

1 AN ACT
2 RELATING TO MUNICIPALITIES; AUTHORIZING MUNICIPALITIES TO
3 ACQUIRE, OPERATE AND MAINTAIN A MUNICIPAL UTILITY TO PROVIDE
4 FOR STORM WATER SERVICE AND CHARGE A FEE OR ADVANCE PAYMENT
5 FOR THE STORM WATER SERVICE; ADDING STORM WATER FACILITIES TO
6 THE DEFINITION OF "MUNICIPAL UTILITY" IN THE MUNICIPAL CODE.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

9 SECTION 1. A new section of the Municipal Code is
10 enacted to read:

11 "STORM WATER MUNICIPAL UTILITY--AUTHORITY TO ACQUIRE
12 FACILITIES AND PROVIDE SERVICE--FEE.--

13 A. A municipality may, by ordinance, acquire,
14 operate and maintain a municipal utility to provide for storm
15 water service for the collection, treatment, storage or
16 disposal of storm water.

17 B. A municipality may require each person owning
18 or controlling real property in the municipality to pay a
19 just and reasonable fee for storm water service provided by a
20 municipal utility."

21 SECTION 2. Section 3-1-2 NMSA 1978 (being Laws 1965,
22 Chapter 300, Section 14-1-2, as amended) is amended to read:

23 "3-1-2. DEFINITIONS.--As used in the Municipal Code:

24 A. "acquire" or "acquisition" means purchase,
25 construct, accept or any combination of purchasing,

1 constructing or accepting;

2 B. "business" means any person, occupation,
3 profession, trade, pursuit, corporation, institution,
4 establishment, utility, article, commodity or device engaged
5 in making a profit, but does not include an employee;

6 C. "census" means any enumeration of population
7 of a municipality conducted under the direction of the
8 government of the United States, the state of New Mexico or
9 the municipality;

10 D. "county" means the county in which the
11 municipality or land is situated;

12 E. "district court" means the district court of
13 the district in which the municipality or land is situated;

14 F. "governing body" means the city council or
15 city commission of a city, the board of trustees of a town
16 or village, the council of incorporated counties and the
17 board of county commissioners of H class counties;

18 G. "municipal" or "municipality" means any
19 incorporated city, town or village, whether incorporated
20 under general act, special act or special charter,
21 incorporated counties and H class counties;

22 H. "municipal utility" means sewer facilities,
23 water facilities, gas facilities, electric facilities, storm
24 water facilities, generating facilities or any interest in
25 jointly owned generating facilities owned by a municipality

1 and serving the public. A municipality that owns both
2 electric facilities and any interest in jointly owned
3 generating facilities may, by ordinance, designate such
4 interest in jointly owned generating facilities as part of
5 its electric facilities. Generating facilities shall be
6 considered as part of a municipality's electric facilities
7 unless the municipality designates, by ordinance, the
8 generating facilities as a separate municipal utility, such
9 designation being conclusive subject to any existing
10 property rights or contract rights;

11 I. "public ground" means any real property owned
12 or leased by a municipality;

13 J. "publish" or "publication" means printing in a
14 newspaper that maintains an office in the municipality and is
15 of general circulation within the municipality or, if such
16 newspaper is a nondaily paper that will not be circulated to
17 the public in time to meet publication requirements or if
18 there is no newspaper that maintains an office in the
19 municipality and is of general circulation within the
20 municipality, then "publish" or "publication" means posting
21 in six public places within the municipality on the first day
22 that publication is required in a newspaper that maintains an
23 office in the municipality and is of general circulation
24 within the municipality. One of the public places where
25 posting shall be made is the office of the municipal clerk,

1 who shall maintain the posting during the length of time
2 necessary to comply with the provisions relating to the
3 number of times publication is required in a newspaper of
4 general circulation within the municipality. The municipal
5 clerk may, in addition to posting, publish one or more times
6 in a newspaper of general circulation in the municipality;

7 K. "qualified elector" means any person who is a
8 resident of the municipality and is registered to vote under
9 the provisions of the Election Code. Persons who would
10 otherwise be qualified electors if land on which they reside
11 is annexed to a municipality shall be deemed to be qualified
12 electors:

13 (1) upon the effective date of the
14 municipal ordinance effectuating the terms of the annexation
15 as certified by the board of arbitration pursuant to
16 Section 3-7-10 NMSA 1978;

17 (2) upon thirty days after the filing of an
18 order of annexation by the municipal boundary commission
19 pursuant to Sections 3-7-15 and 3-7-16 NMSA 1978 if no appeal
20 is filed or, if an appeal is filed, upon the filing of a
21 nonappealable court order effectuating the annexation; or

22 (3) upon thirty days after the filing of an
23 ordinance pursuant to Section 3-7-17 NMSA 1978 if no appeal
24 is filed or, if an appeal is filed, upon the filing of a
25 nonappealable court order effectuating the annexation;

1 L. "revenue producing project" means any
2 municipally owned self-liquidating projects that furnish
3 public services to a municipality and its residents,
4 including but not necessarily limited to public buildings;
5 facilities and equipment for the collection or disposal of
6 trash, refuse or garbage; swimming pools; golf courses and
7 other recreational facilities; cemeteries or mausoleums or
8 both; airports; off-street parking garages; and
9 transportation centers, which may include but are not limited
10 to office facilities and customary terminal facilities for
11 airlines, trains, monorails, subways, intercity and intracity
12 buses and taxicabs. "Revenue producing project" does not
13 mean a municipal utility as defined in Subsection H of this
14 section;

15 M. "street" means any thoroughfare that can
16 accommodate pedestrian or vehicular traffic, is open to the
17 public and is under the control of the municipality;

18 N. "warrant" means a warrant, check or other
19 negotiable instrument issued by a municipality in payment for
20 goods or services acquired by the municipality or for the
21 payment of a debt incurred by the municipality;

22 O. "mayor" means the chief executive officer of
23 municipalities having the mayor-council form of government.
24 In municipalities having other forms of government, the
25 presiding officer of the governing body and the official

1 head of the government, without executive powers, may be
2 designated mayor by the governing body. Wherever the
3 Municipal Code requires an act to be performed by the mayor
4 with the consent of the governing body, in municipalities not
5 having the mayor-council form of government, the act shall be
6 performed by the governing body;

7 P. "generating facility" means any facility
8 located within or outside the state necessary or incidental
9 to the generation or production of electric power and energy
10 by any means and includes:

11 (1) any facility necessary or incidental to
12 the acquisition of fuel of any kind for the production of
13 electric power and energy, including the acquisition of fuel
14 deposits, the extraction of fuel from natural deposits, the
15 conversion of fuel for use in another form, the burning of
16 fuel in place and the transportation and storage of such
17 fuel; and

18 (2) any facility necessary or incidental
19 to the transfer of the electric power and energy to the
20 municipality, including without limitation step-down
21 substations or other facilities used to reduce the voltage in
22 a transmission line in order that electric power and energy
23 may be distributed by the municipality to its retail
24 customers;

25 Q. "jointly owned generating facility" means any

1 generating facility in which a municipality owns any
2 undivided or other interest, including without limitation any
3 right to entitlement or capacity; and

4 R. "joint participant" means any municipality in
5 New Mexico or any other state; any public entity incorporated
6 under the laws of any other state having the power to enter
7 into the type of transaction contemplated by the Municipal
8 Electric Generation Act; the state of New Mexico; the United
9 States; Indian tribes; and any public electric utility,
10 investor-owned electric utility or electric cooperative
11 subject to general or limited regulation by the public
12 regulation commission or a similar commission of any other
13 state."

14 SECTION 3. Section 3-23-1 NMSA 1978 (being Laws 1965,
15 Chapter 300, Section 14-22-1, as amended) is amended to read:

16 "3-23-1. MUNICIPAL UTILITY--SERVICE CHARGES--DEPOSITS--
17 DISCONTINUANCE OF WATER SERVICE FOR NONPAYMENT OF CHARGES--
18 SUPPLEMENTAL METHOD.--

19 A. A municipality, including an entity established
20 pursuant to Section 72-1-10 NMSA 1978, may require a
21 reasonable payment in advance or a reasonable deposit for
22 water, electricity, gas, sewer service, geothermal energy,
23 refuse collection service, street maintenance or storm water
24 service.

25 B. If payment of any price, rent, fee or other

1 charge for water, sewer service, refuse collection or street
2 maintenance is not made within thirty days from the date the
3 payment is due, the water service may be discontinued and
4 shall not be again supplied to the person liable for the
5 payment until the arrears with interest and penalties have
6 been fully paid.

7 C. The provisions of this section are intended to
8 afford an additional method of enforcing payment of charges
9 for water, sewer service, refuse collection, street
10 maintenance or storm water service furnished by the
11 municipality."

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