Allocation, or retrofits as described in Article VI, § 1.3.

1.2.2. For all non-residential Covered Applications, the applicant shall offset an amount equal to the water requirements shown by an Approved Alternative Water Budget, and this shall be achieved through any combination of Permit Allocation, Development Allocation, as described in Article VI, § 1.3.

1.3. **Retrofit Options and Standards.** All Applications for approval of Water Offsets shall include a Retrofit Proposal to be considered, reviewed, approved and/or denied by the Planning and Land Use Director in accordance with the methods and standards set forth in this Article VI §1.2. Required water savings may be demonstrated in whole or in part through Water Offsets under the following Retrofit Options.

1.3.1. **Retrofit Option “A.”** Under Retrofit Option “A”, a person may establish the Required Water Offsets for a residential Covered Application by demonstrating in a Retrofit Proposal that:

1.3.1.1. For residential Covered Applications requesting approval of a Low Water Use Dwelling Unit, a person must demonstrate that, for every proposed Low Water Use Dwelling Unit, eight (8) toilet Retrofits will be achieved;

1.3.1.2. For residential Covered Applications requesting approval of a Medium Water Use Dwelling Unit, a person must demonstrate that, for every proposed Medium Water Use Dwelling Unit, ten (10) toilet Retrofits will be achieved; or

1.3.1.3. For residential Covered Applications requesting approval of a High Water Use Dwelling Unit, a person must demonstrate that, for every proposed High Water Use Dwelling Unit, twelve (12) toilet Retrofits will be achieved.

1.3.1.4. For purposes of this Retrofit Option “A”, a party who achieves the foregoing toilet Retrofits shall be deemed to have achieved the Required Water Offsets for the type of Covered Application.

1.3.1.5. The following chart summarizes the foregoing standards employed under this Retrofit Option “A”, and includes information set forth and contained in Article II (Defined Terms and Phrases) of these Regulations:

<u>Dwelling Type</u>	<u>Maximum Lot Size</u>	<u>Standard Water Use Requirements</u>	<u>Require No. of Toilet Retrofits</u>
Low Water Use Dwelling Unit	6,000 square feet or less	.20 acre feet annually	8 toilet retrofits per dwelling unit
Medium Water Use Dwelling Unit	More than 6,000 square feet but less than 10,890 square feet	.25 acre feet annually	10 toilet retrofits per dwelling unit
High Water Use Dwelling Unit	10,890 square feet or more	.32 acre feet annually	12 retrofits per dwelling unit

1.3.2. Retrofit Option "B." Under Retrofit Option "B", a person may establish the Required Water Offsets for any Covered Applications by demonstrating to the Planning and Land Use Director's satisfaction in a Retrofit Proposal that:

1.3.2.1. Relies upon and includes reliable data and accepted engineering methods and standards;

1.3.2.2. Demonstrates the Water Offsets in an amount equal to the water needs of a project as shown in the Alternative Water Budget approved pursuant to these Regulations can and will be achieved through Water Fixture Retrofits, with credit given for Permit or Development Allocations; and

1.3.2.3 The required offset may be accomplished with a varying number of retrofits depending upon the building use in which the retrofitted toilet is located (e.g. one restaurant toilet retrofitted offsets more water than one residential toilet retrofitted.). Offset water values are as determined by the Water Budget Administrative Office using engineering equivalencies.

1.3.2.4 The alternative water budget approved under Option B shall apply to the property and all future owners. The applicant shall file with the Santa Fe County Clerk the approved alternative water budget which includes a legal description of the property. A copy of the recorded alternative water budget shall be provided to the Water Budget Administrative Office within 90 days of the date of registration with the Water Budget Administrative Office.

1.3.2.5 An alternative water budget approved under Option B may be modified to increase water demand provided that the applicant offsets the

increase in water demand by completing the necessary retrofits. An applicant may not request a modification to decrease water demand. An applicant with an approved water budget may also choose to comply with Option A instead of the approved alternative water budget in Option B provided that the applicant offsets the difference in water demand by completing the necessary retrofits.

1.3.3. Retrofit Option "C." Under Retrofit Option "C", a person whose Covered Application will request authority to construct a low priced dwelling unit may propose to establish the Required Water Offsets for such Covered Application by utilizing Water Offsets already produced by Water Fixture Retrofits achieved solely with funds of the City under the "Water Wise -- Santa Fe" program operated by the Planning and Land Use Department of the City; provided, however, the Planning and Land Use Director must approve the Retrofit Proposal submitted for such Covered Application and a Compliance Verification shall not be issued until the Required Water Offsets for the proposed project have been effectuated. Requests shall be verified by the Community Services Department as meeting the price requirements prior to approval of the Retrofit Proposal. Nothing in this paragraph shall be construed or administered to conflict with Section 14-8.13(F)(4)(D) in Ordinance No. 2002-29.

1.3.4. Completion of Retrofits. A Retrofit Proposal under Retrofit Option "A" or Retrofit Option "B" may propose to effectuate the planned Water Fixture Retrofits through either of the following methods.

1.3.4.1. A person may effectuate the planned water fixture retrofits through private means through the City's administrative program operated under the Water Budget Administrative Office. The person may obtain the names and addresses of Water System customers listed with the City who are willing to have their high flow toilets retrofitted. Once these retrofits have been completed, the person completes the Notice of Compliance as set forth in Article VI §4.1 of these Regulations; or

1.3.4.2. A person may effectuate the planned Water Fixture Retrofits independently through private means; provided, however, such party shall complete the actual Retrofits prior to the issuance of a Compliance Verification pursuant to Article VI §4.

2. Applications for Water Offsets. For all Covered Applications proposing to meet the

water needs of a project, in whole or in part, by effecting Water Offsets, an application for Water Offsets together with a Retrofit Proposal shall be submitted to the Planning and Land Use Director. The application for Water Offsets shall be submitted on a form developed and approved by the Planning and Land Use Director and shall attach the following submittals:

- 2.1. A verified statement that such person:
 - 2.1.1. Owns land which may be served by the Water System according to City regulations and policies or is authorized in writing by the owner to make the request;
 - 2.1.2. Intends to file a Covered Application for such parcel owned; and
- 2.2. A copy of the latest recorded deed and recorded plat of survey for the parcel of land;
- 2.3. A copy of the written permission from the owner to file the request if the person making the request is not the owner of the parcel of land;
- 2.4. In the case of a building permit or water hookup, a description of all the improvements the requesting party intends to erect, place or construct on the parcel of land, including the proposed use of the improvements, the total square footage of the improvements, the total number of bathrooms proposed, and the total number and type of all water fixtures to be installed;
- 2.5. In the case of a final subdivision plat or final development plan approval, a description of all of the number of lots or all the improvements the requesting party intends to seek approval for on the parcel of land, including the proposed use of the lots or improvements, and the current zoning for parcel of land. For development plans, the total square footage of all improvements to be erected, place or constructed on the parcel of land, the total number of bathrooms proposed, and the total number and type of all water fixtures to be installed shall also be described. Retrofits may be deferred until issuance of a building permit;
- 2.6. In the case of a water meter service outside the city limits, a description of all of the improvements the requesting party intends to seek approval for;
- 2.7. An Alternative Water Budget as defined in these regulations;
- 2.8. An accurate and complete copy of the permits or written approvals for the development of the subject parcel; and
- 2.9. Phasing Schedule for the improvements posed to be constructed on the subject parcel.

3. Review and Approval; Retrofit Approval.

- 3.1. The Planning and Land Use Director shall review and consider Applications for Water Offsets in accordance with and under the procedures and standards set forth this Article VI.

- 3.2. Within 15 business days of the submission of a complete Application for Water offsets, the Planning and Land Use Director shall either approve or deny such Application for Water Offsets applying the standards set forth in this Article VI and shall notify the applicant in writing of the decision. If the Planning and Land Use Director shall approve such application, the notice shall state the specific Water Offset approved in the Retrofit Approval. If the Planning and Land Use Director shall deny such application, the notice shall state the specific reasons for the denial and any and all deficiencies in the application or the submittals made therewith.

4. Notice of Compliance and Compliance Verification.

- 4.1. After the retrofits contained in and required by the Retrofit Approval have been actually completed, the person on whose behalf the retrofits have been completed shall submit a written Notice of Compliance to the Planning and Land Use Director together with the following documentation:
 - 4.1.1. For the Retrofits completed in accordance with provisions of Article VI §1.3.4.1 or Article VI §1.3.4.2, a sworn affidavit from the party(s) who actually did the work on the Retrofits stating that the Retrofits have been completed and actually installed.
- 4.2. Not later than five business days following the receipt of the Notice of Compliance, together with the required documentation, the Planning and Land Use Director shall issue a Compliance Verification stating that the requirements of the Retrofit Approval have been met and that a final electrical, plumbing and/or gas inspection, whichever occurs first, may be undertaken or Certificate of Occupancy may be applied for and issued or water hookup may be completed, assuming all other applicable conditions of the building permit or development approval have been met. For permits involving only remodeling, the Compliance Verification may be issued after approval of the permit but shall be issued prior to approval of a final electrical, plumbing, and/or gas inspection, whichever occurs first. In all cases, all other applicable conditions of the building permit or development approval shall be met.
- 4.3. The Planning and Land Use Director shall, on a monthly basis, report to the Public Utilities Committee the total number of retrofits that have been achieved under the City's Water Wise program since September 11, 2002, and the total number of such retrofits that have been verified as having been completed under Article VI § 4.1.1.

Article VII

(Fees)

1. **Fees.** Attached hereto as Attachment A is a listing of fees to be collected by the Planning and Land Use Department.

Article VIII

(Appeals)

1. Appeals to Planning and Land Use Director.

- 1.1. Any persons jointly or severally aggrieved by any decision of a member of the Planning and Land Use Department in any determination under these Regulations may submit to the Planning and Land Use Director a petition of appeal setting forth that such decision is illegal, incorrect, or not in compliance with the applicable standards or requirements of these Regulations, in whole or in part. Such petition shall:
 - 1.1.1. Specify the grounds relied upon by the appellant in claiming such illegality, incorrectness or lack of compliance;
 - 1.1.2. Attach copies of the relevant documentation relied upon, including the decision or determination appealed from by the appellant; and
 - 1.1.3. Provide a brief and specific description of the relief requested by the appellant.
- 1.2. Such appeal shall be submitted to the Planning and Land Use Department within five (5) business days of the date at which the decision or determination was made and appellant notified thereof in writing.
- 1.3. The Planning and Land Use Director shall decide the issues raised in the petition and notify the appellant thereof in writing not later than fifteen (15) business days of the date of the filing of the Petition with the Planning and Land Use Director. If the Planning and Land Use Director shall fail to so decide or notify the appellant within said fifteen-day period, then the petition shall be deemed denied.

2. Appeals of Decisions of the Planning and Land Use Director.

- 2.1. Any persons jointly or severally aggrieved by any decision of the Planning and Land Use Director in any determination under these Regulations may submit to the Planning and Land Use Department a petition of appeal setting forth that such decision is illegal, incorrect, or not in compliance with the applicable standards or requirements of these Regulations. Such petition shall:
 - 2.1.1. Specify the grounds relied upon by the appellant in claiming such illegality, incorrectness or lack of compliance;
 - 2.1.2. Attach copies of the relevant documentation relied upon, including the decision or determination appealed from by the appellant; and
 - 2.1.3. Provide a brief and specific description of the relief requested by the appellant.
- 2.2. Such appeal shall be submitted within thirty (30) days of the date at which the decision or determination appealed from was taken. Appeals shall follow the procedures described in Chapter 14.

- 2.3. Such appeal shall be deemed to stay any applicable deadlines.
- 2.4. Appeals of decisions of the Planning and Land Use Director regarding the Annual Water Budget Ordinance shall be heard by the City Manager. Appeals of the decisions of the City Manager shall be heard by the Public Utilities Committee. Appeals of the decisions of the Public Utilities Committee shall be heard by the Governing Body.

Article IX
(Miscellaneous Provisions)

1. **Amendments.** These Regulations may only be amended pursuant to a duly adopted resolution of the Governing Body.
2. **Interpretation.** These Regulations shall be liberally interpreted to accomplish the purposes set forth herein.
3. **Severability.** In the event that a court of competent jurisdiction shall determine that any provision these Regulations is invalid, unlawful or unenforceable, the remainder of these Regulations shall remain in full force and effect.

Article X
(Penalties)

1. **Violations; Monitoring.**
 - 1.1. If an applicant, in order to fulfill the retrofit requirement of § 14-8.13 SFCC 1987, submits certificates of completed retrofits that the City determines have not, in fact, been made or that do not qualify as legal retrofits under the above-mentioned section, the Planning and Land Use Director shall notify the applicant that a) they are in violation of City code, b) their building permit has been withdrawn, c) their project has been red-tagged until such time as the violation has been rectified, and d) if the project has already obtained a water hook-up, the water service shall be disconnected in 60 days. An applicant who has received such notice may, upon successful completion of double the previously required number of retrofits, have water service restored.
 - 1.2. A project that retrofitted at ratios other than those provided for in § 14-8.13(F)(4)(a) SFCC 1987 shall have their water usage monitored annually. If the project uses more water than was estimated in its application, the City shall notify the owner that the project has exceeded the water estimate. If water usage for this project exceeds its water estimate by 10% or more, and the Planning and Land Use Director determines that this was not an error on the part of the City, the Director shall immediately notify the owner that it has exceeded its estimate and shall inform the owner that water service will be disconnected in 60 days. The director shall then re-calculate an estimate for this project and require any and all necessary steps to bring this project into compliance with the provisions of §14-8.13 SFCC 1987, including retrofits or payments as appropriate to

offset double the original water demand. A project that has received such notice may, upon successful completion of appropriate remediation, have water service restored.

- 1.3. If an applicant claims, under Article I, § 3.5 of these Regulations, that a remodel or addition will not increase water use (as defined in these Regulations) and that claim is later found to be false, the Planning and Land Use Director shall notify the applicant that a) they are in violation of City code, b) their building permit has been withdrawn, c) their project has been red-tagged until such time as the violation has been rectified, and d) if they have already obtained a water hook-up, their water service will be disconnected in 60 days. An applicant who has received such notice may, upon successful completion of double the previously required number of retrofits, have water service restored.

2. Discontinuance of Service.

- 2.1. At least 60 days before the City proposes to discontinue service to a customer under Subparagraphs 1.1 through 1.3 above, the City shall provide that customer with notice of each of the rights such customer may have relating to discontinuance of service. Such notice shall be in writing, in English and Spanish, and shall be in simple language. Such notice shall be delivered to the affected customer in person or by depositing a copy of the notice in the U.S. Mail, postage prepaid, addressed to the customer at the customer's service address. Such notice shall contain:
 - 2.1.1. The title(s), address, telephone number(s) and working hours of the personnel at the City responsible for carrying out the rights;
 - 2.1.2. The alleged violation of Article X of these Regulations and the date by which the customer must make arrangements with the City concerning correcting the alleged violations;
 - 2.1.3. A statement that a customer may file a complaint with the City employee designated to hear and determine such complaints under Article VIII of these Regulations, if the customer disagrees with the City's determination concerning discontinuance of service;
 - 2.1.4. A statement that the City shall not discontinue service to any residence where a seriously ill person or person whose life may be endangered by discontinuance of service resides, if at least two (2) days prior to the proposed service discontinuance date indicated in the notice, the designated City employee receives a certificate or copy thereof from a practitioner of the healing arts, on forms provided by the City or other suitable forms, stating that discontinuance of service might endanger the person's life or health. If service has been discontinued, the City shall reestablish service within twelve (12) hours of receipt of said certificate;
 - 2.1.5. A blank medical certificate, which shall permit the practitioner to indicate the expected duration of the residential customer's serious

illness or life endangering situation; and

- 2.1.6. A statement of the cost of reconnection and other applicable fees.
- 2.2. The City shall take reasonable steps to communicate with a customer, by telephone or personal contact, at least two (2) days prior to the actual date of discontinuance of service. The City employee personally contacting a customer two (2) days prior to discontinuance, and the City employee sent to discontinue utility services shall note any information which is made known to the employee by the customer regarding any resident's seriously ill or life endangering health condition, such as whether a resident is physically disabled, frail or elderly. Such information shall be immediately reported in writing to a City employee authorized to prevent discontinuance. That employee shall either delay the discontinuance order if it is apparent that the forms provided for in Article X §2.1.4 will be received, or shall state in writing why such delay is not being affected. The City and City employee's noting of the information made known by the customer, and acting upon such information or failing to act on such information in good faith, shall cause the City and City employee to be held harmless for any error made or damages incurred.
- 2.3. Utility service to a customer may be discontinued only during the hours from 8:00 a.m. to 3:00 p.m. on Monday through Thursday and may not be discontinued less than twenty-four (24) hours prior to a holiday or weekend unless the City personnel are available to restore such service during said holiday or weekend.
- 2.4. A properly executed medical certificate form shall be adequate to delay discontinuance for at least thirty (30) days and, at the City's option, the City may delay discontinuance for up to one hundred twenty (120) days or for a longer period of time. The City shall promptly notify the residential customer in writing as to how long it deems the certificate to be valid; provided, however, that should the circumstances on which the certificate is based appear to have changed, the City may require additional certification.

Article XI (Gross Receipts Tax)

1. **Gross Receipts Tax.** Any general contractor whose principal place of business is not within Santa Fe City limits and who is applying for a building permit under §§ 14-8.13(E) & (F) SFCC 1987 and/or Articles V & VI of these Regulations for projects located within the boundaries of the City of Santa Fe shall, within 90 days of the completion of the project, submit documentation that the gross receipts taxes paid on such a project have been allocated to the City of Santa Fe.

Attachment A

Fee	Amount	
Administrative (Clearinghouse)	\$40 per required retrofit fixture	All applicants, except those using Option "C" (low-priced units), pay fee. This pays for administrative costs including inspections. Applicant may request name/address of interested retrofit customer.

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2003- 106

3 INTRODUCED BY:

4 Councilor Ortiz

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6
7
8
9
10 A RESOLUTION

11 AMENDING RESOLUTION NO. 2002-55 THE ANNUAL WATER BUDGET
12 ADMINISTRATIVE REGULATIONS AND PROCEDURES.

13
14 WHEREAS, on August 26, 2002, the governing body of the city of Santa Fe adopted
15 Ordinance No. 2002-29 establishing an annual water budget; and

16 WHEREAS, on September 25, 2002, the governing body adopted Resolution No. 2002-
17 55 establishing the annual water budget administrative regulations and procedures; and

18 WHEREAS, staff is proposing amendments intended primarily to clarify, codify and
19 standardize interpretation and procedures.

20 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE
21 CITY OF SANTA FE that the annual water budget administrative regulations and procedures
22 shall be amended as attached in Exhibit A.

23 PASSED, APPROVED, and ADOPTED this 10th day of December, 2003.
24
25