

CHAPTER 1 – GENERAL PROVISIONS

SECTION 1.1 – PURPOSE AND APPLICATION OF RULES

RULE 1.1.1 – DEFINITION OF TERMS

- a) Texas Water Code and Other Definitions – In the administration of its duties, the Colorado County Groundwater Conservation District (CCGCD) follows the definitions of terms set forth in Appendix A of these Rules, the District Act, and Chapter 36 of the Texas Water Code, as amended.

RULE 1.1.2 – PURPOSE, USE AND EFFECT OF RULES

- a) Authority – The Rules of the CCGCD are adopted pursuant to the authority of Section 36.101 Texas Water Code, Act of June 15, 2007, 80th Leg., R.S., Ch. 953, 2007 Tex Gen. Laws (HB 4032) (“District Act” or Enabling Act”), and other applicable laws in order to establish the general policies and procedures of the District.
- b) District Objectives – The District Rules are promulgated under statutory authority to achieve the following objectives as addressed in the District’s Management Plan: conserving, preserving, protecting and recharging groundwater in the District in order to prevent waste of groundwater, prevent pollution, and to control subsidence.
- c) Purpose of Rules – The purpose of these Rules is to implement the powers and duties of the District allocated to it through: its enabling Act; Chapter 36 of the Texas Water Code as amended; Section 59 of Article XVI, Texas Constitution; and, other applicable laws to establish the general policies and procedures of the District. The Rules, contained herein, are the foundation for achieving the goals of the District Management Plan. In order for the District to achieve its purposes, goals and mission, and to strive to assure long term availability of adequate, good-quality groundwater, compliance with District Rules by water well drillers, pump installers, and by District constituents is mandatory.
- d) Scope of Rules – The District uses these Rules as guidance in the exercise of powers conferred to it by law and in the accomplishment of the purposes of the law creating the District. These rules shall not be construed as limitations or restrictions on the exercise of any discretion, where it exists; nor shall they be construed to deprive the District or Board of the exercise of any powers, duties or jurisdiction conferred by law; nor shall they be construed to limit or restrict the amount of character or data or information that may be required to be collected for the proper administration of the law creating the District. Chapter 36 of the Texas Water Code and the District’s Enabling Act shall guide decisions by the District regarding all matters and issues not specifically encompassed by these Rules.
- e) Effective Date of the Rules – After notice and hearing, the Board shall adopt and enforce rules to implement Chapter 36 of the Texas Water Code and the District’s Management Plan. Except as otherwise specified, these Rules are effective on the date of adoption by the Board of Directors. Reference to these Rules includes subsequent revisions and amendments. Reference to Texas Water Code Chapter 36 include subsequent revisions and are effective upon the effective date.
- f) Ignorance of Rules – Ignorance of State laws, enabling legislation or these District Rules is not a defense against non-compliance of these Rules.

RULE 1.1.3 – STRUCTURE OF RULES

- a) Amending Rules – The Board may, following notice and hearing, amend these Rules or adopt new rules as warranted.
- b) Headings and Captions – The headings and captions contained in these Rules are for reference purposes only and do not affect the meaning or interpretation of these Rules in any way.
- c) Wording – A reference to a title, chapter or section without further identification is a reference to a title, chapter or section of the Texas Water Code, as amended. Unless otherwise specified, the past, present and future tense shall each include the other; the masculine, feminine and neuter gender shall each include the other; and the singular and plural number shall each include the other. The verbs “may,” “can,” “might,” “should,” or “could” are used when an action is optional or may not apply in every case. The verbs “will,” “shall,” or “must” are used when an action is required. The verb “cannot” is used when an action is not allowed or is unachievable.

RULE 1.1.4 – SERVICE OF DOCUMENTS OR NOTICES

- a) **Filing of Documents** – Documents shall be filed at the District either by hand delivery, mail, e-mail, or telephone facsimile. The document shall be considered filed as of the date received by the District at the District Office for a hand delivery; as of the date reflected by the official United States Postal Service postmark if mailed; for e-mail document transfers, as of the date on which the District office computer records receipt; and, for telephonic facsimile document transfers, as of the date on which the telephonic facsimile document transfer is complete. For e-mail and telephonic facsimile document transfers, any transfer complete and received at the District Office after official District business hours will be deemed complete and received on the following business day. If a person files a document by facsimile or by e-mail, he or she must file a copy by mail within five (5) calendar days. The document shall not be considered valid until a hardcopy version is received.
- b) **Serving of Documents or Notices** – Except as otherwise expressly provided in these Rules, any notice or documents required by these Rules to be served or delivered may be delivered to the recipient, or the recipient's authorized representative, in person, by agent, by courier receipted delivery, by certified mail sent to the recipient's or authorized representative's last known address, by computer e-mail, or by telephonic facsimile document transfer to the recipient's current facsimile number. Service by mail is complete upon deposit in a post office or other official depository of the United States Postal Service. Service by computer e-mail or by telephonic facsimile document transfer is complete upon transfer, except that any transfer occurring after official District business hours will be deemed complete and received on the following business day. If service or delivery is by mail, and the recipient has the right, or is required, to do some act within a prescribed time after service, three (3) calendar days will be added to the prescribed period.
- c) **Computing Time** – In computing any period of time prescribed or allowed by these Rules, by order of the Board, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run, is not to be included, but the last day of the period so computed is to be included, unless it be a Saturday, Sunday, or legal holiday on which the District is closed, in which event, the period runs until the end of the next day that is neither a Saturday, Sunday, or a legal holiday on which the District office is closed.
- d) **Time Limits** – Applications, requests, or other papers or documents required or permitted to be filed under these Rules must be received for filing at the District, within the time limit, if any, for such filing. The date of receipt and not the date of posting is determinative.

RULE 1.1.5 – EVENTS WHERE RULES ARE DECLARED INVALID

- a) **Severability** – In case any one or more of the provisions contained in these Rules shall for any reason be held to be invalid, illegal, or unenforceable in any respect, or the application thereof to any person or circumstances is held to be invalid, the invalidity, illegality, or unenforceability shall not affect any other Rules or provisions thereof, and these Rules must be construed as if such invalid, illegal or unenforceable rules or provisions had never been contained in these Rules, and to this end the provisions of these Rules are severable.
- b) **Savings Clause** – If any section, sentence, paragraph, clause, or part of these Rules should be held or declared invalid for any reason by a final judgment of the courts of this state or of the United States, such decision or holding shall not affect the validity of the remaining portions of the Rules; and the Board does hereby declare that it would have adopted and promulgated such remaining portions irrespective of the fact that any other sentence, section, paragraph, clause, or part thereof may be declared invalid.

RULE 1.1.6 – REGULATORY COMPLIANCE

- a) **Precedence of District Rules** – Where District Rules and Regulations are more stringent than those of other governmental entities, the District Rules and Regulations shall control, provided the Rules and Regulations are within the scope of the District's statutory authority and are not otherwise preempted by state or federal law.

SECTION 1.2 – GOVERNING BOARD, DISTRICT STAFF & MEETINGS

RULE 1.2.1 – PURPOSE AND STRUCTURE OF BOARD

Mandate of the Board – The District Board determines and carries out District policy and regulates the withdrawal of groundwater within the boundaries of the District for the purpose of conserving, preserving, protecting and recharging the groundwater within the District, and for the purposes of preventing waste of the

groundwater within the District, and to exercise its rights, powers, and duties in a way that will effectively and expeditiously accomplish the purposes of the District Act and of Chapter 36, Texas Water Code, as amended, and of Section 59, Article XVI, Texas Constitution. The Board's responsibilities include, but are not limited to, the adoption and enforcement of reasonable rules and other orders.

- b) **Composition and Configuration of the Board** – The Board consists of the members elected and qualified as required by the District Act. The Board will elect one of its members to serve as President, which will preside over Board meetings and proceedings; one to serve as Vice President that will preside in the absence of the President; one to serve as Secretary to keep a true and complete account of all meetings and proceedings of the Board; and, one to serve as Treasurer that will oversee budget and finances. The Board may make other appointments as allowed by Chapter 36, Texas Water Code, as amended. The Board may elect officers annually, but must elect officers at the first meeting after the newly elected or re-elected Board members are sworn in, following elections of Directors held in each even numbered year. Members and officers serve until their successors are elected or appointed and sworn in accordance with the District Act and these Rules.

RULE 1.2.2 – GENERAL MANAGER

- a) **Day-to-Day Operations** – The Board may employ a General Manager with the purpose of managing and conducting the day-to-day duties, business, and functions of the District, subject to orders, directions and control of the Board.
- b) **Compensation and Appraisal** – At least annually, the Board shall determine the compensation to be paid to the General Manager and also determine how the General Manager has fulfilled his responsibilities and whether additional responsibilities should be delegated to him.

RULE 1.2.3 – ADDITIONAL DISTRICT STAFF

- a) **Office Staffing** – The General Manager, with approval of the Board, may employ all persons necessary for the proper handling of business and operation of the District and shall recommend salaries for employees (other than for him/her self). Said salaries must be approved by the Board. Each staff member will be reviewed by the General Manager as necessary.
- b) **Delegation of Duties** – The General Manager may delegate duties as may be necessary to effectively and expeditiously accomplish those duties, provided that no such delegation may relieve the General Manager from the responsibilities under the Texas Water Code, the act creating the District, and the policies, orders and permits promulgated by the Board.

RULE 1.2.4 – MEETINGS

- a) **Call to Meet** – The Board will hold regular meetings at least quarterly on a day and place that the Board may establish from time to time by resolution. All Board meetings, regular and special, will be held according to the Texas Open Meetings Act (Chapter 551 of the Texas Government Code).
- b) **Special Meetings** – At the request of the President or by written request of at least three members, the Board may hold special meetings as required for business of the District.
- c) **Committees** – The President of the Board or his delegated representative, may establish committees for the formulation of policy recommendations to the Board, and appoint the chair and membership of the committees. Committee members serve at the pleasure of the President.

SECTION 1.3 – DISTRICT AUTHORITY AND GUIDELINES

RULE 1.3.1 – DISTRICT AUTHORITY

- a) **Conferred Powers** – The District has the powers and authority conferred upon it by the following: Section 59, Article XVI, Texas Constitution; Chapter 36, Texas Water Code, as amended; District Rules; the District Act, and, other pertinent state law, rules and regulations. This authority includes the right to regulate the spacing of water wells and to regulate production of groundwater from the water wells.

RULE 1.3.2 – DISTRICT MANAGEMENT PLAN

- a) **Purpose** – The District Management Plan specifies the acts, procedures, performance and avoidance necessary to prevent waste, manage the reduction of artesian pressure, or manage the draw-down of the water table. The District shall ensure that its management plan contains goals and objectives consistent with achieving the desired future conditions of the relevant aquifers as adopted during the joint planning process.

The District shall use the District Rules and Regulations to implement the Management Plan.

- b) **Management Plan Review** – The Board must review the plan at least every five years. If the Board considers amendments to the plan or a new plan necessary or desirable, after notice and public hearing, amendments to the plan or a new plan will be adopted. A plan, or amended plan, once adopted, remains in effect until the adoption of a new plan.

SECTION 1.4 – RECORDS AND COMMUNICATION

RULE 1.4.1 – DISTRICT RECORDS

- a) **Public Inspection** – All documents, reports, records, and minutes of the District are available for public inspection and copying following the Texas Open Records Act. Upon written application of any person, the District will furnish copies of its public records. A copying charge may be levied pursuant to policies established by the District, in accordance with the Open Records Act. A list of the charges for copies will be furnished by the District.
- b) **Certified Copies** – Requests for certified copies must be in writing. A certification charge and copying charge may be assessed, pursuant to policies established by the Board of Directors.
- c) **Official Communication** – All official business or legal communications with the District and/or the Board of Directors should be addressed to the attention of the General Manager of the District. Legal documents must be in writing and must be delivered by hand, by United States postal service or by other delivery services. All other official communications must be in writing, but may be transmitted by hand delivery, postal delivery, or by facsimile.

SECTION 1.5 – FEES

RULE 1.5.1 – RIGHT TO ASSESS FEES AND THE FEE SCHEDULE

- a) **Right to Assess Fees** – The District has authorization to assess fees for administrative acts of the District.
- b) **Fee Schedule** – The Board, by resolution or order, shall adopt a fee schedule to apply to all applications, registrations, inspections, and permits that are issued, renewed, or amended, as well as fees for other acts the District performs or fees to cover charges incurred by the District. The fees shall be effective upon adoption of the schedule and are non-refundable unless otherwise specified. A copy of the Fee Schedule may be obtained from the District Office.
- c) **Amendment of Fee Schedule** – The District has the right to amend the fee schedule when conditions warrant.

RULE 1.5.2 – FEE PAYMENT

- a) **Due Date for Fees** – All administrative fees are due at the time of application or registration unless otherwise specified by the Board. Transport fees and production fees shall be paid upon receipt of a fee statement from the District. The validity of any permit is contingent upon payment of any applicable transport or production fee, and if the fee is not paid within forty-five (45) calendar days of the date of the fee statement, the permit may be cancelled by the Board. The Board, by resolution, may establish procedures for the payment of transport or production fees in installments.
- b) **Returned Check Fees** – The Board may, by resolution, establish a fee for checks returned to the District for insufficient funds, account closed, signature missing, or any other problem causing a check to be returned by the District's depository. This fee will be presented in the District fee schedule.

RULE 1.5.3 – FEE TYPES

- a) **Production Fees** – Production fees, if applicable, shall be based on the amount of groundwater withdrawn. If the producer (permittee) cannot provide satisfactory documentation to the District that the groundwater was used for the purpose designated in the permit, then the producer (permittee) shall default to the highest production fee deemed appropriate by the Board.
- b) **Transport Fees** – In addition to well permit application and other fees, the District shall impose a reasonable fee or surcharge, established by Board resolution or order, for transportation of groundwater out of the District. Such transportation fees and production fees shall be set in accordance with the provisions of Chapter 36 of the Texas Water Code, as amended, and shall be based on actual groundwater withdrawn.
- c) **Inspection and Plan Review Fees** – The Board may, by resolution, establish fees for: the inspection of wells, meters, or other inspection activities; development plans, or other plan reviews; special inspection services requested by other entities; or similar services that require significant involvement of District personnel or its

agents. Fees may be based on the amount of the District's time and involvement, number of wells, well production, wellbore casing size, size of transporting facilities, or amounts of water exported.

SECTION 1.6 – RULEMAKING PROCEDURES

RULE 1.6.1 – APPLICABILITY

- a) Applicability – This section applies to rulemaking by the District but does not apply to internal personnel rules or practices, bylaws, statements regarding internal management or organization, or other statements not of general applicability.

RULE 1.6.2 – PUBLIC HEARINGS ON PROPOSED RULES

- a) Minimum Hearing Requirements – The Board shall hold at least one public hearing on proposed rules prior to adoption of the proposed rules as final rules.
- b) Conduct of the Hearing – The hearing will be conducted with the requirements and procedures as outlined for Rulemaking Hearings in Chapter 8 of these Rules.
- c) Notice of Public Hearing – Notice for a public hearing, as it applies to rulemaking, will be consistent with requirements and procedures as outlined in Chapter 8 of these Rules.

RULE 1.6.3 – ADOPTION OF RULES

- a) Timing for Adoption of Rules – The Board may adopt proposed rules as final Rules at any time after the completion of the public hearing(s) and after the closing of the record.

Availability to the Public – The Board will compile its Rules and make them available for public use and inspection at the District's principal office and on the District's web site.