

**RESOLUTION NO. 11-32**

**NOTICE OF INTENT TO ADOPT AN ORDINANCE**

WHEREAS, Grant County provides wastewater services to the unincorporated community of North Hurley; and

WHEREAS, the wastewater system for North Hurley is in need of improvements; and

WHEREAS, a preliminary engineering report recommends that the North Hurley tap into the City of Bayard Regional Wastewater Facility; and

WHEREAS, Grant County has been granted funds under the USDA Rural Development Water and Wastewater Colonias Program to make the necessary improvements to the wastewater system for North Hurley; and

WHEREAS, in order to comply with the funding requirements of the USDA Rural Development Water and Wastewater Colonias Program, Grant County must enter into an agreement with the City of Bayard to cover the regional wastewater fees and a portion of the annual operating and maintenance expenses; and

WHEREAS, in order for Grant County to join the City of Bayard's Regional Wastewater Program, Grant County must adopt an ordinance providing for user charges.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF GRANT COUNTY, NEW MEXICO:**

1. An ordinance (the "Ordinance"), entitled REGIONAL WASTEWATER SYSTEM USER CHARGE ORDINANCE, AN ORDINANCE ADOPTING THE CITY OF BAYARD'S REGIONAL WASTEWATER SYSTEM USER CHARGE ORDINANCE (AMENDMENT OF CITY OF BAYARD ORDINANCE NO. 3-2009), to be introduced before the Commission shall be filed with the County Clerk, and shall be considered by the Commission at a regular meeting of the Commission on Thursday, September 22, 2011, at 5:30 p.m., or as soon thereafter as the matter may be heard, in the Conference Room of the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, in the County, being the regular meeting place of the Board.

2. A copy of the Ordinance in draft form is on file and available for inspection during normal business hours at the office of the County Clerk at the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, New Mexico.

3. The following notice shall be published one time in the Silver City Daily Press, a newspaper of general circulation in the County, as soon as is practicable following the adoption of this resolution:

(Form of Notice)

**NOTICE OF CONSIDERATION OF ORDINANCE NO. 11-06**  
**GRANT COUNTY, NEW MEXICO**

NOTICE IS GIVEN that the Board of County Commissioners (the "Board"), constituting the governing body of the Grant County, New Mexico (the "County"), will consider the adoption of an ordinance (the "Ordinance") entitled: REGIONAL WASTEWATER SYSTEM USER CHARGE ORDINANCE, AN ORDINANCE ADOPTING THE CITY OF BAYARD'S REGIONAL WASTEWATER SYSTEM USER CHARGE ORDINANCE (AMENDMENT OF CITY OF BAYARD ORDINANCE NO. 3-2009). The purpose of this ordinance is to adopt an ordinance prepared by the City of Bayard that sets forth the user charges in relation the Regional Wastewater Treatment and Sewage Disposal Plan (RWTP), so that Grant County may join the RWTP on behalf of North Hurley.

The Ordinance will be considered at a regular meeting of the Commission on Thursday, September 22, 2011, at 5:30 p.m., or as soon thereafter as the matter may be heard, in the Conference Room of the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, in the County, being the regular meeting place of the Board.

A copy of the Ordinance in draft form is on file and available for inspection during normal business hours at the office of the County Clerk at the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, New Mexico.

DATED: August 25, 2011.

/s/ Brett Kasten  
Chairman, Board of County  
Commissioners  
Grant County, New Mexico

(End of Form of Notice)

PASSED, ADOPTED, SIGNED AND APPROVED THIS 25<sup>th</sup> DAY OF AUGUST 2011.



Brett Kasten

Brett Kasten, Chairman  
Board of County Commissioners

Robert Zamarripa  
Robert Zamarripa, County Clerk

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF GRANT )

The Board of County Commissioners (the "Board") of Grant County (the "County"), in the State of New Mexico, met in a regular meeting in full conformity with the law and the ordinances and rules of the County, in the Conference Room of the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, in the County, being the regular meeting place of the Board, at 5:30 p.m., on Thursday, August 25, 2011, at which time there were present and answering the roll call the following members:

Commissioners: Brett Kasten  
Christy Miller  
Gabriel Ramos

Absent: None

Thereupon the following proceedings, among others, were had and taken, to wit:

There was officially filed with the County Clerk, the Chairman and each Commissioner, a copy of a resolution in final form, which is as follows:

Commissioner Ramos then moved that the resolution as filed with the County Clerk be passed and adopted. Commissioner Miller seconded the motion.

The question being upon the passage and adoption of said resolution, the motion was voted upon with the following result:

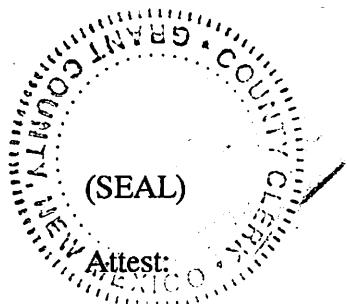
Those Voting Yea: Ramos  
Miller  
Kasten

Those Voting Nay: 0

Those Absent: 0

The Chairman thereupon declared that at least a majority of all the members of that Commission having voted in favor thereof, the motion was carried and the resolution duly passed and adopted.

After consideration of matters not relating to this Resolution, the meeting on motion duly made, seconded and unanimously carried, was adjourned.



(SEAL)

Attest:

Brett Kasten  
Brett Kasten, Chairman  
Board of County Commissioners

Robert Zamarripa  
Robert Zamarripa, County Clerk

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF GRANT )

I, Robert Zamarripa, County Clerk of Grant County, New Mexico (the "County"), do hereby certify:

1. The foregoing pages are a true, correct and complete copy of the record of the proceedings of the Board of County Commissioners (the "Board") of the County, taken at a duly called, open meeting of the Commission held in the Conference Room of the Grant County Administration Building, 1400 Highway 180 East, Silver City, New Mexico, being the regular meeting place of the Commission on Thursday, August 25, 2011 at 5:30 p.m., insofar as the same relate to consideration of the adoption of a Resolution of Intent to Adopt an Ordinance entitled, REGIONAL WASTEWATER SYSTEM USER CHARGE ORDINANCE, AN ORDINANCE ADOPTING THE CITY OF BAYARD'S REGIONAL WASTEWATER SYSTEM USER CHARGE ORDINANCE (AMENDMENT OF CITY OF BAYARD ORDINANCE NO. 3-2009), a copy of which is set forth in the official records of the proceedings of the County kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. Notice of such meeting was given in compliance with the permitted methods of giving notice of meetings of the Commission as required by the open meetings standards then in effect, i.e., the Commission's Open Meetings Resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Grant County, New Mexico, this 25th day of August 2011.

(SEAL)

Attest:

Robert Zamarripa, County Clerk

# **DRAFT**

**ORDINANCE No. 0-11-06**

## **REGIONAL WASTEWATER SYSTEM USER CHARGE ORDINANCE**

**Regional Wastewater System User Charge Ordinance, An Ordinance Adopting the City Of Bayard's Regional Wastewater System User Charge Ordinance (Amendment of City Of Bayard Ordinance No. 3-2009). AN ORDINANCE AMENDING THE CITY OF BAYARD ORDINANCE NUMBER 9-2006 ENTITLED REGIONAL WASTEWATER SYSTEM USER CHARGE ORDINANCE.**

### **Introduction:**

The User Charge System is established to determine minimum rates charged for capital recovery and operational costs of the Regional Wastewater Treatment Plant for the City of Bayard, Village of Santa Clara, Fort Bayard Medical Facility and Town of Hurley. The rates established within this ordinance are effective upon the wastewater connection from the Town of Hurley to the City of Bayard Regional Wastewater Facility. The rates established within are subject to amendment upon the connection by the Town of Hurley. The City of Bayard, Village of Santa Clara and Fort Bayard Medical Facility shall continue to use the set rates as established by Ordinance 9-2006 until such connection is made by the Town of Hurley. When such connection is made the following shall apply.

### **Computation of Costs:**

The percent of costs to be distributed to Bayard, Santa Clara and Hurley is based on the 2000 census as follows:

#### **Bayard**

Current Population 2534 divided by Total Population 6242 = 41%

#### **Santa Clara**

Current Population 1944 divided by Total Population 6242 = 31%

#### **Hurley**

Current Population 1464 divided by Total Population 6242 = 23%

#### **County of Grant**

Current Population 300 divided by Total Population 6242 = 5%

### **Capital Cost Recovery**

The annual amount to be recovered for a period of twenty years is \$73,533.48 determined by the Loan Agreement for \$1,326,952.32 through the New Mexico Environment Department. The user charge system established for capital cost recovery is established by the following approximate rate codes for each entity. Each municipality's responsibility for payment of the loan payment shall be their proportion of the total population of the three municipalities therefore,

<b>Bayard</b>	<b>\$30,148.73</b>
<b>Santa Clara</b>	<b>\$22,795.38</b>
<b>Hurley</b>	<b>\$16,912.70</b>
<b>County of Grant</b>	<b>\$3,676.67</b>

The municipal rates are as follows:

#### **Bayard**

Connections:	Rate:	Monthly Cost	Annual Cost
Residential In Limits: 960	\$2.47	\$ 2,371.20	\$28,454.40
Residential Out of Limits: 5	\$2.57	\$ 12.85	\$ 154.20
Commercial: 50	\$2.67	\$ 133.50	\$ 1,602.00
			\$30,210.60

#### **Santa Clara**

Connections:	Rate:	Monthly Cost	Annual Cost
Residential In Limits: 660	\$2.70	\$ 1,782.00	\$21,384.00
Residential Out of Limits: 23	\$2.80	\$ 64.40	\$ 772.80
Commercial: 20	\$2.90	\$ 58.00	\$ 696.00
			\$22,852.80

#### **Hurley**

Connections:	Rate:	Monthly Cost	Annual Cost
Residential In Limits: 557	\$2.45	\$ 1,364.65	\$16,375.80
Commercial: 20	\$2.55	\$ 51.00	\$ 612.00
			\$16,987.80

#### **North Hurley (County of Grant)**

Connections:	Rate:	Monthly Cost	Annual Cost
Residential In Limits: 104	\$2.95	\$ 306.80	\$ 3,681.60

Each individual entity shall be responsible for adjusting the base rate within their municipal limits should the annual payment fall below the listed recovery costs:

The Town of Hurley and County of Grant shall be responsible for additional capital recovery costs for connection into the Regional Wastewater Facility. The capital recovery costs include fees associated with the planning, design, construction and equipping of the Regional Wastewater Treatment Plant and is calculated by a percentage of \$735,190.87. The capital recovery fee for the Town of Hurley is estimated at \$169,093.90 (23%) which is payable to the City of Bayard for a period not to exceed twenty years. The capital recovery fee for the County of Grant is estimated at \$36,759.54 (5%) which is payable to the City of Bayard for a period not to exceed twenty years.

Capital recovery costs shall be billed as follows:

**Hurley**

Connections:	Rate:	Monthly Cost	Annual Cost
Residential 557	\$1.22	\$ 679.54	\$ 8,154.48
Commercial 20	\$1.22	\$ 24.40	\$ 292.80
<b>Twenty year period</b>			<b>\$168,945.60</b>

**County of Grant**

Connections:	Rate:	Monthly Cost	Annual Cost
Residential 104	\$1.47	\$ 153.17	\$ 1837.98
<b>Twenty year period</b>			<b>\$ 36,759.60</b>

**Operation Cost Recovery**

Operation costs are determined to be anticipated expenditures related to the full operation of the treatment plant which include but are not limited to Fixed Expenses (Salaries), Variable Expenses (operations) and Reserve Requirements (Short Lived Assets).

All operation costs are distributed by the current population percentage of each entity.

**Bayard**

Operation Costs \$508,658.88 multiplied by population percentage 41% =  
Approximately \$208,550.14.

**Santa Clara**

Operation Costs \$508,658.88 multiplied by population percentage 31% =  
Approximately \$157,684.25.

**Hurley**

Operation Costs \$508,658.88 multiplied by population percentage 23% = Approximately  
\$116,991.54.

### North Hurley

Operation Costs \$508,658.88 multiplied by population percentage 5% = Approximately \$25,432.94.

### Fort Bayard

Operation Costs for Fort Bayard shall be established by the number of health patients allowed (218) multiplied by \$4.00 plus the number of buildings (11) multiplied by the commercial rate of \$21.89 for an annual fee of \$13,353.72

### Operation Cost User Fees

User Fees calculated for operation costs are calculated as follows per individual entity:

Number of connections multiplied by rate code = Monthly Operation Cost multiplied by 12 months = Annual Operation Cost

### Bayard

Connections:	Rate:	Monthly Cost	Annual Cost
Residential In Limits	960	\$ 17.03	\$ 16,348.80
Residential Out of Limits	5	\$ 16.95	\$ 91.25
Commercial	50	\$19.34	\$ 967.00
Total Annual Operation Cost			<b>\$208,884.60</b>

### Santa Clara

Connections:	Rate:	Monthly Cost	Annual Cost
Residential In Limits	660	\$18.72	\$12,355.20
Residential Out of Limits	23	\$17.49	\$ 402.27
Commercial	19	\$19.71	\$ 374.49
Medical Facility (BeeHive)	1	\$19.71	\$ 19.71
Total Annual Operation Cost			<b>\$157,820.04</b>

### Hurley

Connections:	Rate:	Monthly Cost	Annual Cost
Residential In Limits	557	\$16.98	\$9,457.86
Commercial	20	\$14.62	\$ 292.40
Total Annual Operation Cost			<b>\$117,003.12</b>

### North Hurley

Connections:	Rate:	Monthly Cost	Annual Cost

Residential In Limits	104	\$20.38	\$ 2,119.52	\$25,434.24
Total Annual Operation Cost				<b>\$25,434.24</b>

### **Fort Bayard**

Fort Bayard	218	\$4.00	\$ 872.00	\$ 10,464.00
	11	\$21.89	\$ 240.79	<u>\$ 2,889.48</u>
Total Annual Operation				<b>\$ 13,353.48</b>

Each individual entity shall be responsible for adjusting the base rate within their municipal limits should the annual payment fall below the listed recovery costs:

<b>Bayard</b>	<b>\$208,884.60</b>
<b>Santa Clara</b>	<b>\$157,820.04</b>
<b>Hurley</b>	<b>\$117,003.12</b>
<b>County of Grant</b>	<b>\$ 25,434.24</b>
<b>Fort Bayard</b>	<b>\$ 13,353.48</b>

The City of Bayard is responsible for the monitoring of all operation costs associated with the project. Adjustments will be required throughout the operation of the treatment plant. Each individual entity shall be responsible for the adjustment in rates as deemed necessary by the City of Bayard.

Annual increases for operational recovery costs shall be determined by the Consumer Price Index annually each July beginning on July 2011 and shall be recorded on the attached register annually.

Each entity shall be responsible for reporting the number of active connections for each billing period and shall not be billed lower than the minimum monthly amount necessary as listed above.

### **Effective Date**

The effective date of this ordinance shall begin upon the final connection of the County of Grant – North Hurley to the Hurley transmission line and accepted by the Town of Hurley.

### **Repeal**

This User Charge System hereby repeals and replaces any/all user fee structures previously implemented pertaining to the wastewater treatment plant upon the final connection of the County of Grant – North Hurley to the Hurley transmission line.

### **Severability of Provisions**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of this ordinance, it being the intent of the City of Bayard to enact such section, subsection, sentence, clause or phrase of this section separately and independently of each other section, subsection, sentence, clause or phrase.

### **Amendments**

Any section of this ordinance may be amended upon approval by the City Council and proper publication on such amendments. Such approved amendments will become effective five (5) days after publication in a newspaper of local circulation. Any amendments resulting in a increase or decrease in total revenue must be submitted to the New Mexico Environment Department and USDA – Rural Development for review and approval prior to implementation.

**PASSED, APPROVED, AND ADOPTED, this 22nd day of September 2011.**

**BOARD OF COUNTY COMMISSIONERS  
GRANT COUNTY, NEW MEXICO**

  
\_\_\_\_\_  
Brett Kasten, Chairman

[seal]

\_\_\_\_\_  
Christy Miller, Member

ATTEST:

\_\_\_\_\_  
Gabriel Ramos, Member

\_\_\_\_\_  
Robert Zamarripa, Grant County Clerk