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**CITY COUNCIL MEETING  
AGENDA  
September 11, 2017  
6:00 P.M.**

**CALL TO ORDER/PLEDGE OF ALLEGIANCE**

1. Consent Agenda
  - A. Minutes – City Council Meeting 08/14/17
  - B. Minutes – Airport Commission Meeting 08/08/17
  - C. Minutes – Planning & Zoning Commission Meeting 08/21/17
    - a. Recommendation to Vacate Red Mountain Estates Subdivision *(to be presented at the October 9, 2017 City Council meeting)*
  - D. Minutes – Marshall Memorial Library Board 08/29/17
2. Public Forum
3. Proclamation Recognizing Childhood Cancer Awareness Month
4. Mayoral Appointment of Alternate Representative to the NM CAP Entity
5. Approval of a Resolution Authorizing and Approving Submission of a Completed Application for Financial Assistance and Project Approval to the New Mexico Finance Authority
6. Resolution of the Governing Body, Authorizing the Submission of a Notice of Intent and Application for Funding Assistance to the New Mexico Finance Authority Water Trust Board and Commitment to the Operation & Maintenance of the Proposed Project
7. Resolution Appointing Authorized Signers for City of Deming Documents
8. Procurement:
  - a. RFP #17-08 NMCAP Entity Professional Engineering Services
9. Public Hearing to Consider an Ordinance Amending Title 9, Chapter 6, Section 5: Payment of Bills; Delinquent Accounts, Of the Municipal Code of the City of Deming, New Mexico
10. Administrator's Report
11. Closed Session to discuss the Purchase, Acquisition, or Disposal of Real Property Pursuant to NMSA 1978, Section 10-15-1 (H)(8) of the Open Meetings Act Regarding the Peru Mill Industrial Park
12. Adjourn Meeting

*The next regular City Council Meeting is scheduled for October 9, 2017 at 6:00 p.m.*

# CITY COUNCIL MEETING MINUTES September 11, 2017

**Council Present:** Benny L. Jasso, Mayor  
David L. Sanchez, Councilor

Joe "Butter" Milo, Councilor  
Dr. Victor Cruz, Mayor Pro- Tem

**Council/Staff Absent:** Roxana Rincon, Councilor

Gina Gentile, City Planner

**Staff Present:** Aaron Sera, City Administrator  
Bryan Reedy, Community Svcs. Director  
Jim Massengill, Public Works Director  
Jim Foy, City Attorney

Raul Mercado, Fire Chief  
Bobby Orosco, Police Chief  
Laura Holguin, Treasurer  
Mary Corral, Receptionist  
Paul Grimes, Facilities Maintenance

**Recording Secretary:** Lila Jasso, Administrative Secretary

Mayor Jasso called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

Prior to opening the meeting, Mayor Jasso observed a moment of silence in commemoration of 9/11.

## 1. Consent Agenda

Mr. Sera presented the consent agenda and stated that he had nothing to bring to the Council's attention.

Councilor Sanchez moved to approve the Consent Agenda, as presented. Councilor Milo seconded the motion; motion carried unanimously.

- **Presentation of Retirement Certificate**

Mayor Jasso presented Paul Grimes with his certificate of retirement after 25 years of service to the City.

## 2. Public Forum

Mayor Jasso opened the public forum session. The following persons had comments:

- Ray Harman, 2430 Orno Rd. SE
- John Michael Lemon, 7710 Country Club Rd. SE

Mayor Jasso closed the public forum session.

## 3. Proclamation Recognizing Childhood Cancer Awareness Month

Mayor Jasso read the proclamation into record.

Councilor Sanchez moved to approve the proclamation recognizing Childhood Cancer Awareness Month. Councilor Milo seconded the motion; motion carried unanimously.

**4. Mayoral Appointment of Alternate Representative to the NM CAP Entity**

Mr. Sera stated that the reason this is being presented tonight, is that the previously approved appointment of David McSherry as alternate representative to the NM CAP was associated with the resolution to approve the amended Joint Powers Agreement (JPA). However, the City is still operating under the original JPA and the change of alternate representative presented will be effective immediately.

Mayor Jasso read the recommendation into record.

Councilor Milo moved to approve the appointment of David McSherry as the alternate representative to the NM CAP Entity, as presented. Councilor Sanchez seconded the motion; motion carried unanimously.

**5. Approval of a Resolution Authorizing and Approving Submission of a Completed Application for Financial Assistance and Project Approval to the New Mexico Finance Authority**

Mr. Massengill, Public Works Department, presented the resolution to Council. He stated that both resolutions are required by the state in order to apply for the funds. Mr. Massengill stated that the requested funds are to increase the SCADA capacity. He went on to say that the City is asking for \$150,000. He read the scope of work into record.

Councilor Milo asked if this application was for a loan. Mr. Massengill explained that the New Mexico Finance Authority has many opportunities and that the application could be awarded for a loan/grant opportunity.

Councilor Sanchez move to approve the resolution authorizing and approving submission of a completed application for financial assistance and project approval to the New Mexico Finance Authority, as presented. Councilor Milo seconded the motion; motion carried unanimously.

**6. Resolution of the Governing Body, Authorizing the Submission of a Notice of Intent and Application for Funding Assistance to the New Mexico Finance Authority Water Trust Board and Commitment to the Operation & Maintenance of the Proposed Project**

Mr. Massengill presented the resolution to Council. He stated that a notice of intent was submitted to the Water Trust Board for funding opportunities for water projects, and since then they have provided the City with the data to apply for a project funding. He went on to say that this resolution is required to submit the application which is due October 3<sup>rd</sup>. Mr. Massengill mentioned that for the past several years, the City has been working on water system improvements. The one pertaining to this resolution is for water system improvements within the Mira Sol Subdivision, in the Encanto Circle area. He stated that the water lines in this area are 67 years old and in great need of updating. Mr. Massengill stated that two year ago, the City applied for funding for this same purpose, but was unsuccessful. He read the resolution into record. He emphasized that this step is merely to apply for funding in hopes to continue with the necessary water system updates in the Encanto Circle area.

Mr. Sera added that this project is also rated number 1 on the ICIP list of projects for the City.

Mr. Massengill stated that the Water Trust Board constantly changes the criteria for ranking the

applications, and is hoping to get this funding.

Mayor Jasso entertained a motion from the Council.

Councilor Milo moved to approve the resolution of the Governing Body, authorizing the submission of a Notice of Intent and Application for funding assistance to the New Mexico Finance Authority Water Trust Board and commitment to the operation and maintenance of the proposed project. Mayor Pro Tem Cruz seconded the motion; motion carried unanimously.

## **7. Resolution Appointing Authorized Signers for City of Deming Documents**

Mr. Sera read the resolution into record noting the changes of Fire and Police Captain to Fire and Police Chief. He explained that occasionally he is out of the office and cannot sign documents in a timely manner. This resolution would alleviate this problem.

Councilor Milo asked if this would pertain to purchase requisitions. Mr. Sera said it would only pertain to requisitions over the established \$10,000 limit of the department heads.

Mayor Pro Tem Cruz moved to approve the resolution appointing authorized signers for City of Deming documents. Councilor Milo seconded the motion; motion carried unanimously.

## **8. Procurement:**

### **a. RFP #17-08 NM CAP Entity Professional Engineering Services**

Mr. Sera read the memorandum into record for the recommendation of the award of this RFP to OCCAM Engineers, Inc. and RJH Consultants Inc./Daniel B. Stevens.

Mayor Pro Tem Cruz asked why the City Council must approve the RFP. Mr. Sera stated that since the City is the fiscal agent for the NM CAP Entity, the City is fiscally responsible for making sure that the procurement policy is followed. Mr. Sera added that they have already taken this to their board, and it was approved contingent on approval of the City Council. Mayor Pro Tem Cruz feels that the NM CAP Entity should not be asking the City Council for approval, because it appears that the City is voting on issues for the NM CAP Entity. Mr. Sera explained that as the fiscal agent, the City cannot accept money on behalf of the NM CAP Entity and issue money for projects, unless the City is assuring that the NM CAP Entity is following state procurement policy.

Mr. Foy interjected that the City is merely keeping it all legal.

Mayor Jasso entertained a motion from Council.

Councilor Milo moved to award RFP #17-08-Professional Engineering Services and Project Administration for the NM CAP Entity, as presented. Councilor Sanchez seconded the motion; motion carried unanimously.

**9. Public Hearing to Consider an Ordinance Amending Title 9, Chapter 6, Section 5: Payment of Bills: Delinquent Accounts, of the Municipal Code of the City of Deming, New Mexico**

Ms. Holguin, Treasurer, stated that this amendment to the existing ordinance has been done to clean up the existing language and add clarification for the public to better understand.

Councilor Milo asked if the City would still assist customers who could not pay their bill by offering a payment plan. Ms. Holguin stated that the City does not offer a payment plan, however, we would recommend they contact entities who assist individuals with this type of issue.

Mr. Sera stated that the intent of this amendment is to clear up the language for the customers we serve. He stated that one of the main issues is that we currently use a third-party billing service, which will be discontinued and bills will be generated in-house. He also mentioned that the language will help those customers who are on a fixed income to understand when the bill becomes late.

Ms. Holguin stated that the main changes are noted on the copy provided to Council.

Mr. Sera stated that the previous changes that have been made have lowered the number of disconnected accounts per month.

Mayor Jasso asked if customers can pay online. Ms. Holguin stated that currently there is an option to pay online, however, since it is through a third-party, a fee does apply. She stated that she is looking into a no-fee option for customers.

Mayor Jasso opened the hearing to public comments.

John Michael Lemmon, 7710 Country Club Road SE., asked about the due date versus the fixed income problem. He stated that the Social Security Administration has different pay days depending on the person's birthday. He stated that the fixed due date may not benefit customers. Ms. Holguin stated that there are two billing cycles and two different due dates, depending on which cycle your account is on. She stated that the billing cycle is based on location, not on the individual's preference.

Ray Harman, 2430 Orno Road SE, asked if the City is going to mail the bill out of the local office. Ms. Holguin stated that they would be sent out from the local office and the City would no longer be outsourcing the billing service.

Mayor Jasso closed the public hearing session. He entertained a motion from Council.

Councilor Sanchez moved to approve the ordinance amending Title 9, Chapter 6, Section 5: Payment of Bills; Delinquent Accounts of the Municipal Code of the City of Deming, New Mexico, as presented. Councilor Milo seconded the motion; motion carried unanimously.

## 10. Administrator's Report

Mr. Sera reported the following:

- Gave a follow up from the Girl Scout's proposed balloon ordinance. He stated that he has revised the ordinance, but has not discussed with them to see if they will agree to revisions. He stated that his recommendation will be that they cannot release Mylar balloons at all, or any other balloons with more than 6 inches of ribbon or string. He plans to meet with the troop members to negotiate.
- He and Chief Mercado have been working on union grievance that have been filed.
- Working with Element Power on a large-scale solar agreement only to be sold to local governments. They are trying to do an exemption for local governments-City, County, and Schools, but they are still working on it.
- Working on land agreements to clean up the language.
- Working on a LEDA project for a company that wants to come into town to occupy the old Proper Foods building. Working with the state on the LEDA project. At this time, he is not able to divulge who the company is. Jim Foy is assisting with the documents for this project.
- He and Laura are working with NMML to get Taxation and Revenue to explain the formula used for gross receipts tax distributions.

## 11. Closed Session to Discuss the Purchase, Acquisition or Disposal of Real Property Pursuant to NMSA 1978, Section 10-15-1(H)(8) of the Open Meetings Act

Mayor Jasso entertained a motion to go into closed session.

Councilor Milo moved to go into closed session. Councilor Sanchez seconded the motion; motion carried by the following roll call vote:

### ROLL CALL VOTE

Mayor Pro Tem Cruz	Aye
Councilor Sanchez	Aye
Councilor Milo	Aye

Councilor Milo moved to go back into open session. Mayor Pro Tem Cruz seconded the motion; motion carried by the following roll call vote:

### ROLL CALL VOTE

Councilor Milo	Aye
Mayor Pro Tem Cruz	Aye
Councilor Sanchez	Aye

Councilor Sanchez moved to allow staff to execute the letters of intent to various developers for the property in the Peru Mill Industrial Park. Councilor Milo seconded the motion; motion carried unanimously.

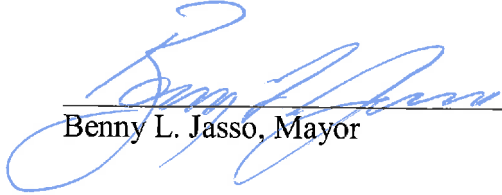
Mayor Jasso stated for the record that only the items mentioned in the motion to go into closed session were discussed and that no items were moved upon during the closed session.

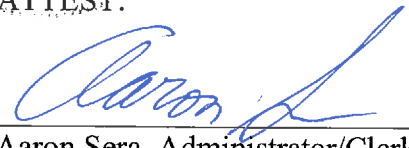
**12. Adjourn Meeting**

With no further business to discuss, Councilor Sanchez moved to adjourn the meeting, seconded the motion; motion carried unanimously. Meeting adjourned at 7:39 p.m.



**CITY OF DEMING, NEW MEXICO**

  
Benny L. Jasso, Mayor

  
Aaron Sera, Administrator/Clerk

# *Proclamation*

## **CHILDHOOD CANCER AWARENESS MONTH SEPTEMBER 2017**

**WHEREAS**, the health and safety of all citizens of Deming is essential to the happiness and well-being of the City's families and communities; and

**WHEREAS**, childhood cancer affects one out of every 15,000 of our country's young people each and every year, and one in five of those diagnosed does not survive; and

**WHEREAS**, this tragic disease is the leading cause of death by disease among U.S. children between infancy and age 15; and

**WHEREAS**, when a child is diagnosed with cancer, it devastates their family, and the unexpected costs of treatment can be overwhelming; and

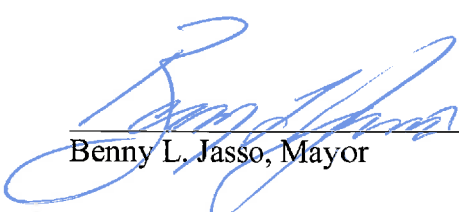
**WHEREAS**, the determination and bravery with which these children fight their battles against cancer should be recognized and commended by all; and

**WHEREAS**, it is vital that those affected by childhood cancer have access to quality, affordable care, and that research of all forms of childhood cancer continues to be vigorously supported;

**NOW, THEREFORE, I, Benny L. Jasso, do hereby recognize September 2017 as CHILDHOOD CANCER AWARENESS MONTH in the City of Deming, New Mexico, and I call this observance to the attention of all our citizens.**

**Signed this 11<sup>th</sup> day of September, 2017 in the City of Deming, New Mexico.**

**CITY OF DEMING, NEW MEXICO**

  
Benny L. Jasso, Mayor

ATTEST:

  
Aaron Sera, Clerk





**CITY OF DEMING  
RESOLUTION NO. 17-28**

**AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED  
APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT  
APPROVAL TO THE NEW MEXICO FINANCE AUTHORITY**

**WHEREAS**, the City of Deming (“Borrower”) is a qualified entity under the Drinking Water State Revolving Loan Act, Sections 6-21A-1 et seq., NMSA 1978 (“Act”), and the Deming City Council (“Governing Body”) is authorized to borrow funds and/or issue bonds for financing of public projects for benefit of the Borrower and the public; and

**WHEREAS**, the New Mexico Finance Authority (“Authority”) has instituted a program for financing of projects from the Drinking Water State Revolving Loan Fund created under the Act, and has developed an application procedure whereby the Governing Body may submit an application (“Application”) for financial assistance from the Authority for drinking water projects; and

**WHEREAS**, the Governing Body intends to undertake acquisition, construction and improvements of City of Deming Water Wells/Booster Pumps/Storage Tanks SCADA System the (“Project”) for the benefit of the Borrower and its citizens (or member as applicable); and

**WHEREAS**, the application prescribed by the authority has been completed and submitted to the Governing Body and this resolution approving submission of the completed Application to the Authority for its consideration and review is required as part of the Application.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE** City of Deming:

Section 1. That all action (not consistent with the provision hereof) heretofore taken by the Governing Body and the officers and employees thereof directed toward the Application and the Project, be hereby ratified, approved, and confirmed.

Section 2. That the completed Application submitted to the Governing Body be hereby approved and confirmed.

Section 3. That the officers and employees of the Governing Body are hereby directed and requested to submit the completed Application to the Authority for its review and are further authorized to take such other action as may be requested by the Authority in its consideration and review of the Application and to further proceed with arrangements for financing the Project.

Section 4. All acts and resolution in conflict with this resolution are hereby rescinded, annulled, and repealed.

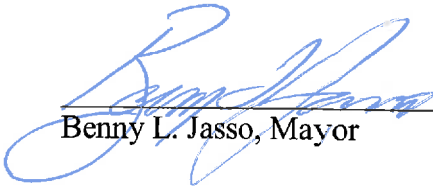
Section 5. This resolution shall take effect immediately upon its adoption.


PASSED, APPROVED, AND ADOPTED this 11<sup>th</sup> day of September, 2017.



ATTEST:

CITY OF DEMING, NEW MEXICO

  
Benny L. Jasso, Mayor

  
Aaron Sera, Administrator/Clerk

**CITY OF DEMING, NEW MEXICO  
RESOLUTION NO. 17-29**

**RESOLUTION OF THE GOVERNING BODY, AUTHORIZING THE SUBMISSION OF A  
NOTICE OF INTENT AND APPLICATION FOR FUNDING ASSISTANCE TO NEW MEXICO  
FINANCE AUTHORITY WATER TRUST BOARD AND COMMITMENT TO THE  
OPERATION & MAINTENANCE OF THE PROPOSED PROJECT**

**WHEREAS**, the City of Deming is a qualified entity under the New Mexico Finance Authority Act, Sections 6-21-1 through 6-21-31, NMSA 1978 (“Act”), and the City of Deming is authorized to apply for funds for financing of public projects for benefit of the community and its citizens; and

**WHEREAS**, the New Mexico Finance Authority (“Authority”) has instituted a program for financing of projects from the Water Trust Board and has developed an application procedure whereby the Governing Body may submit an application (“Application”) for financial assistance from the Authority for; and

**WHEREAS**, the Governing Body intends to undertake construction of infrastructure improvements for the benefit of the community and its citizens; for the (“Project”) City of Deming Water System Improvements within Mira Sol Subdivision (Encanto Circle); and

**WHEREAS**, the Governing Body is committed to properly operate and maintain the proposed improvements as described by the proposed project that funding is being requested for.


**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF DEMING**; that the Governing Body hereby directed the submittal of a Notice of Intent and subsequent Application to the Authority for its review, and further authorized to take such other action as may be requested by the Authority in its consideration and review of the Notice of Intent and Application and to further proceed with arrangements for financing the Project. The Governing Body is fully committed to properly operate and maintain the water system and the proposed project being submitted for funding.

**BE IT FUTHER RESOLVED** that the filing of an application to the New Mexico Water Trust Board for funding in the 2017 Water Project Fund funding cycle is hereby authorized and that Jim Massengill, Public Works Director, is hereby designated as the City of Deming’s representative to act on behalf of this application.

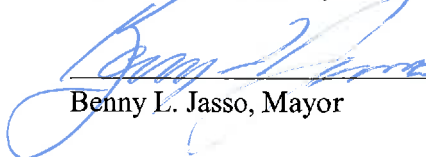
This resolution shall take effect immediately upon its adoption.

**PASSED, APPROVED and ADOPTED** by the Mayor and Council on this 11<sup>th</sup> day of September, 2017.



  
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Aaron Sera, Administrator/Clerk

**CITY OF DEMING, NEW MEXICO**

  
\_\_\_\_\_  
Benny L. Jasso, Mayor

**CITY OF DEMING  
RESOLUTION NO. 17-30**

**A RESOLUTION APPOINTING AUTHORIZED SIGNERS  
FOR CITY OF DEMING DOCUMENTS**

**WHEREAS**, the City of Deming, a Municipal Corporation, and its City Administrator, are often required to sign certain documents pertaining to the day-to-day operations of the City; and

**WHEREAS**, due to the occasional absence of the City Administrator, it is necessary to designate authorized signers for the City of Deming to ensure ongoing operations; and

**WHEREAS**, the City Administrator request that the City Council of the City of Deming approve the combination of one of the following as designated authorized signers along with the Deputy City Clerk, in his absence:

- Treasurer/Finance Director
- Public Works Director
- Community Services Director
- Fire Chief
- Police Chief


**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Deming, approve the authorized signers for the City of Deming, in the absence of the City Administrator.

**PASSED, APPROVED, AND ADOPTED** this 11<sup>th</sup> day of September, 2017.



**CITY OF DEMING, NEW MEXICO**

  
Benny L. Jasso, Mayor

  
Aaron Sera, Administrator/Clerk

**CITY OF DEMING, NEW MEXICO  
ORDINANCE NO. 1266**

**AN ORDINANCE AMENDING TITLE 9, CHAPTER 6, SECTION 5:  
PAYMENT OF BILLS; DELINQUENT ACCOUNTS, OF THE MUNICIPAL  
CODE OF THE CITY OF DEMING, NEW MEXICO**

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEMING, NEW MEXICO THAT TITLE 9, CHAPTER 6, SECTION 5: PAYMENT OF BILLS; DELINQUENT ACCOUNTS, OF THE MUNICIPAL CODE OF THE CITY OF DEMING, NEW MEXICO BE AMENDED TO THE FOLLOWING:

**9-6-5: BILLING, PAYMENT OF BILLS; DELINQUENT ACCOUNTS:**

- A. CUSTOMER CLASSIFICATIONS FOR BILLING IN ACCORDANCE WITH ESTABLISHED RATES OF SERVICE. UTILITIES CHAPTER 9-1, 9-2, 9-3, 9-5.
- (1) RESIDENTIAL. Single-family detached, condominiums served by individual meters, townhouses served by individual meters, duplexes served by individual meters, or mobile homes served by individual meters.
- (2) MULTI-FAMILY and COMMERCIAL (High Usage)
- Multi-family -Any metered/account serving more than one dwelling unit; i.e., residences with guest houses, duplexes, triplexes, four-plexes, apartment complexes, condominiums, town-homes, or mobile homes served by common meters.
- Commercial -Retail, offices, hotels, motels, shopping centers, churches, and schools public and private, and high volume users.
- B. Time of Payment: Charges for all accounts will commence upon payment of deposit. Bills are due and payable in full fifteen (15) days after the process date on the billing statement and will be considered past due at the close of business on the fifteenth (15) day. All payments must be received by the due date to be recorded as paid on time.
- C. Late Fees: Should an account not be paid by the close of business fifteen (15) days after coming due, a late fee of ten percent (10%) shall be added to the bill at the opening of business on day sixteen (16).
- D. Delinquency; Discontinue Service: If the total amount then due is not paid after the adding of the late fee, the said account shall be deemed delinquent, and the public works director may cause the utility services to be shut off from the premises upon which the account is delinquent. The utility services shall not again be turned on until all arrears and a reconnection fee of thirty-five dollars (\$35.00), for metered services disconnected, is paid in full.

Accounts deemed delinquent will receive a disconnection notice at the same time of regular billing in the mail. The disconnection notice, (colored) advises

customer that account is delinquent and services will be disconnected if not paid by the date indicated on the letter. The regular bill, (white) is the monthly statement reflecting the usage information for the month.

If the services are disconnected for non-pay and not paid and brought current three (3) days after being disconnected, account will be closed and deposit applied. Deposit Required; 9-6-1(E) (Ord. 1258, 12-14-2015). If the deposit on the account has been applied to the account, account must also be paid in full prior to services being reconnected.

- E. Reinstallation Fee: In the event that a meter is removed for such nonpayment, the same shall not be reinstalled and service shall not be reinstated until the owner or occupant pays to the city a sum of one hundred dollars (\$100.00) for such reinstallation along with all the arrears paid in full.
- F. Lien For Nonpayment: With the exception of subsection F of this section, in addition to any other remedy provided herein for the enforcement and collection of any utility service rate, charge or account, all rates provided for in this chapter shall be charged against the property on which it is furnished, and against the owner thereof, and shall be a lien against the premises to which any utility service may be applied, and a charge against the owner therefore and the occupant thereof using the utility service. If for any cause, any sums owing therefore become delinquent, the utility service shall be shut off, and in no case shall it be turned on to the same property until all such delinquencies shall have been paid in full including accumulation of all late fees, penalties, and interest.
- G. Responsibility for Payment: The property owner and occupant shall be jointly and severally liable for debt and money due on open account to the city in an action waged by the city in any court of competent jurisdiction for the amount of all such rates as may be due and unpaid, together with all penalties provided herein and costs, except as delineated in subsection F of this section. No change of ownership or occupancy shall affect the application of this section.
- H. Property Owner Disclaimer: Property owners shall file an annual written disclaimer, in accordance with New Mexico Statutes Annotated 3-23-6 subsection C, to relieve themselves from the responsibility delineated in subsection D of this section of any utility charges that their renters may incur, the disclaimer must include the property owner's full name, location and number of rental properties that will be disclaimed. Proof of ownership, such as a warranty deed, of the location proposed for disclaimer shall be provided to the city in conjunction with the annual filing of the disclaimer. The disclaimer does not relieve the property owner of any debt incurred prior to submitting the disclaimer to the city of Deming. Upon receipt of annual disclaimers, the city will date stamp and keep a copy for the records. It is the responsibility of the property owner to maintain proof of filing of each disclaimer on an annual basis, no later than January 10 of each year.

- I. Landlord Standby: Landlord standby status is a service available to property owners when an owner's rental property is vacant or between tenant occupancy. Landlord standby service will automatically transfer billed utility services to the property owner when a tenant disconnects utility services or the city disconnects utility services for nonpayment. No additional deposit, disconnection or reconnection fees are applicable as long as the owner is in good standing and no outstanding amounts are due from a previous landlord standby status. Landlords shall annually provide written notice to the utility department for each individual property address to be listed under landlord standby.
  
- J. Shutoff Fees: In the event utility service is shut off pursuant to this section and a lock and/or restrictor plate is installed lawfully in or upon the disabled and/or shutoff utility meter by an authorized city of Deming employee, the city of Deming shall collect the following fees from the owner and/or occupant who is responsible for payment of said utility bill to the city of Deming. Once said fees are paid, the city of Deming shall remove said lock or restrictor plate. The fees are codified as follows:
  1. If applicable, a fifty dollar (\$50.00) unauthorized removal or tampering fee if said lock or restrictor plate is removed by any person other than an authorized city of Deming employee; and
  2. A one hundred dollar (\$100.00) reinstallation fee per meter in order to reinstall each meter after it is removed.
  
- K. Tampering or Theft of a Utility Service: It shall be unlawful for any owner and/or occupant of any real property whose utility meter has been shut off by the application of a lock and/or restrictor plate based upon delinquency in the payment of utility services to remove or cause to have removed the lock and/or restrictor plate from the utility meter for the purpose of any of the following:
  1. Stealing said lock and/or restrictor plate which belongs to the city of Deming and whose value is less than two hundred fifty dollars (\$250.00);  
or
  2. Intentional misappropriation of said lock and/or restrictor plate after the utility meter has been locked and/or restricted and whose value of the misappropriated property is less than two hundred fifty dollars (\$250.00);  
or
  3. Converting use of the meter after it has been locked or restricted by the city of Deming with the intent to deprive the city of Deming of water and/or natural gas from said utility meter having previously been shut off by an authorized representative of the city of Deming by placing a lock and/or restrictor plate upon or in the utility meter and said value of the conversion is less than two hundred fifty dollars (\$250.00); or

4. Obtaining or causing to be obtained the services of the utilities of water, wastewater and/or natural gas without paying for same and after a lock and/or restrictor plate has been placed upon or in the utility meter by an authorized representative of the city of Deming with the intent to cheat or defraud the city of Deming out of water and/or natural gas and the person obtaining the services is obtaining a value of less than two hundred fifty dollars (\$250.00); or
5. Improper removal of any lock and/or restrictor plate from a city of Deming utility meter consists of any person removing any lock and/or restrictor plate from a city of Deming utility meter after said utility meter has been shut off by an authorized representative of the city of Deming for nonpayment of said utility service.

Any person who violates this section is guilty of a petty misdemeanor and shall be fined and/or imprisoned in accordance with title 1, chapter 4 of this code. For enforcement, informational purposes only, in the event the value of the theft, misappropriation, conversion, obtaining of the service, and/or improper removal noted in subsections 11 through 15 of this section is greater than two hundred fifty dollars (\$250.00) but less than five hundred dollars (\$500.00), it may be referred to the 6th judicial district attorney for prosecution as a full misdemeanor under the laws of New Mexico. A value above five hundred dollars (\$500.00) up to two thousand five hundred dollars (\$2,500.00), it may be referred to the 6th judicial district attorney for prosecution as a fourth degree felony; a value above two thousand five hundred dollars (\$2,500.00) up to twenty thousand dollars (\$20,000.00), it may be referred to the 6th judicial district attorney for prosecution as a third degree felony; and above twenty thousand dollars (\$20,000.00), it may be referred to the 6th judicial district attorney for prosecution as a second degree felony. (Ord. 1258, 12-14-2015)

#### 9-6-6: SEASONAL ACCOUNTS:

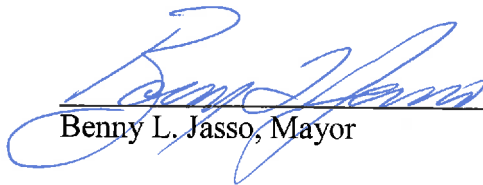
Upon written request, services on an account may be temporarily turned off for a period not to exceed one year. This will allow seasonal residents to maintain an active account with the city without having to pay minimum service charges. There is a thirty-five dollar (\$35.00) convenience fee for this service. Both water and gas meters will be locked while temporarily off. Turning services off temporarily does not relieve the property owner from any usage that may occur during the time it is turned off. The account holder is responsible for ensuring all usage charges are paid when they become due. Seasonal accounts that have been turned off for longer than one year may be turned off and the deposit refunded to the account holder. (Ord. 1258, 12-14-2015)



PASSED, ADOPTED, AND APPROVED, this 11<sup>th</sup> day of September, 2017.



CITY OF DEMING, NEW MEXICO

  
Benny L. Jasso, Mayor

  
Aaron Sera, Clerk