

Water Rights Dedication Ordinance

Section 1. Purpose:

- 1.1** *As growth in the service territory of the District accelerates, it will become increasingly difficult for the District to fund the acquisition of water rights needed to serve new developments and to fund the cost of infrastructure, including water treatment facilities needed to serve new developments.*
- 1.2** *As growth in the service territory of the District accelerates it will be inequitable to existing customers of the District to include the cost of acquisition of water rights and the cost of infrastructure needed to serve new developments in the District's rates for delivered water to existing customers.*
- 1.3** *The District hereby adopts this Ordinance to (a) require new developments to acquire and dedicate to the District the water rights, including reserves, needed for the District to serve the water needs of such developments or, in the alternative to pay to the District the fair value of such water rights and (b) require new developments to pay for necessary infrastructure required to deliver water to such developments.*

Section 2. Exclusions:

There is excluded from this Ordinance water right costs for service to:

- (a)** *A parcel created by a minor subdivision map after July 1, 1973 that has subsequently been recorded prior to the adoption of this Ordinance*
- (b)** *A parcel of land created by a minor subdivision map that has received a map number by Clark County Current Planning Division within 24 months prior to the adoption of this Ordinance*
- (c)** *A parcel of land created by a major subdivision after July 1, 1959 that has subsequently been recorded prior to the adoption of this Ordinance*
- (d)** *A parcel of land created by a Tentative Map that has been approved by the Clark County Current Planning Division within 24 months prior to the adoption of this Ordinance*
- (e)** *An individual residence through an existing metered connection*
- (f)** *A parcel created after July 1, 1959 and before July 1, 1973 that was created by a deed document*

Section 3. Definitions:

- 3.1** **Applicant** *means an applicant for municipal water service from the District for a development.*
- 3.2** **Application** *means an application to the District to serve a Development submitted to the District pursuant to Section 7.*
- 3.3** **Approval of a Development** *means approval by the District of a proposed Development as provided in Section 7 hereof.*
- 3.4** **Connection Fees** *means fees paid to the District by a Developer pursuant to Section 14 hereof.*
- 3.5** **Dedication of Facilities** *means to transfer ownership of Facilities to the District within and/or outside of the Development.*

- 3.6 **Dedication of Water Rights** means to transfer water rights by deed to the District together with an Abstract of Title and a Report of Conveyance on the required form of the Nevada State Engineer's office sufficient to transfer title to the water rights being dedicated to the District.
- 3.7 **Dedicated Water Rights** means Water Rights that have been dedicated to the District to serve a Development by dedication or payment of the Fair Value thereof.
- 3.8 **Developer** means the proponent of a Development.
- 3.9 **Development(s)** means any improvement, subdivision, land division, parcel map, housing project, municipal or commercial project that will utilize municipal water, other than service excluded from this Ordinance.
- 3.10 **Facilities** includes physical facilities within and/or outside of a Development, including but not limited to, wells, casings, pumps, pipes, motors, related electrical installations, valves, fittings, water treatment installations and easements.
- 3.11 **Fair Value of Water Rights** shall be that value established by the Governing Board of the District from time to time, taking into account sales of like water rights in the Meadow Valley - Moapa Valley - Coyote Springs Valley areas and such other factors as the Governing Board deems relevant.
- 3.12 **Governing Board** means the Board of Directors of the District.
- 3.13 **Person** includes individuals, corporations, partnerships, limited liability companies or public agencies.
- 3.14 **Reserve** means Water Rights to be dedicated to the District by a Developer, as required by Section 11 of this Ordinance, over and above the Water Rights to be dedicated to the District as required by Section 9 of this Ordinance.
- 3.15 **State Engineer** means the Nevada State Engineer, in the Division of Water Resources, Department of Conservation and Natural Resources of the State of Nevada.
- 3.16 **Water Rights** means surface or groundwater rights available to serve a Development recognized as valid by the State Engineer either as permitted (certificated or uncertificated) or as adjudicated vested rights, in good standing on the records of the State Engineer, free and clear of encumbrances (except for conditions, acceptable to the District, of the permit or the Decree in the case of vested rights) or claims of others, the place of use of which is capable of being transferred to the District's service territory and the manner of use of which is capable of being changed to municipal, and, if necessary for the District's use, the point(s) of diversion of which is (are) capable of being changed.
- 3.17 **Water Rights Held for Future Development** means water rights which are dedicated to the District by persons who anticipate utilizing such rights for future development.

Section 4. Applicability:

The provisions of this Ordinance apply to all Developments except as may be excluded by the provisions of this Ordinance.

Section 5. Dedication of Water Rights or Payment in Lieu of Dedication:

- 5.1** *From and after the date of adoption of this Ordinance by the Governing Board of the District any Person desiring water service from the District for a Development must dedicate to the District the amount of Water Rights, including Reserves, determined by the District to be required to serve the proposed Development. The District shall have the right to reject any offered Water Rights, if, in the sole determination of the District, the offered Water Rights are not capable of economic use by the District.*
- 5.2** *As an alternative to Dedication of Water Rights, a Person desiring water service for a Development may, at the option of the District if it deems water to be available, pay the District the Fair Value of the amount of Water Rights determined by the District to be required to serve the proposed Development, plus reserves. In the event that a Clark County approved Tentative Map or the development contemplated by a minor subdivision map is not recorded within a 24 month period of receiving Clark County Tentative Map approval or a MSM map number, the dedication of water rights for that Development shall be rescinded by the District and moneys returned less any accumulated interest. (*See Implementation Policy at the end of the Water Rights Dedication Ordinance)*
- 5.3** *After dedication of the required amount of Water Rights, the District's obligation to serve the proposed Development shall be conditioned on the necessary change applications (as to manner and place of use and point of diversion, if applicable) being filed with and approved by the State Engineer in a final order, not subject to any appeals.*
- 5.4** *After dedication of the required amount of Water Rights or in the case of payment in lieu of dedication after receipt of the funds, the District's obligation to serve the proposed Development shall be further conditioned on Dedication of Facilities, if required by the provisions of this Ordinance.*
- 5.5** *All estimated costs of Dedication of Water Rights and all costs of preparation and filing and prosecuting to a final order necessary change applications with the State Engineer shall be paid in advance by the Applicant proposing the Development in such increments and at such times as determined by the District. After a final order from the State Engineer has been obtained the actual costs shall be compared with the estimated cost payments and, within sixty (60) days of the date of the order, the Developer shall pay the District any additional amount due or the District shall refund to the Developer the amount of any overpayment.*
- 5.6** *All dedications of Water Rights, except for stock in the Muddy Valley Irrigation Company, shall be accompanied by evidence of actual use within the last five (5) years.*

Section 6. Dedication of Facilities and Payment for Facilities:

- 6.1 ***An Applicant shall, as a condition to the District's obligation to serve the Applicant's proposed Development with municipal water, dedicate the Facilities necessary to deliver the Dedicated Water Rights to a usable point within the District's distribution system, to the extent the Applicant owns or controls such Facilities.***
- 6.2 ***In the event the Dedicated Water Rights represent non-potable water, it shall be a condition to the District's obligation to serve the proposed Development that the Applicant provide Facilities, to the District's specifications and standards, to treat the water from the Dedicated Water Rights to potable municipal water supply standards.***
- 6.3 ***In the event the Applicant does not own or control all of the Facilities necessary to deliver the water represented by the Water Rights to a usable point within the District's distribution system, the Applicant shall, as a condition to the District's obligation to serve the proposed Development, pay to the District the cost of all necessary Facilities not dedicated to the District. The cost shall be estimated by the District. After construction has been completed, the actual cost shall be compared with the District's estimated cost and if the estimated cost payment exceeds the actual cost the District shall refund the difference to the Applicant. Conversely, if the actual cost is greater than the estimated cost, the Applicant shall pay the difference to the District. True-up payments shall be made within 90 days of completion of the Facilities for which payment was made.***
- 6.4 ***The estimated costs shall include the cost of preparation of plans of the Facilities if the Applicant has not furnished complete plans to the District. All plans of proposed facilities shall conform to the District's standards for the Facilities covered by the plans and shall be approved by the District if such plans have been prepared by or at the request of the Applicant.***
- 6.5 ***The cost of any Facilities that are needed to serve the proposed Development shall be the responsibility of the Developer, however, to the extent any of such Facilities benefit the District's system with respect to reliability or diversification of supply, including oversizing, the portion of the cost attributable to such benefit shall be repaid to the Developer by the District, without interest, quarterly over 5 years. Whether or not a benefit to the District's system will result from the installation of the Facilities and if so, the monetary value thereof, shall be determined in the sole and absolute discretion and judgment of the District, whose decision is final.***
- 6.6 ***All costs of distribution facilities within a Development and payment of Connection Fees shall be the responsibility of the Developer as provided by the Policies and Procedures of the District.***

Section 7. Applications:

- 7.1 ***All Applications for new Developments shall be submitted to the District by the Applicant with such information and on such forms as may be required by the District from time to time, together with all required fees.***
- 7.2 ***In addition, the Applicant shall submit to the District information with respect to the proposed Development in sufficient detail to enable the District to verify the amount of Water Rights which need to be dedicated to***

the District to serve the Development and in sufficient detail to enable the District to ascertain all necessary Facilities that need to be acquired or constructed to convey the Dedicated Water Rights to the District's system and from the District's system to the proposed Development.

- 7.3** ***All Water Rights offered to the District for dedication shall be accompanied by a water quality analysis by a competent person or firm, acceptable to the District, to enable the District to determine whether such water source meets the drinking water standards of the District, and, if not, the level and type of treatment needed to bring the water up to the standards of the District for potable drinking water and the associated cost of such treatment.***
- 7.4** ***Within 30 days of the District's receipt of a complete Application including all of the information and fees required by this Ordinance, the District shall issue a decision on the Application, conditioning such decision on compliance with all of the requirements of this Ordinance and of the policies of the District.***

Section 8. Time for dedication of Water Rights or payment of the Fair Value thereof and time for dedication of facilities or payment of the cost thereof: filing fee.

- 8.1** ***A filing fee as set by the District from time to time shall be paid at the time of filing the Application required in Section 7.***
- 8.2** ***The Water Rights required by a Development, including Reserves, shall be dedicated to the District by a Developer delivering appropriate documentation required by the District at the time of issuance by the District of its decision on an Application. Water Rights Held for Future Development shall become Dedicated Water Rights at the time of issuance by the District of its decision on an Application requiring the utilization of Water Rights Held for Future Development. If a payment for the Fair Value of required Water Rights is to be made to the District by a Developer as permitted by this ordinance, such payment shall be made in cash at the time the District issues its decision on an Application.***
- 8.3** ***Facilities required to serve a Development shall be dedicated to the District by a Developer prior to the issuance of a certificate of occupancy for any portion of the Development by Clark County by delivery of appropriate documentation as required by the District. In the event a Developer is required by this Ordinance to pay the cost of Facilities not dedicated to the District, such payment shall be made in cash to the District by the Developer on a date determined by the District to allow sufficient time for the Facilities to be completed prior to the projected date of issuance of a certificate of occupancy by Clark County.***
- 8.4** ***Costs associated with Dedication of Water Rights and costs of preparation and filing and prosecuting change applications with the State Engineer as described in Section 5.5 shall be paid at such times as determined by the District.***

Section 9. Amount of Water Rights to be Dedicated (not including Reserve Water Rights):

- 9.1** ***The General Manager, with the approval of the Governing Board shall, from***

time to time designate the amount of Water Rights to be dedicated based on the nature of uses of water required by a proposed Development.

- 9.2** *The initial designation by the General Manager, approved by the Governing Board contemporaneously with approval of this Ordinance is attached hereto and entitled Criteria For Dedication of Water Rights.*

Section 10. Non-Exclusivity of Dedications:

The Dedicated Water Rights and the Dedicated Facilities may be used by the District in performance of its obligations to serve the municipal needs of its customers wherever they may be lawfully served and the Person dedicating such Water Rights or Facilities only has a right to be served and does not have any claim on water from the Dedicated Water Rights nor does such Person or the proposed Development have any claim on the Dedicated Facilities.

Section 11. Reserve Water Rights Held by District:

- 11.1** *All Dedications of Water Rights or payments in lieu of Water Rights shall be for the amount of Water Rights required for a Development, plus a Reserve amount of Water Rights equal to ten percent (10%) of the required amount.*
- 11.2** *The Governing Board shall establish the total amount of Reserves of Water Rights to be retained by the District from time to time. In the event the District holds Water Rights in excess of established Reserves, such Water Rights may be sold by the District to Developers at the established Fair Value as approved by the Governing Board.*

Section 12. Abandonment of Development, Refunds:

- 12.1** *All Applications on which action has been taken by the District pursuant to Section 7 shall remain in good standing, subject to compliance by the Developer with the conditions established by the District, so long as the Developer's building permit for the Development issued by Clark County remains in full force and effect.*
- 12.2** *In the event a building permit issued by Clark County for a Development lapses, for whatever reason, the Developer's Application with the District shall also lapse and any action theretofore taken by the District on the Application shall be cancelled. In such event, the District shall retain, without further obligation of any kind to the Developer or the Development, all fees previously paid, all Dedications of Water Rights or Dedications of Facilities theretofore made and for all payments previously made to the District by a Developer for the Fair Value of Water Rights and all payments previously made to the District by a Developer for the cost of Facilities.*
- 12.3** *A Developer with a subdivision Development who does not intend to pursue his Development may obtain a return of Dedicated Water Rights, and/or a refund of any payments for the Fair Value of Water Rights and/or payments for the cost of Facilities not otherwise expended by the District, upon filing and having recorded a reversion to acreage map (reversionary map) with the Clark County Recorder, provided such filing is done prior to the lapse of the Developer's building permit for the Development issued by Clark County.*

- 12.4** *Filing fees paid pursuant to Section 8.1 and fee paid pursuant to Section 5.5 are not refundable to a Developer under any circumstances.*

Section 13. Reimbursement for Shared Facilities Not Affected:

Nothing in this Ordinance shall affect the District's reimbursement policy for subsequent use by others of facilities previously paid for by a Developer.

Section 14. On Site Development Costs and Connection Fees:

- 14.1** *All costs of water distribution facilities within a Development, including all meters and connections to the District's closest water main shall be paid by a Developer, prior to setting of a meter or meters to serve.*
- 14.2** *All Connection Fees established by the Governing Board of the District from time to time for a proposed Development shall be paid to the District by a Developer at time of issuance of a decision by the District on an Application.*
- 14.3** *In the event a Development has not been completed within two (2) years of the date of approval of a Development by the District, the District shall have the right to sever any physical connection from the District's system to the Development and take such steps as may be necessary from time to time to protect the District's system. All costs of the District incurred in severing any physical connections and in undertaking inspections or other work to insure the safety of the District's system shall be deducted from Connection Fees paid to the District by a Developer.*
- 14.4** *The Governing Board of the District shall, from time to time, establish Connection Fees to be paid by a Developer.*

Section 15. Water Rights Held for Future Development.

- 15.1** *The District may hold in its name water rights which a Person has deeded to it in anticipation of utilization of such rights for Developments to be constructed in the future.*
- 15.2** *Persons desiring to deed Water Rights Held for Future Development to the District shall prepare and file, at their expense, all necessary documentation with the State Engineer and pay the fees therefore, so as to reflect the District as the owner of such water rights on the records of the State Engineer, provided however that such persons shall furnish the State Engineer with the name and address of persons to whom all notice or correspondence shall be directed by the State Engineer, in addition to the District.*
- 15.3** *The District shall not commit any Water Rights Held for Future Development to any development unless requested to do so by the Person deeding such rights to the District, or his successor, based on written documentation of such succession satisfactory to the District.*
- 15.4** *When a Person desires to utilize some or all of the Water Rights Held for Future Development for a development, he shall make an Application therefore as required by Section 7 of this ordinance, and thereafter, all*

provisions of this ordinance shall apply to the utilization of such rights, including, without limitation, determination of water quality, quantity, and dedication or payment for facilities.

- 15.5** *The District shall use reasonable efforts to maintain Water Rights Held for Future Development in good standing during the time such rights are held by the District. This does not obligate the District to place water to beneficial use or to construct works of improvement.*
- 15.6** *During the time the District shall hold Water Rights Held for Future Development, the Person deeding such rights to the District and their successors and assigns shall hold the District free and clear of all loss, liability, or damage on account thereof.*
- 15.7** *The criteria for Dedication of Water Rights, attached to this ordinance in effect on the date of filing an Application in respect to all or a portion of the Water Rights Held for Future Development pursuant to Section 7 hereof shall govern the Districts commitment to serve such water rights to the future development.*
- 15.8** *The District's acceptance of Water Rights Held for Future Development shall constitute the Districts acceptance of (a) the state of title to such water rights as of the date of the District's acceptance of the deed and (b) the quantity of such rights (subject to the Reserve water rights, described in this ordinance and subject to water production availability) as shown in the Deed (or Deeds) to such water rights accepted by the District.*
- 15.9** *All Water Rights Held for Future Development shall be in good standing with the State Engineer when deeded to the District. Water rights not in good standing will not satisfy the water right dedication provisions of this ordinance necessary to support a Development.*
- 15.10** *Persons who have deeded Water Rights Held for Future Development to the District and who wish to have some or all of such rights reconveyed to them by the District without being used by a Development, may request such reconveyance in writing, giving such evidence of authorization for the request as may be reasonably requested by the District. However, the District shall retain a portion of the water rights equal to 10% each year of the amount requested for reconveyance.*

Approved and Adopted this 28th day of July, 2005.

Ayes: 4
Nays: 1
Absent:
Abstentions:

MOAPA VALLEY WATER DISTRICT

Attest: _____ **By:** _____
Secretary **Ivan Cooper, Chairman**

**CRITERIA FOR DEDICATION OF WATER RIGHTS
(Does not include Reserve Water Rights)**

1. **Amount: The amount of Water Rights to be Dedicated to Moapa Valley Water District in connection with proposed Developments is as follows: (AFA acre foot annually)**
- | | | |
|-----|--|---------|
| 1.1 | Single family residence | 1.0 AFA |
| 1.2 | Each apartment, townhouse, condominium, motel or hotel unit and each recreational vehicle space | .25 AFA |
| 1.3 | For each 1000 square foot of landscaped area around apartments, motels, hotels, apartments, townhouses or condominiums | .15 AFA |
| 1.4 | Each acre on which commercial or retail facilities are to be located | 1.0 AFA |
| 1.5 | Casinos, convention space, industrial and all other types of development to be determined on a case by case basis by the General Manager | |

1.2 Revisions and Additions: The amount of Water Rights to be Dedicated to the District from time to time by Persons proposing Developments may be revised or expanded by the General Manager with the approval of the Governing Board.

Approved and Adopted this 28th day of July, 2005.

Ayes: 4
Nays: 1
Absent:
Abstentions:

MOAPA VALLEY WATER DISTRICT

Attest: _____ By _____
Secretary Ivan Cooper, Chairman

***Payment in lieu of Water Rights Dedication Implementation Policy** (November 11/10/05) (3/8/07) (11/17/11) (4/14/15)
(2/6/20)

In support of Section 5.2 of the adopted Water Rights Dedication Ordinance, the Moapa Valley Water District Board of Directors has determined that the District has sufficient water to meet its current and committed demands and had determined it has sufficient water from the development of its Well's road water production facility to accommodate up to 600 additional meter connections at the given rate of 1 acre foot of water per metered connection or less based upon an approved water budget.

To insure fair and equitable distribution of these water resources, the District will allocate up to 120 meter connections per year, with a split of 80 meter connections for parcels contemplated being developed with a Clark County approved tentative map and 40 meters by the Clark County's

minor subdivision map process. A developer will be restricted to 8 residential units per quarter per tentative map and 4 residential units per quarter per minor subdivision map. The quarters will start on January 1st, April 1st, July 1st and October 1st.

At the regular scheduled Board meeting in November, the General Manager shall report to the Board the accounting of the connections sold for that calendar year. At that time, the Board may elect to remove the above restrictions on the amount of connections sold per development for the remainder of the calendar year.

Applications will be accepted by the Moapa Valley Water District beginning on January 3, 2006. The applications will be sequentially number and will be processed on a “first come – first served” basis. In the event that the annual allocation of meters has been committed, those outstanding applications will be carried forward to the next calendar year and processed beginning with the lowest sequenced number.

In the event, the Board determines that sufficient water no longer exists to offer for “Payment in lieu of Dedication”, the outstanding applicants shall be notified in writing of this determination within 30 days.

At the time of application approval, the Developer shall pay the District \$7,382/meter connection as fair market value for “payment in lieu of dedication”.