

## CHAPTER 4 – OPERATIONS

### SECTION 4.1 – COMPLIANCE AND AUTHORITY

#### RULE 4.1.1 – PROVISIONS

- a) **Authority** – The requirements of this chapter are based on the District’s statutory authority to regulate the spacing of water wells and the production of groundwater in order to minimize the drawdown of the water table or the reduction of artesian pressure, to control subsidence, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste. All permitted wells are required to meet the well spacing and production regulations set forth in this chapter.
- b) **Use of Licensed Services** – It shall be unlawful for any person to act as, or to offer to perform services as a well driller or pump installer without first obtaining a license pursuant to the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code. Only a licensed well driller or licensed pump installer may install, service or alter a well within the boundaries of the CGCD, unless a person drills or constructs a water well on his property for his own use. It is a violation of these Rules to knowingly employ someone who is not a licensed well driller or pump installer for the purposes stated above.
- c) **Compliance with Code** – All new wells must comply with the spacing and location requirements set forth under the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code, unless a written variance is granted by the Texas Department of Licensing and Regulation (TDLR) and a copy of the variance is forwarded to the District by the applicant or registrant and approved by the District Board. It is considered a violation of these Rules for a well owner, well operator, water well driller, or pump installer to drill a new well that does not comply with District regulations regarding registration and permitting requirements, spacing and location requirements or completion requirements. Should there be evidence of non-compliance, the District may notify the TDLR regarding the infraction and will cooperate with that agency in any further investigation regarding the matter. Also, the District has the right as set forth in Section 36.102 of the Texas Water Code and Chapter 9 of these Rules to assess a civil penalty for violation of these Rules.
- d) **Radius of Drilling** – After an application for a new well permit and/or registration has been granted, the well, if drilled, must be drilled within one hundred (100) feet of the location specified but not closer to any existing registered well unless conditions give no alternative.

### SECTION 4.2 – SPACING REQUIREMENTS

#### RULE 4.2.1 – SPACING FROM OTHER WELLS

- a) **Adjacent Wells** – Pending collection of additional hydrogeologic and other scientific data, the spacing of new, non-exempt wells from any registered well shall be as follows: (i) for new wells projected to make 1000 gallons per minute or less, one foot of spacing for every gallon per minute (gpm) of production; and, (ii) for new wells projected to make more than 1000 gpm, 1000 feet plus an additional one half (½) foot of spacing for every gpm above 1000.

#### RULE 4.2.2 – TRACT SIZE AND SPACING FROM PROPERTY LINES

- a) **Minimum Acreage Tract Size** – No well, exempt or non-exempt, may be drilled on properties of less than one (1) acre unless sufficient safeguards from potential contamination from sewer and effluent lines and tanks have been approved by the Texas State Department of Licensing and Regulation. The District will cooperate with appropriate State agencies and Colorado County officials to ensure that proposed new wells will be drilled in compliance with current minimum tract sizes or other tract or lot requirements or restrictions imposed by Colorado County, if applicable.
- b) **Distance from Property Lines** – Any new well, exempt or non-exempt, must adhere to state guidelines for drilling a well near a property line and may not be drilled within fifty (50) feet from the property line of any adjoining landowner or well owner unless otherwise approved by the District or if necessary, the TDLR. If there is a new division of property, then the new property lines shall also be a minimum of fifty (50) feet from any existing wells unless otherwise approved by the District.

#### RULE 4.2.3 – SPACING FROM HAZARDOUS AREAS

- a) **Areas of Contamination** – A well must be located a minimum horizontal distance of one hundred fifty (150) feet from any concentrated sources of potential contamination, such as, but not limited to, existing or

proposed livestock or poultry yards, cemeteries, pesticide mixing/loading facilities, and privies. A well must be located a minimum horizontal distance of one hundred (100) feet from a dry litter poultry facility.

- b) **Septic System Absorption Fields** – A well shall be located a minimum horizontal distance of one hundred (100) feet from an existing or proposed septic system absorption field or a septic systems spray area.
- c) **Water-Tight Sewage and Liquid-Waste Collection Facilities** – A well must be located a minimum horizontal distance of fifty (50) feet from any water-tight sewage facility or liquid-waste collection facility.
- d) **Sewage Treatment and Waste Disposal Sites** – No well may be located within five-hundred (500) of a sewage treatment plant, solid waste disposal site, or land irrigated by sewage plant effluent.
- e) **Sewage Wet Well, Sewage Pumping Station and Drainage Containing Waste** – No well may be located within three-hundred (300) feet of a sewage wet well, sewage pumping station, or a drainage ditch that contains industrial waste discharges or wastes from sewage treatment systems.

#### **RULE 4.2.4 – FLOOD-PRONE AREAS**

- a) **Optimal Location** – A well must be located at a site not generally subject to flooding unless no reasonable alternative exists. If it must be placed in a flood-prone area, the well must be completed according to Rule 4.3.2.a.

#### **RULE 4.2.5 – EXCEPTIONS**

- a) **Right to Apply for Exception** – An applicant may apply for an exception to spacing requirements represented in Section 4.2.1 of these Rules. If the applicant obtains a written waiver from each affected well owner or landowner stating that the owner is agreeable to the applicant's proposed well location, then the Board may grant the exception. If no waivers are obtained, then the applicant must show through clear and convincing evidence that the new well location will not adversely affect adjacent wells. If evidence is satisfactory, the Board may enter special orders or add special permit conditions increasing or decreasing spacing requirements.
- b) **Adherence to State Rules** – The District may not grant an exception that conflicts with statutes of the Texas Department of Licensing and Regulation or any other state agency.
- c) **Spacing Exceptions to Landowner's Wells** – A landowner may apply for a waiver for an exception to spacing requirements for wells located on that landowner's property. In order to protect potential new owners of property, all property owners involved in either requesting a waiver or those who are willing to accept a waiver for spacing requirements must ensure that these waivers be filed in the Colorado County property records.
- d) **Granted Exceptions** – If the Board grants an exception to the spacing requirements for a proposed new well, that well must still be completed in accordance and in compliance with the standards of the Texas Water Well Drillers and Water Well Pump Installers Rules.
- e) **Adjacent Property Owners** – Providing an applicant can show, through clear and convincing evidence, good cause why a new well should be allowed to be drilled closer than the required spacing of fifty (50) feet from an adjoining property line, the issue of spacing requirements will be considered during the permitting process. If the Board, after considering the evidence presented, determines to grant a permit or an exception to drill a well that does not meet the spacing requirements, the Board may limit the production of the well to ensure no injury is done to the groundwater or aquifer.
- f) **Existing and Historic Use Well** – A well in existence on or before the effective dates of the original set of Rules is exempt from the spacing requirements set forth in these Rules.
- g) **Replacement Wells** – Replacement wells must maintain the same use and be drilled with no alteration to casing size or pump capacity from the original well. If a replacement well is drilled within fifty (50) feet of the original well and the original well is no longer capable of producing, then the replacement well is exempt from spacing requirements set forth in Rule 4.2.1c. However, unless conditions preclude it, the replacement well should not be drilled any closer to an existing well if the replacement well might reasonably interfere with said well.
- h) **Special Permits** – A water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code shall be considered exempt, as per Rule 3.2.2e of these Rules and shall therefore be treated by the same spacing rules as other exempt wells.

### **SECTION 4.3 – COMPLETIONS AND RE-COMPLETIONS**

#### **RULE 4.3.1 – STANDARDS**

- a) **Compliance** – All wells, including wells that encounter undesirable water or constituents, must be completed

in accordance with the well completion standards set forth under the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Part 4, Chapter 76, Texas Administrative Code. Water well drillers and pump installers are subject to and must comply with all the District Rules of the Colorado County Groundwater Conservation District.

- b) **Screening Restrictions** – Class C wells may not be screened within the first two hundred (200) feet from the land surface unless a waiver on screening restrictions is granted per Rule 4.3.1.c. Class A and B wells are not constrained by screening restrictions unless it is determined that the aquifer conditions warrant.
- c) **Waiver on Screening Restrictions** – The screening requirements for new Class C wells may be modified by the Board if the applicant demonstrates that groundwater of suitable quality for the applicant's type of use cannot be reasonably obtained at depths greater than two hundred (200) feet from the land surface and the applicant provides appropriate hydrogeological data to support the applicant's request.

#### **RULE 4.3.2 – PROTECTION FROM FLOOD WATERS**

- a) **Seal and Casing Requirements** – Wells in flood-prone areas must be completed with a water-tight sanitary well seal and a steel casing extending a minimum of thirty-six (36) inches above ground level and twenty-four (24) inches below the ground surface.

#### **RULE 4.3.3 – PROCEDURES**

- a) **Registration Amendment** – Any improvement, alteration or maintenance of a well or well system that causes a substantive change in the nature of the well requires that the well registration be amended to reflect the changes. Amendments for registered wells should be made on a form supplied by the District and as soon as practically possible but no later than sixty (60) calendar days after the event which necessitated an amendment. If a well has been altered such that it is capable of producing more than previously or for a different use, then it may be necessary to apply for a permit. District staff will determine within five (5) business days whether the well will require a permit.
- b) **Permitting of a Well** – A well will require a permit for any of the following:
  - i. If the improvement, alterations, maintenance or repair render an exempt well to become non-exempt at any time, then the well owner or operator must apply for an operating permit.
  - ii. If the owner or operator of the well wishes to replace an existing permitted well with a replacement well. Immediately upon completion of a replacement well, the old permitted well shall be: (a) plugged and abandoned in accordance with current Water Well Driller's Rules, Chapter 76; or, (b) properly equipped in such a manner that it falls into the definition of an exempt well.
- c) **Emergency Conditions** – An emergency replacement or reworking of a well may be performed, with notice to the District afterward, so long as there is no change to the use, rate or amount of withdrawal. New driller's and completion logs must be filed with the District within the same period of time as the logs are required to be filed with the Water Well Drillers' Board, and the well must be re-registered within fourteen (14) calendar days, and may require that the well be re-permitted.
- d) **Remediation of Commingling** – If undesirable commingling or loss of water is occurring and the well cannot be economically re-completed within the applicable rules, then the casing in the well shall be cemented and perforated in a manner that will prevent the commingling or loss of water. If such a well has no casing, then the well shall be cased and cemented or plugged in a manner that will prevent such commingling or loss of water.
- e) **Right to Compel Remediation** – The Board of Directors may direct the landowner or operator of a well to take steps to prevent the commingling of undesirable water and fresh water, or the unwanted loss of water or pollution through the wellbore. The cost of this remediation shall be borne by the well owner.

### **SECTION 4.4 – PRODUCTION ALLOWANCE**

#### **RULE 4.4.1 – LIMITS**

- a) **Permitted Authorization of Withdrawal** – The maximum annual quantity of water that may be withdrawn from a permitted well within the District shall be the amount authorized in the permit.
- b) **Operating Permit Maximum Allowable** – A well or well system with an approved operating permit may not be operated such that the average total production exceeds, over a three (3) year period, ten and one half (10.5) acre-feet of water per contiguous acre owned or operated, or for which a person can show ownership or possession of groundwater rights. Specific production limitations will be set as a condition of the granted well operating permit and the maximum production limit for each well or aggregated well system will be calculated

as a three-year rolling average. In regulating the production of groundwater, the District may consider the service needs or service area of a retail public utility, defined by Section 13.002, Texas Water Code.

- c) **Existing and Historic Use Permit Maximum Allowable** – An existing and historic use permittee must provide evidence for the maximum historic use of groundwater. If no evidence of maximum historic use can be provided that is greater than what might normally be assigned to an operating permit, then the maximum allowable production for that permittee shall be the same as for an operating permit. A well or well system with an approved existing and historic use permit may not be operated such that the average total production exceeds, over a three (3) year period a total equaling three times the maximum historic use based on acre-feet of water per contiguous acre owned or operated with an absolute maximum of 12 ac-ft per acre. The maximum production limit for each well or aggregated well system will be calculated as a three-year rolling average.

## **SECTION 4.5 – ABANDONED, OPEN AND UNCOVERED WELLS**

### **RULE 4.5.1 – REGISTRATION**

- a) **Responsibility** – An owner or lessee of land on which an open or uncovered well or an abandoned well is located must register the well within the District.
- b) **Classification of Non-Registered Wells** – Any well not registered with the District shall be classified as abandoned.

### **RULE 4.5.2 – CAPPING OPEN OR UNCOVERED WELLS**

- a) **Justifications and Requirements** – The District may require a well to be capped to prevent waste, prevent pollution, or prevent further deterioration of well casing. The well must remain capped until such time as the conditions that led to the capping requirement are eliminated. If well pump equipment is removed from a well and the well will be re-equipped at a later date, the well must be capped, provided however that the casing is not in a deteriorated condition that would permit co-mingling of water strata, in which case the well must be plugged.
- b) **Compliance Standards and Specifications** – At a minimum, open or uncovered wells must be capped in accordance with the Rules and in accordance with the standards set forth in the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Chapter 76, Texas Administrative Code. The owner or lessee shall keep the well capped with a water-tight covering capable of sustaining weight of at least four hundred (400) pounds except when the well is in actual use. The covering for a capped well must be constructed with a water-tight seal to prevent entrance of surface pollutants into the well itself, either through the wellbore or well casing.
- c) **Refusal to Cap Well** – If an owner, lessee or operator of a well fails or refuses to close or cap a well in compliance with this section or a Board order after being requested to do so in writing by an officer, agent, or employee of the District, then, upon Board approval, any person, firm or corporation employed by the District may go onto the land and cap the well safely and securely. Reasonable expenses incurred by the District in closing or capping a well will be assessed to the well owner or operator. Additionally, the District has the right to assess a civil penalty as provided for in Section 36.102 of the Texas Water Code and Chapter 9 of these rules.

### **RULE 4.5.3 – PLUGGING OF ABANDONED WELLS**

- a) **Responsibility of Plugging** – It is the responsibility of the landowner to see that an abandoned well is plugged in order to prevent pollution of groundwater and to prevent injury to persons and animals. If not already registered, the well to be abandoned must be registered prior to, or in conjunction with, well plugging.
- b) **Compliance Standards of Well Abandonment** – All abandoned wells must be plugged in accordance with standards set forth in the Texas Water Well Drillers and Pump Installers Administrative Rules, Title 16, Chapter 76, Texas Administrative Code. If an owner or a lessee fails to plug an abandoned well in compliance with this section or a Board order, District staff, or any person employed by the District, may go onto the land and plug the well safely and securely.
- c) **Notification** – Prior to plugging a well, the owner or operator shall notify the General Manager in writing of their plans to plug the well. It is a violation of these Rules for any water well driller or pump installer to plug an abandoned well for which the District has not received prior written notice. The General Manager may require the well owner to take a water sample and have a water quality analysis conducted as part of, or prior to, the plugging operation at the well owner's expense.

- d) **Detection of Unclosed Well** – When an uncovered, deteriorated, or abandoned well is found by District personnel or brought to the District’s attention, a letter will be sent to the owner of the property upon which the open or uncovered, deteriorated, or abandoned well exists, notifying the property owner of his responsibility to cap or plug the well. The property owner will also be provided with information on the proper closing of abandoned wells.
- e) **Deadline to Comply** – The property owner will be given one hundred eighty (180) calendar days in which to comply. The property owner will also be notified that he must file a Well Plugging Form with the Texas Department of Licensing and Regulation within thirty (30) calendar days after the well is plugged. A copy of the completed form must also be sent to the District by the property owner.
- f) **Inspection** – Once the property owner has notified the District that the well has been closed (capped or plugged), the District may inspect that well to insure compliance. District personnel may inspect well closures on a random basis.
- g) **Failure to Comply** – Should the property owner fail to respond within the one hundred eighty (180) calendar days, refuse to cap or plug the well, or fail to submit the Well Plugging Form within one hundred eighty (180) calendar days, the District Manager shall send a letter notifying the well owner or operator that he is in violation of District Rules and is therefore subject to a fine for each day the violation continues. An invoice assessing the cumulative amount of the fine will be sent to the well owner or operator. If the fine is not paid and the well is not closed within thirty (30) calendar days of receipt of the invoice, the District may instruct its attorney to bring legal proceedings to cause the open or uncovered, deteriorated, or abandoned well to be brought into compliance with the District Rules, and to seek a judgment for the amount of the unpaid fine, which may place a lien on the land on which the well is located. The lien, if filed, will only be removed upon proper well closure and payment of the assessed fine.
- h) **Emergency Provision to Close a Well** – The District has the right to enter the premises and close a well before the one hundred eighty (180) day notice passes if it is deemed that the well constitutes a potential danger to the aquifer or others.
- i) **District Contribution to Closing a Well** – A property owner may request reimbursement for the cost of closing a well. The District may reimburse up to fifty percent (50%) of the cost of the closure not to exceed three hundred dollars (\$300), with proper cost documentation submitted to the District. This money can only be reimbursed if the well closure is performed by a Texas Department of Licensing and Regulation approved individual. This money is available on a first-come first-served basis until the allocated budget money for well closures is depleted for the year. Lack of District funds does not preclude the landowner’s responsibility, both under the State of Texas’ Water Well Drillers and Pump Installers Rules and the District’s Rules, to cap or plug the open or uncovered, deteriorated, or abandoned well.
- j) **Copies** – A copy of any plugging report required by the Texas Department of Licensing and Regulation shall be submitted to the District.

**SECTION 4.6 – PROHIBITION OF PRODUCTION**

**RULE 4.6.1 – COURT ORDERS**

- a) **Wells Prohibited from Withdrawing Groundwater** – The District may, upon court orders, implement procedures to ensure that a well does not continue production. A red-tag shall be placed on the well in such a way that the well cannot continue operation without interfering or tampering with the red-tag. The presence of a red-tag on a well is an indication by the District that the well is not to be produced. A well may be red-tagged when, but not limited to, the following cases:
  - i. No application has been made for a permit to drill a new water well which is not exempted; or
  - ii. No application has been made for an operating permit to withdraw groundwater from an existing well that is not exempted from the requirement that a permit be obtained in order to lawfully withdraw groundwater; or
  - iii. The Board has denied, canceled or revoked an operating permit.
- b) **Tampering with a Red-Tag** – The action or actions of tempering with, altering, damaging, or removing a red-tag, or in any other way violating the integrity of the red-tag, or pumping of groundwater from a well that has been red-tagged constitutes a violation of these Rules and subjects the person performing such action(s), as well as any well owner or primary operator who does not prevent such action(s) or who authorizes or allows such action(s), to such penalties as provided by Section 36.102 of the Texas Water Code and Chapter 9 of these District Rules.