

# *Headwaters Groundwater Conservation District*

*District Rules*

## *HEADWATERS GROUNDWATER CONSERVATION DISTRICT DISTRICT RULES*

**Revised May 14, 2025**

---



**Headwaters Groundwater Conservation District is a groundwater conservation district in Kerr County Texas created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution. The District is created to serve a public use and benefit. The District's powers and duties are detailed primarily under Chapter 36 of the Texas Water Code and under the District's enabling legislation, which is codified at:**

**SPECIAL DISTRICT LOCAL LAWS CODE**

**TITLE 6. WATER AND WASTEWATER**

**SUBTITLE H. DISTRICTS GOVERNING GROUNDWATER**

**CHAPTER 8842. HEADWATERS GROUNDWATER CONSERVATION DISTRICT**

**These Rules are promulgated in accordance with the Texas Water Code, Chapter 36.**

**The District makes no representations and shall have no responsibility with respect to the availability or quality of Groundwater.**

### **Preamble**

**The purpose of this District is to provide for the conservation, preservation, protection, recharging and prevention of Waste of the Groundwater within its jurisdiction and of Groundwater reservoirs or their subdivisions within the defined boundary of the District. To carry out this purpose, these Rules and regulations are passed, adopted and will be enforced to: (1) minimize, as far as practicable, depletion of the Groundwater reservoirs and aquifers; (2) prevent Waste of Groundwater, Pollution of Groundwater or harmful alteration of the character of the Groundwater; (3) promote conservation to extend the longevity of Groundwater resources; and (4) manage the Groundwater effectively based upon factors unique to the aquifers within the Headwaters Groundwater Conservation District.**

### **Ownership of Groundwater**

*These Rules recognize the ownership of and rights associated with Groundwater as described in Texas Water Code Section 36.002. In signing the "Acknowledgement Affidavit" on the back of the HGCD Registration or Application forms to drill an Exempt or Permitted Well, or maintain an Existing Well on tracts of land subdivided after August 10, 2023 the landowner/agent is attesting to complete ownership of the Groundwater Rights beneath the land surface where the well(s) is to be drilled or to be used as Permit Acreage for an Operating Permit.*

## **Administrative Fees**

The District shall set the amount of fees and initiate refund policies from time to time.

Administrative fees (*e.g.*, for processing forms and records) or other fees required by the District must accompany Applications and Registration Forms.

## **Appendices**

*Appendix A – District Policies*

*Appendix B – Conflicts of Interest*

*Appendix C – District Fine Schedule*

*Appendix D – East Kerr Management Zone Map*

## **Acronyms**

*ASR-Aquifer Storage and Recovery Well*

*CCN-Certificate of Convenience and Necessity*

*GMA-Groundwater Management Area*

*GPS-Global Positioning System*

*DFC-Desired Future Condition*

*GCD-Groundwater Conservation District*

*GAM-Groundwater Availability Model*

*PUC-Public Utility Commission of Texas*

*PUD-Planned Unit Development*

*MAG-Modeled Available Groundwater*

*OSSF-On Site Sewage Facility*

*PWPG-Plateau Water Planning Group (Region J)*

*TAC-Texas Administrative Code*

*TCEQ-Texas Commission on Environmental Quality*

*TDLR-Texas Department of Licensing and Regulation*

*TDS-Total Dissolved Solids*

*TWDB-Texas Water Development Board*

<b>TABLE OF CONTENTS</b>		<b>PAGE</b>
<b>Rule 1</b>	<b>Definitions</b>	<b>5</b>
<b>Rule 2</b>	<b>Waste</b>	<b>14</b>
<b>Rule 3</b>	<b>Petition for Rulemaking</b>	<b>14</b>
<b>Rule 4</b>	<b>Exemptions from Permitting</b>	<b>14</b>
<b>Rule 5</b>	<b>Permitted Wells</b>	<b>19</b>
<b>Rule 6</b>	<b>Requirements for Administrative Completeness</b>	<b>25</b>
<b>Rule 7</b>	<b>Production Cap/LMS</b>	<b>26</b>
<b>Rule 8</b>	<b>Permit Amendments/Change</b>	<b>30</b>
<b>Rule 9</b>	<b>Enforcement</b>	<b>32</b>
<b>Rule 10</b>	<b>Public Water Supply Wells</b>	<b>33</b>
<b>Rule 11</b>	<b>Transport of Groundwater Out of District</b>	<b>34</b>
<b>Rule 12</b>	<b>Transfer of Groundwater Production Rights</b>	<b>34</b>
<b>Rule 13</b>	<b>Well Construction</b>	<b>35</b>
<b>Rule 14</b>	<b>Capping and Plugging of Wells</b>	<b>38</b>
<b>Rule 15</b>	<b>Right to Inspect and Test Wells</b>	<b>39</b>
<b>Rule 16</b>	<b>Drought Management</b>	<b>40</b>
<b>Rule 17</b>	<b>Alluvial Wells</b>	<b>40</b>
<b>Rule 18</b>	<b>Aquifer Storage and Recovery (ASR) Wells</b>	<b>41</b>
<b>Rule 19</b>	<b>Geothermal Well Permits</b>	<b>41</b>
<b>Rule 20</b>	<b>Hearings</b>	<b>41</b>
<b>Rule 21</b>	<b>Achieving the Desired Future Conditions</b>	<b>55</b>
<b>Rule 22</b>	<b>Miscellaneous</b>	<b>56</b>
<b>Appendix A</b>	<b>HGCD Policy 2010-2</b>	<b>57</b>
<b>Appendix B</b>	<b>Conflicts of Interest</b>	<b>59</b>
<b>Appendix C</b>	<b>District Fine Schedule</b>	<b>60</b>
<b>Appendix D</b>	<b>East Kerr Management Zone Map</b>	<b>61</b>

## **Rule 1: Definitions**

The following terms shall have the meanings defined in Rule 1 below and other publications of the District. Note that when used as defined below, defined terms are capitalized within these Rules.

- A. “Abandoned Well”** shall mean a Well that is not in use. A Well is considered to be in use if it is a non-Deteriorated Well, which contains the casing, pump, and pump column in good condition, or a non-Deteriorated Well that has been capped.
- B. “Agent”** shall mean any Person that has provided the District with a power of attorney or similar proof of authorization to act on behalf of an Owner or Operator.
- C. “Aggregate of Wells”** shall mean multiple Groundwater Wells in the same Permit System.
- D. “Agriculture”** shall mean irrigation or any of the activities described in Texas Water Code Section 36.001(19).
- E. “Agricultural”** shall mean any use or activity involving Agriculture, including irrigation, but does not include irrigation usage that falls within the category of Domestic Use.
- F. “Alluvial Well”** shall mean a Well that is supplied or charged by Surface Water.
- G. “Alter” or “Altering” or “Altered”** shall mean to increase a Well’s Production Capability to more than its authorized production level.
- H. “Annular Space”** shall mean the space between the casing and the Borehole wall.
- I. “Applicant”** shall mean a Person who is an Owner, Operator or Agent registering an Exempt Well or who is applying for a Permit or Permit Amendment.
- J. “Application”** shall mean;
- 1) Application to drill, Alter, and equip a Permitted Well.
  - 2) Application for a Production/Operating Permit.
  - 3) Application for a conditional Permit.
  - 4) Application for renewal of a Permit.
  - 5) Application for a Permit Amendment.
  - 6) Application to transport Groundwater.
  - 7) Application for a closed loop geothermal Well.
- K. “Aquifer”** shall mean a formation or group of geologic formations capable of storing and yielding Groundwater in usable quantities.

**L. “Beneficial Purpose”** shall mean use of Groundwater for:

- 1) Agriculture, gardening, Domestic Use, stock raising, municipal use, mining, manufacturing, industrial use, commercial use, recreational use, or pleasure purpose;
- 2) Exploring for, producing, handling, or treating oil, gas, Sulphur, or other minerals; or
- 3) Any other purpose that is useful and beneficial to the user. Tex. Water Code Sec. 36.001(9), except when such use or purpose falls under the definition of Waste as defined in these Rules.

**M. “Best Available Science”** means conclusions that are logically and reasonably derived using statistical or quantitative data, techniques, analyses, and studies that are publicly available to reviewing scientists and can be employed to address a specific scientific question. See Texas Water Code Section 36.0015(a). Best Available Science includes the TWDB Groundwater Availability Models.

**N. “Board”** shall mean the District Board of Directors.

**O. “Borehole”** shall mean an artificial excavation of earth drilled to a depth sufficient to penetrate an Aquifer.

**P. “CCN”** shall mean a “Certificate of Convenience and Necessity,” a permit issued by the Public Utility Commission of Texas, which authorizes a retail public utility to sell potable retail water or sewer utility service to a specified geographic area.

**Q. “Commercial Use”** shall mean the use of groundwater where that use is necessary to:

- 1) Supply water to properties or establishments that are in business to build, manufacture, supply, or sell products when a TCEQ Public Water System operating license is not otherwise required.
- 2) Provide goods, services, or repairs when a TCEQ Public Water System operating license is not otherwise required.
- 3) Convert materials of a lower order of value into forms having greater usability and commercial value.
- 4) Wash, cleanse, cool, or heat goods, materials, or products.
- 5) Construct buildings or roads.
- 6) Generate revenue for a business entity, where the use of water is not exempted by Texas Water Code Chapter 36.117 or by the Headwaters GCD District Rules. Commercial uses do not include Agricultural, livestock, irrigation, Public Water Systems, or the uses designated as Domestic Exemptions in HGCD Rule 4.

**R. “Commingling”** shall mean to blend Groundwater from more than one Aquifer in the same borehole or Well.

**S. “Conjunctive Use”** shall mean the combined use of Groundwater and Surface Water sources that optimizes the beneficial characteristics of each source, such as water banking, aquifer storage and recovery, enhanced recharge, and joint management.

**T. “Contiguous Acreage”** shall mean adjacent tracts of land within the District that are owned or legally controlled for the purpose of Groundwater withdrawal by the Owner or Operator, and are separated only by a road, highway, or watercourse.

**U. “Crop Acreage”** shall mean the actual acreage being irrigated for growing crops.

**V. “Days”** shall mean, for the purposes of these Rules unless otherwise stated, calendar days not excepting holidays and weekends unless the period ends on one. In computing any period of time prescribed or allowed by these Rules, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day that is not a weekend day or holiday.

**W. “Deteriorated Well”** shall mean a Well or Borehole, the condition of which is causing or is likely to cause Pollution of Groundwater.

**X. “District”** shall mean the Headwaters Groundwater Conservation District.

**Y. “Domestic Use”** shall mean the use of Groundwater for personal household use, including Groundwater for: use inside the home; irrigation of lawns and trees; irrigation of family gardens/orchards; watering domestic animals; filling swimming pools.

**Z. “Domestic Exemption”** is extended in certain situations where a Well is serving only one tract of land, qualifies for an exemption under Rule 4, Section 1.C, and does not meet the definition of a Public Water System.

**AA. “Exempt Well”** shall mean a Well that meets the exemption requirements in Texas State Water Code Section 36.117.

**BB. “East Kerr Management Zone”** as shown in Appendix “D”, shall mean a designated area where the District’s long term monitoring program and East Kerr Trinity Aquifer Groundwater Availability Assessment has demonstrated a historic and consistent declining trend of aquifer levels. The District has designated the East Kerr Management Zone under the authority of Texas State Water Code Chapter 36.116.

**CC. “General Manager”** shall mean the general manager of the Headwaters Groundwater Conservation District.

**DD. “Groundwater”** shall mean water percolating below the surface of the earth.

**EE. “Groundwater Well”** shall mean a man-made excavation constructed to produce Groundwater. A Spring is not a Groundwater Well.

**FF. “Groundwater Rights”** as applied to these Rules shall mean;

- 1) as stated in Texas Water Code Chapter 36.002, that “a landowner owns the Groundwater below the surface of the landowner’s land as real property”; or
- 2) for Permitted Wells only, any rights to control the Groundwater that is associated with a piece of land acquired through lease/purchase or other agreement with the landowner of such land, as documented and recorded in the real property records of Kerr County.

**GG. “Historic Use”** shall mean the recorded annual gallons pumped per year in the five years immediately preceding the Application for renewal of a Production/Operating Permit. But, at the discretion of the General Manager, other evidence may be considered when the record for the previous consecutive five years is incomplete or other relevant circumstances exist. Relevant circumstances shall include, but not be limited to, use for a Beneficial Purpose without Waste, or intentional reduction in Groundwater pumping such as conservation measures during periods of higher-than-normal rainfall, or compliance with drought stages issued by the District.

**HH. “Livable Minimum Standard”** or LMS shall mean the minimum number of gallons per day that are necessary to meet basic needs, recognize ownership of Groundwater, and provide for the general welfare of a single domestic connection that is supplied by a Public Water System.

**II. “Mobile Home Park”** shall mean an area for people to live in mobile homes.

**JJ. “Monitoring Device”** shall mean an approved meter installed on a Permitted Well that meets the standards set by the District.

**KK. “Monitoring Well”** shall mean an artificial excavation constructed to measure or monitor the quality or quantity or movement of water, substances, elements, chemicals, or fluids, beneath the surface of the ground.

**LL. “Multi-Unit Attached Dwellings”** shall mean apartments, healthcare living facilities, duplexes, condominiums, Planned Unit Development (PUD), or any other structure that has multiple residential units.



**MM. “Non-Exempt Well”** all Groundwater Wells that do not qualify for an exemption as provided by Texas Water Code Chapter 36.117 and pursuant to these Rules.

**NN. “Operating Permit”** shall mean any type of a Groundwater Permit issued by the District that relates to the operation of or production from a Groundwater Well that states the total gallons per year that may be pumped for the Contiguous Acreage that is specified as the Permit Acreage listed on the Permit, for a certain number of years, and for a specified use or uses.

**OO. “Operator”** shall mean a Person, who is not an Owner, but who has the legal rights or responsibilities of an Owner with respect to drilling, or operating and maintaining a Well.

**PP. “OSSF”** shall mean On-Site Sewage Facility.

**QQ. “Owner”** shall mean and include any Person who has sufficient legal interest in the land upon which the proposed or existing Well is located to drill, operate and maintain the Well.

**RR. “Permit”** shall mean an approval issued by the District for an Owner or Operator to take specified action with regard to a proposed or existing Non-Exempt Well (Permitted Well).

**SS. “Permit Amendment”** means making an amendment to an existing Production/Operating Permit that:

- 1) Occurs during the permit renewal process or occurs during the mid-term of an existing Production/Operating Permit; and
- 2) Is altering the use or uses of Groundwater; or
- 3) Is altering the production allowance of the Production/Operating Permit; or
- 4) Is making a change to the Permit Acreage of the Production/Operating Permit; or
- 5) Is modifying the selection of Groundwater Well, or aggregate of Groundwater Wells, to be associated to the Production/Operating Permit.

**TT. “Permit Acre”** shall mean a single acre of land in the Contiguous Acreage which a Person holds the Groundwater Rights that is used to calculate the annual production volume of Groundwater allowed on an Operating Permit.

**UU. “Permit Acreage”** shall mean the total number of Permit Acres used in conjunction with the District Production Cap to calculate the annual volume of groundwater allowed for an Operating Permit.

1) Permit Acreage-Private Utilities

For acreage to qualify as Permit Acreage for all Public Water Systems/Utilities (excluding municipalities) the owner/operator must either have ownership of the Groundwater Rights below the Service Area, or the acreage in a Service Area actively being served by a TCEQ approved Public Water System, or private Non-Exempt Shared Wells, which shall include:

- a) The acreage of the tracts or lots that are actively serviced up to a maximum of five (5) acres per lot or tract. Any acreage in excess of five (5) acres will be excluded from the Permit Acreage that is associated to the Public Water System's Service Area.
- b) A deduction of up to five (5) acres will be applied to the Permit Acreage, that is associated to the Public Water System's Service Area, for any lot or tract in the Service Area that also has an Exempt Well on the property. For any lot or tract in the Service Area with multiple Exempt Wells on the property, a deduction of up to five (5) acres will be applied for each Exempt Well. In all instances where this deduction is applicable, the total deduction shall not exceed the total acreage of the applicable lot or tract.
- c) A deduction for any acreage in the Service Area of a private utility PWS where the Groundwater Rights have been legally severed from the surface estate.
- d) A deduction for any other Permitted Wells/systems within the Public Water System Service Area. The amount of Permit Acreage assigned to another Operating Permit will be deducted from the Public Water System's Permit Acreage.

2) Permit Acreage-Municipal Water Systems

All acreage within the City Limits of a Municipal Public Water System qualifies as Permit Acreage, with the following exceptions:

- a) For each existing Exempt Well within the City Limit, up to a maximum of five (5) acres will be deducted from the Municipal PWS Permit Acreage.
- b) A deduction will be applied for any acreage within the Municipally owned Public Water System, where that acreage is actively dedicated to the Permit Acreage of another Operating Permit.
- c) A deduction for any acreage within the City Limit where the Groundwater Rights have been legally severed from the surface estate.
- d) City-owned Public Water Systems outside the City limit will require an independent Operating Permit for that system's service area.

3) Permit Acreage-Agriculture/Commercial Water Systems

- a) The Contiguous Acreage which a person, company, or corporation owns or holds the Groundwater Rights by virtue of lease or contractual arrangement as outlined in Rule 12, may be considered Permit Acreage for Agriculture, Crop Acreage, and Commercial Use.
- b) A deduction of up to five (5) acres will be applied to the Permit Acreage, that also has an Exempt Well on the property. For multiple Exempt Wells on the property, the deduction of up to five (5) acres will be applied for each Exempt Well.

**VV. "Permit System"** shall mean a collection of infrastructure or equipment comprised of a Groundwater Well or group of Wells that supply Groundwater for a specified area and purpose designated on an HGCD Operating Permit, by way of pumps, tanks, water line infrastructure and used for irrigation systems, commercial business, Public Water Systems or any other Beneficial Purpose.

**WW. "Permitted Well"** shall mean a Non-Exempt Well for which the District has issued a Permit or for which a Permit is required by the District.

**XX. "Person"** shall include an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

**YY. "Planned Unit Development (PUD)"** shall mean a type of flexible zoning device that redefines the land uses allowed within a stated land area. PUDs consist of unitary site plans that promote the creation of open spaces, mixed-use housing and land uses, environmental preservation and sustainability, and development flexibility. Areas rezoned as PUDs include building developments, designed groupings of both varied and compatible land uses —such as housing, recreation, commercial centers, and industrial parks — within one contained development or Subdivision. Developed areas vary in size and by zoned uses, such as industrial, commercial, and residential.

**ZZ. "Plat"** shall mean a map created by a licensed surveyor or engineer, that documents the legal shape, boundaries, and acreage of a parcel, tract, or lot of land prepared in a manner suitable for recording in the Kerr County Records.

**AAA. "Pollution"** shall mean a change in any Groundwater that renders the Groundwater harmful, detrimental, or injurious to humans, animals or vegetation.

**BBB. “Private Shared Well”** shall mean an Exempt or Non-Exempt Well that:

- 1) Is supplying Groundwater to additional tracts or lots of land;
- 2) All such lots are qualified to have their own well in compliance with Rule 4 & 5;
- 3) Is not a TCEQ-Regulated Public Water System.
- 4) The Exempt or Non-Exempt status of the Well will be determined by the use of the water and the pumping capacity of the Well in accordance with Rules 4 & 5.

**CCC. “Production Cap”** shall mean the maximum amount of Groundwater per acre per year that may be allowed under a Production/Operating Permit for one or more Beneficial Purpose.

**DDD. “Public Water System”** is as defined in TCEQ Chapter 290.

**EEE. “Pump Test”** shall mean a test involving the withdrawal, at a constant discharge rate, of measured quantities of Groundwater from a Well and the measurement of resulting changes in Groundwater level in an Aquifer both during and after the period of discharge, for the purpose of determining the characteristics of an Aquifer.

**FFF. “Registration Form”** shall mean an administratively complete form for Exempt Water Well Registration, including the payment of any required fee.

**GGG. “Rules”** shall mean the rules of the District, adopted by the Board of Directors in accordance with Chapter 36 of the Texas Water Code.

**HHH. “RV Parks”** shall mean, a collection or grouping of rental sites for transient use.

**III. “Service Area”** shall mean the specific geographic area that includes the properties that are actively serviced by or have immediate-and-ready access to a TCEQ-approved Public Water System or a Private Shared Non-Exempt Well. Service Area shall *not* mean the specific geographic area associated with a CCN.

**JJJ. “Spring”** shall mean a point of natural discharge from an aquifer.

**KKK. “State of Texas Well Report”** shall mean a detailed description by the driller of activities involved in the drilling of a Groundwater Well, including lithologic description, Borehole size and depth, cementing and grouting information, and static Groundwater level and yield, as required by applicable state regulations.

**LLL. “Subdivision”** shall mean any tract of land divided into two or more parts.

**MMM. “Surface Water”** shall mean, as defined in the Texas Water Code, the water of the ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and of every bay or arm of the Gulf of Mexico, and the storm water, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in

the state, and water imported from any source outside the boundaries of the state for use in the state and which is transported through the beds and banks of any navigable stream within the state or by utilizing any facilities owned or operated by the state.

**NNN. “Test Well”** shall mean an artificial excavation created from drilling, boring or coring for the purpose of securing geological, hydrological or other information that may be obtained by penetrating the earth.

**OOO. “Waste”** shall mean, as defined in Section 36.001(8) of the Texas Water Code, any one or more of the following:

- 1) Withdrawal of Groundwater from a Groundwater reservoir at a rate and in an amount, that causes or threatens to cause intrusion into the reservoir of Groundwater unsuitable for agricultural, gardening, domestic, or stock raising purposes;
- 2) The flowing or producing of Wells from a Groundwater reservoir if the Groundwater produced is not used for a Beneficial Purpose;
- 3) Escape of Groundwater from a Groundwater reservoir to any other reservoir or geologic strata that does not contain Groundwater;
- 4) Pollution or harmful alteration of Groundwater in a Groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;
- 5) Willfully or negligently causing, suffering, or allowing Groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the Owner of the Well unless such discharge is authorized by permit, rule, or order issued by the TCEQ under Water Code Chapter 26; or
- 6) Groundwater pumped for irrigation that escapes as irrigation tail water onto land other than that of the Owner of the Well unless the occupant of the land receiving the discharge has granted permission.

**PPP. “Well”** shall mean, depending on the context in which the term is used, one or more of the following types of wells that fall within the jurisdiction of the District:

Groundwater Well, injection Well, ASR Well, dewatering Well, Test Well, Closed-Loop and Open Loop Geothermal Well, or Monitoring Well.

**QQQ. “Well Lot”** shall mean a small tract of land located within a Service Area, or City Limit of a Municipality, upon which a Permitted Well is located that serves a TCEQ

regulated Retail Public Water Utility.

### **Rule 2: Waste**

Groundwater shall not be produced or used within the District in such a manner or under such conditions so as to constitute Waste. [Water Code 36.001 (8).]

### **Rule 3: Petition for Rulemaking**

- A.** A person with a real property interest in Groundwater in the District may file a petition with the District to request the adoption of a rule.
- B.** Petitions must be submitted in writing on an “HGCD Petition for Rulemaking Form” to the District office and must comply with the following requirements:
  - 1) Each rule requested must be submitted by separate petition;
  - 2) Each petition must be signed and state the name and address of each person signing the petition;
  - 3) Each petition must include:
    - a) A brief description of the petitioner’s real property interest in groundwater in the District;
    - b) A brief explanation of the proposed rule;
    - c) The text of the proposed rule prepared in a manner to indicate the word to added or deleted from the text of the current rule, if any; and
    - d) An allegation of injury or inequity that could result from the failure to adopt the proposed rule;
- C.** The General Manager may reject any petition for failure to comply with the requirements of subsection (B) of this section and shall provide notice to the petitioner of the reason for the rejection. Within 90 days after submission of a petition that complies with this section, the Board shall either deny the petition, stating its reasons for denial in the minutes of the board meeting or in a letter providing a written explanation to the petitioner, or initiate rulemaking proceedings as provided by Texas Water Code Chapter 36, Section 36.101.

### **Rule 4: Exemptions from Permitting (Exempt Wells)**

#### **Rule 4, Section 1: Qualifications.**

- A.** The District provides an exemption from the requirement to obtain a Permit for:
  - 1) Drilling or operating a Groundwater Well used solely for Domestic Use or for providing water for livestock or poultry if the Groundwater Well is:
    - a) located or to be located on a tract of land that is 10 or more acres; and

- b) drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of Groundwater a day;
  - 2) Drilling and operating a Groundwater Well in accordance with Section 36.117(b)(2), (b)(3) or (b)(4).
  - 3) A Well drilled by a subdivision that is served by private wells and is not served by fire hydrants as part of a centralized water system, when required by Kerr County Subdivision Rules Section 5.07, may drill a Well that shall only be used to supply water to a minimum gallon storage tank that is designated solely for fire suppression. The plat must accurately describe the:
    - a) location and components of the fire suppression system; and
    - b) fire suppression system compliance obligations of the Developer (including its successors and assigns required by Kerr County Subdivision Rule 5.07.A.
  - 4) Volunteer Fire Departments are allowed to use a Well drilled under this subsection, provided the water is used solely for fire suppression.
- B. All Groundwater Wells subject to the exemptions in Subsection A shall be:
- 1) registered in accordance with the Rules; and
  - 2) equipped and maintained to conform to the Rules regarding Well construction
  - 3) Domestic Exemption: Texas State Water Code Chapter 36.117 (a). 1) A Well may qualify for a Domestic Exemption if the Well is not capable of pumping more than 25,000 gallons per day, and is used to supply certain commercial operations in which water is used for Domestic Use only, for lavatories and kitchens utilized by the owner(s) and employees of the business, and not used in the business operation. Only one Well may qualify for such a Domestic Exemption per business regardless of the size and number of tracts associated with the business,
  - 4) A single Well that is used only for Domestic Use to supply multiple residences or rental units not to exceed a total of three (3) units, on the same tract of land and that meets the requirements in Rule 4, Section 3.A may qualify for a Domestic Exemption. Outdoor water usage is also authorized as defined in “Domestic Use” Rule 1(Y).

## **Rule 4, Section 2: Registration, Equipping, Construction and Location.**

### **A. Registration**

No less than ten (10) days before the date on which an Owner desires to begin drilling an Exempt Well, the Owner or designated Agent shall complete a Registration Form that

includes a fee, survey, and proof of ownership of the land on which the Exempt Well is to be located. The drilling of any Well is prohibited until a signed registration form from the District is submitted. The Well capacity (gpm) and purpose of use must be stated on the registration form. The District staff will determine if it meets the exemptions or requires a permit.

#### **B. Equipping**

- 1) Exempt Wells must be equipped to conform to the District's Rules requiring installation of casing, pipe, and fittings to prevent the escape of Groundwater from a Groundwater reservoir to any reservoir not containing Groundwater and to prevent the Pollution of any Groundwater Aquifer.
- 2) Altering a pump in an Exempt Well in a manner that would increase the maximum rate of production to greater than 25,000 gallons per day or 17.36 gallons per minute open discharge at the wellhead and/or the use of the Well is no longer Domestic/Livestock, will change the status of the Well to Non-Exempt (Permitted) and require an Operating Permit from the District.

#### **C. Construction**

Exempt Wells must comply with Rule 13 regarding drilling and Well construction, including Rule 13.D regarding Groundwater analysis.

#### **D. Location**

Improper spacing of an Exempt Well in violation of District Rules without the District's consent, may result in the Owner or Operator being required to correct the violation, up to and including properly plugging the Well.

### **Rule 4, Section 3: Tract Size, Subdividing, Partitioning**

#### **A. Drilling or Sharing Exempt Wells on existing, subdivided, or partitioned tracts of land that are not served by a PWS require the following:**

- 1) An Exempt Well may be drilled on a tract of land that is less than five (5) acres that was subdivided, or partitioned before January 10, 2018.
- 2) To drill an Exempt Well on a tract of land that was subdivided, or partitioned between and including January 10, 2018 and August 9, 2023 requires a minimum tract size of five (5) acres.
- 3) To drill an Exempt Well on a tract of land in the East Kerr Management Zone that was subdivided, or partitioned between and including June 15, 2022 and August 9, 2023 requires a minimum tract size of seven (7) acres.



- 4) To drill an Exempt Well on a tract of land in all of Kerr County that was subdivided or partitioned on or after August 10, 2023 requires a minimum tract size of ten (10) acres.
- 5) An Exempt Well may be drilled on an existing non-platted tract being required by Kerr County to be platted, provided no changes are being made to the original size and configuration of the tract or property boundaries, and a legally recorded deed verifying the tract size, that the tract has and retains 100% of the Groundwater Rights beneath the surface estate, and the date the tract was created can be furnished to the District. The property must meet the tract size in relation to the date the tract was created as specified in Rule 4 Section 3. A (1) through (4).
- 7) To drill or maintain an existing Exempt Well on a tract of land in all of Kerr County that has been or is being subdivided or partitioned on or after August 10, 2023 requires:
  - a) a minimum ten (10) acre tract of land that retains ownership of the Groundwater Rights beneath the surface estate being subdivided or partitioned with the existing well, and:
  - b) must maintain the Well spacing requirements in Rule 4, Section 6.
- 8) A Private Shared Exempt Well may be shared to other tracts of land provided that all tracts meet the acreage requirements of Rule 4, Section 3.A. Each dependent tract the Well is shared with must qualify to have its own Well.

**Rule 4, Section 4: Drilling Exempt Wells in a Public Water System Service Area:**

To drill an Exempt Well on a tract of land that is connected or can be connected to a PWS, requires a singular fifteen (15+) acres tract of land.

**Rule 4, Section 5: Existing Exempt Wells in a PWS Service Area:**

- A. HGCD will not approve a plat to subdivide, plat, or partition a tract of land into less than fifteen (15) acres that has a Public Water System connection and an existing Exempt Well Unless the Well is plugged and a State Plugging Report must be furnished to the District.
- B. It will be a violation of the District Rules for tracts of land that are less than fifteen (15) acres and already have an existing Exempt Well, to connect to a Public Water System unless the Exempt Well is plugged.
- C. Where an existing tract of fifteen (15) or more acres that has, an existing Exempt Well is also connected to a Public Water System, the Well may serve a maximum of three

connections on the same property. To serve more than three connections, the existing Exempt Well must become a Permitted Well, requiring a meter to be placed on the Well, be allocated for Beneficial Purpose up to the Production Cap for the single lot, and report the annual production in January each year. If the existing tract is equal to or in excess of fifteen (15) acres, the Public Water System will be credited five (5) acres to use on the PWS Operating Permit, the remaining acreage will be used to support the landowners Operating Permit. If the tract of land is less than fifteen (15) acres, the landowners Operating Permit will be credited with ten (10) acres, and the remaining acreage will be used as Permit Acreage for the Public Water Supply System.

**Rule 4, Section 6: Well Spacing**

- A. Exempt Wells,** All Exempt Wells except for Exempt Wells authorized by a permit issued by the Railroad Commission of Texas under Texas Natural Resources Code Chapter 134, must comply with the District's Rules for Groundwater Well Spacing. A Well that is exempted by Texas Water Code 36.117 (b)(3) that does not meet the District spacing requirements shall be plugged when the Groundwater withdrawal is no longer necessary for mining activities.
- B. For all other types of Exempt Wells:**
- 1) A new Well must be located at least 75 feet from any property line of the tract on which it is to be drilled.
  - 2) New Wells must be drilled outside the sanitary easement of a Public Water System Well (150 feet from PWS wellhead).
  - 3) Additional Kerr County Subdivision Rules may apply for Wells drilled outside the City of Kerrville City Limit.
  - 4) Additional City of Kerrville Subdivision Ordinances may apply for Exempt Wells drilled inside the City of Kerrville City Limit.
  - 5) Wells must meet the Texas Administrative Code (TAC) Chapter 285 standards relating to on-site septic systems, and the Texas Department of Licensing and Regulation (TDLR) Section 76.100 Technical Requirements-Location and Standards of Completion for Wells.
  - 6) Setback rules stated above shall be maintained, when possible, unless otherwise approved by the District Staff, but at a minimum, Well spacing must meet TDLR Section 76.100 spacing rules and 30 TAC Chapter 285 setback rules for an On-Site

Sewage Facility (OSSF). When a 75-foot property line setback cannot be met, maximum distance between neighboring Wells should be achieved.

- C. Monitoring Device** - No Monitoring Device or metering of production is required for Exempt Wells except for purposes of reporting production as required by Texas Water Code Section 36.117(e).

### **Rule 5: Permitted Wells**

Except as provided by in Rule 4, the District requires a permit for the drilling, equipping, operating or completing of Wells or for substantially altering the size of Wells or Well pumps.

The District Rules and Texas Water Code Chapter 36, Sections 36.113 through 116 are considered before granting or denying an Operating Permit.

**For Operating Permits, the District has designated three general categories:**

- 1) **Public Water Supply**: includes, but is not limited to Conjunctive use, retail drinking water for residential use, 15 or more connections, Permitted Wells used for Domestic use.
- 2) **Agriculture/Ag**: includes, but is not limited to crop irrigation, food plots, orchards, athletic fields, Permitted Wells used for livestock/poultry use.
- 3) **Commercial**: includes, but is not limited to construction, aggregate, buying and selling of goods and services, industrial, manufacturing, processing and distribution of goods to generate revenue.

### **Rule 5, Section 1: Tract Size and Subdividing**

Drilling and/or Sharing Permitted Wells on existing and subdivided, or partitioned tracts of land that are not served by a Public Water System, require the following:

- 1) A Permitted Well may be drilled on a tract of land that is less than five (5) acres that was subdivided, or partitioned before January 10, 2018.
- 2) To drill a Permitted Well on a tract of land that was subdivided, or partitioned between and including January 10, 2018 and August 9, 2023 requires a minimum tract size of five (5) acres.
- 3) To drill a Permitted Well on a tract of land in the East Kerr Management Zone that was subdivided, or partitioned between and including June 15, 2022 and August 9, 2023 requires a minimum tract size of seven (7) acres.

- 4) To drill a Well on a tract of land in Kerr County that was subdivided or platted on or after August 10, 2023 requires a minimum ten (10) acres tract.
- 5) The tract size required for drilling a Permitted Well on an existing non-platted tract that is being required to be currently platted must meet the requirements specified in Rule 4 Section 3.A (1) through (4), and a legally recorded deed must be furnished to the District that documents the date of the tract's creation.
- 6) Regardless of the plat, subdivision, or partition date, a Permit Well may be drilled on a PWS Well Lot in a new or existing Service Area that is served by a TCEQ approved Public Water System. The Well/Well Lot must be in compliance with Rule 5. Section 3: Table 5-1, Well spacing/minimum distance from Service Area boundary (Rule 1: HHH) determines the maximum Well capacity (gallons per minute).
- 7) To drill or maintain an existing Permitted Well on a tract of land in all of Kerr County that has been or is being subdivided or partitioned on or after August 10, 2023 requires:
  - a) a minimum ten (10) acre tract of land that retains ownership of the Groundwater Rights beneath the surface estate being subdivided or partitioned with the existing well, and:
  - b) must maintain the Well spacing requirements in Rule 5, Section 3, 1-5.
- 8) Private Shared Non-Exempt (Permit) Wells; a Permitted Well may be shared to other tracts of land provided that all tracts meet the acreage requirements of Rule 4, Section 3.A for Exempt Wells, or Rule 5, Section 1.A for Permitted Wells, as applicable. Each dependent tract the Well is shared with must qualify to have its own well.

**Rule 5, Section 2: Drilling New Permitted Wells in a Public Water System Service Area:**

The requirements to drill a Permitted Well on a tract of land that is connected to a PWS, or in an area that has access to or can be provided Groundwater by a PWS are at a minimum, a singular fifteen (15+) acre tract of land. The Permit Acreage associated with the Operating Permit for new Permitted Well(s) will be deducted from the Permit Acreage that is associated with the Public Water System's Operating Permit, with the exception of five (5) acres which will continue being applied to the Permit Acreage of the Public Water System's Operating Permit to support the accompanying PWS connection.

### **Rule 5, Section 3: Adding Connections to the Service Area of a Public Water System**

#### **A. Standard Operating Permit**

Existing tracts within the Service Area of a Public Water System may add one connection to the existing Public Water System. To qualify for additional connections, the existing tract must meet the applicable LMS specified in Rule 7. E.

#### **B. Exception Permit**

- 1) Existing tracts within the Service Area of a Public Water System that has an Exception Permit are allowed only one service connection.
- 2) Tracts on the outer boundary of the Service Area of a Public Water System with an Exception Permit may connect to the PWS provided the additional connections do not increase the exception.

#### **C. To connect new subdivided tracts inside or outside the Service Area of a Public Water System to the PWS will require each new tract to have enough acreage to apply the applicable LMS.**

### **Rule 5, Section 4: Existing Permit Wells in a PWS Service Area:**

HGCD will not approve new subdividing or partitioning a tract of land into less than fifteen (15) acres that has a Public Water System connection and an existing Permitted Well. To maintain the Permitted Well, the subdividing must maintain enough acreage to apply the LMS to the affected tracts connected or connecting to the Public Water System. If the required acreage is not maintained, the Owner must plug the well and furnish the District with a State Plugging Report to receive District approval.

- A. It is a violation of the District Rules for tracts of land that are less than fifteen (15) acres that already have an existing Permit Well, to connect to a Public Water System unless the Well is plugged.
- B. For an existing tract of land with an Existing Permitted Well that is connected to a Public Water System with the existing tract being equal to or in excess of fifteen (15) acres, the Public Water System will be credited five (5) Permit Acres to use on the Public Water System Operating Permit, and the remaining acreage will be used as Permit Acreage for the existing Permit Well Operating Permit for the existing Permitted Well. If the tract of land is less than fifteen (15) acres, the existing Permitted Well will be credited with five (5) Permit Acres, and the remaining acreage will be used as Permit Acreage for the Public Water System Operating Permit.

## **Rule 5, Section 5: Administrative**

- A.** The Texas Water Code provides that “Except as provided by Section 36.117 and 36.454, a district shall require a permit for the drilling, equipping, operating, or completing of wells or for substantially Altering the size of wells or well pumps.”
- B.** Any existing and new Permitted Well from which Groundwater is produced requires a Operating Permit and must meet all operating requirements. No Person shall operate a Permitted Well without having first submitted the appropriate Administratively Complete Application to the District and received a Operating Permit.
- C.** As further described in Rule 6, no Person shall begin to drill a new Permitted Well without having first submitted the appropriate Application to the District and having received authorization.
- D.** Any Person submitting an Application on behalf of an Owner, such as an Agent, shall submit written evidence of authority in a form acceptable to the District.
- E.** New Permitted Wells are not allowed in the Edwards Group of the Edwards-Trinity (Plateau) Aquifer.
- F.** A change of ownership of the Permitted Well requires a “change of ownership form” to be submitted to the District to provide the new owner’s desired usage of the water, contact information and documentation of the transaction as evidence of the new owner’s legal interest in the well. Submittal of a change of ownership form is not equivalent to a Permit Amendment Form.

## **Rule 5, Section 6: Well Spacing**

- A.** All Wells must meet the Texas Administrative Code (TAC) Chapter 285 standards relating to on-site septic facilities (OSSF), and the Texas Department of Licensing and Regulation (TDLR) Section 76.100 Technical Requirements-Location and Standards of Completion for Wells.
- B.** Permit Wells must be located outside the sanitary easement of a Public Water Supply Well (150 feet)
- C.** The request for a proposed exception to spacing requirements for Permitted Wells will be considered in a regular District Board meeting. The Applicant will be required to notify any adjacent landowner by certified mail, return receipt requested, at least 20 Days before the meeting at which the proposed exception is to be considered. The District may elect to issue additional notices.

**D. Well Spacing for all new Permitted (Non-Exempt) Wells:**

- 1) The distance from the Permitted Well to the nearest property line, determines the maximum gallons per minute allowed for the Permitted Well(s).
- 2) When drilling a Permitted Well on land with multiple tracts, the Permitted Well must be a minimum of seventy-five (75) feet from any internal or external property line of those multiple tracts.
- 3) Reducing the distance from the Permitted Well to the nearest property line as a result of any property alterations, to include Subdivision(s) of land, re-platting, partitioning or a partial property sale will affect this Permitted Well's maximum open-discharge pumping capacity as stated in the property line spacing Table 5-1.

**Table 5-1: The table below gives the minimum distance from the property line or Service Area Boundary of a Public Water System.**

<b>Well Capacity (gpm)</b>	<b>Minimum Distance from Property Line (ft.)</b>		<b>Well Capacity (gpm)</b>	<b>Minimum Distance from Property Line (ft.)</b>
<b>18</b>	<b>75</b>		<b>400</b>	<b>1140</b>
<b>20</b>	<b>75</b>		<b>450</b>	<b>1180</b>
<b>25</b>	<b>80</b>		<b>500</b>	<b>1220</b>
<b>30</b>	<b>90</b>		<b>600</b>	<b>1370</b>
<b>40</b>	<b>150</b>		<b>700</b>	<b>1430</b>
<b>50</b>	<b>240</b>		<b>800</b>	<b>1490</b>
<b>60</b>	<b>320</b>		<b>900</b>	<b>1550</b>
<b>80</b>	<b>460</b>		<b>1000</b>	<b>1600</b>
<b>100</b>	<b>530</b>		<b>1100</b>	<b>1660</b>
<b>150</b>	<b>680</b>		<b>1200</b>	<b>1710</b>
<b>200</b>	<b>810</b>		<b>1300</b>	<b>1760</b>
<b>250</b>	<b>920</b>		<b>1400</b>	<b>1810</b>
<b>300</b>	<b>1020</b>		<b>1500</b>	<b>1860</b>
<b>350</b>	<b>1100</b>			

**Rule 5, Section 7: Drilling Permits and Operating Permits**

- A. Permits and Permit Amendments are subject to the Rules promulgated by the District and are subject to terms and provisions with reference to drilling, equipping,

completion, operation of Wells, and production of Groundwater. In general, the spacing of the Wells and size of Well pumps should minimize, as far as practicable, the drawdown of the water table and lessen Well interference.

- B. The General Manager will act on an Application if the Applicant does not request a Production/Operating Permit production amount in excess of the applicable Production Cap, described in Rule 7, and the Application is not for a conditional Permit. If the Applicant requests a Production/Operating Permit production limit in excess of the applicable Production Cap, or if the Application is for a conditional Permit, the District Board shall act on the Application at a regularly scheduled District Board meeting as defined by Section 551.001 of the Texas Government Code.
- C. If, within 60 days after the date an administratively complete Application is submitted, the Application has not been acted on or set for a hearing on a specific date, the Applicant may petition the district court of the county where the land is located for a writ of mandamus to compel the District to act on the Application or set a date for a hearing on the Application, as appropriate.
- D. Permit decisions by the District Board in a regularly scheduled District Board meeting are administrative decisions. A Person with a legally defined interest in Groundwater may request a contested case hearing as described in Rule 20.
- E. A drilling Permit shall remain valid if the work authorized is completed within one-hundred-eighty (180) Days from the date the Permit is issued. The District, for good cause, may extend the life of such Permits, if requested, up to an additional one-hundred-eighty (180) Days and may grant such time as is reasonably necessary to complete the project.
- F. Production/Operating Permits are granted for a maximum five (5) year period and are subject to renewal at the end of the term. Operating Permits are renewed as allowed in Texas Water Code Chapter 36, Section 36.1145.
- G. The District Board may add special operating provisions to a Permit to meet special or unique circumstances. Violations of a Permit's terms, conditions, requirements, or special provisions, are subject to fines as listed in Appendix C of these rules and punishable by civil penalties as provided by Texas Water Code Chapter 36, Section 36.102 of the Texas Water Code. Purposeful reduction of Groundwater consumption for any reason shall be considered when evaluating Historic Use for a Permit renewal



and shall not necessarily result in a decrease in Permit production quantity.

- H. All Wells requiring a Production/Operating Permit must place a Monitoring Device on the Well or Well System to monitor the production at a minimum annual basis. The District may require a picture of the Monitoring Device after installation to verify that an approved meter has been installed. A production report form will be sent to all Permitted Well owners/system operators to record a meter reading at the end of each month and submit the total production for the year in the month of January.
- I. Permitted Wells requiring Production/Operating Permits shall be subject to a Production Cap established by the District Board. The Production Cap shall be stated as the maximum amount of Groundwater that may be produced per acre associated with the Permitted Well, stated in gallons per year.
- J. The District may issue Permits that limit production to quantities of Groundwater that can reasonably be used for a Beneficial Purpose at a specific location.
- K. A Conditional Permit Application must provide a detailed description of the proposed project and specifying the intended use of Groundwater, the amount of Groundwater needed and a timeline for completion of the project. A Permit will be issued pending the completion of the project. A Conditional Permit requires Board approval.

**Rule 6: Requirements for Administrative Completeness:**

- A. To consider an application to be administratively complete, the District Staff will prepare and provide to an applicant all forms necessary for a Permit to drill, equip, or operate any type of Non-Exempt Well, and receive a Production Operating or Amended Permit to be signed and sworn to. Altering the content of the Permit forms or Affidavits will invalidate and void those documents. The Owner/System Operator may be required to furnish the District with the following:
  - 1) The name and mailing address of the applicant and the owner of the land on which the well will be located;
  - 2) If the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed use;
  - 3) A statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;
  - 4) The location of each well and the estimated rate at which water will be withdrawn;
  - 5) A water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the commission;

- 7) Signed Affidavit of Beneficial Use & Adherence to District Drought Contingency Plan.
- 8) Signed Affidavit attesting: To the amount of Permit Acreage proposed to be associated with the requested Production/Operating Permit; and
  - a) that this Permit Acreage is not already being utilized to support a different Permit;
  - b) that the Groundwater Rights have not been severed from the surface estate.
  - c) A copy of a survey showing the location of the Permit Acreage;
  - d) Proof of ownership of or sufficient legal control over and interest in the proposed Permit Acreage:
    - i. Ownership of Permit Acreage may be shown by providing either a copy of a deed or a Kerr County Central Appraisal District Property ID number that indicates the Applicant is also the Owner;
    - ii. Sufficient legal control over and interest in proposed Permit Acreage may be shown by providing a legal document (such as a lease) that shows such control or interest and has been recorded in Kerr County real property records;
  - e) Provide the District with information regarding any other Wells located on the Applicant's property and whether the property is currently being served or may be served in the future by a Community or Public Water Supply System;
  - f) On the Application and Authorization form to drill, Alter, and equip a Permitted Well, state the designated licensed Water Well Driller and Pump Installer; and
  - g) Submit the appropriate fee as stated on the Permitted Well Application.
  - h) Sign any other Affidavits required according to the type of Production Operating Permit applied for.

### **Rule 7: Production Cap**

#### **A. Production Cap for all Non-Exempt (Permit) Wells:**

The District Production Cap is the maximum annual production allowed in gallons per acre for all Operating Permits, Non-Exempt (Permit) Wells or Aggregate of Wells i.e., Public Retail Water Supply, Agriculture, and Commercial Permits:

- 1) As of June 15, 2002 The East Kerr Management Zone Production Cap is up to a maximum of 65,000 gallons per acre per year for new Wells that require a new Operating Permit, or tracts of land subdivided, or partitioned after June 15, 2022.
- 2) The Production Cap in the East Kerr Management Zone, for Operating Permits that were issued prior to June 15, 2022 including renewals and amendments, is up to a

maximum of 80,000 gallons per acre per year.

- 3) The Production Cap for all of Kerr County outside the East Kerr Management Zone is up to a maximum of 80,000 gallons per acre per year.
- 4) Operating Permits do not automatically receive the maximum allowed by the Production Cap per acre per year. Permits are issued for “use for beneficial purpose” Texas State Water Code Chapter 36.001 (9), within the maximum gallons allowed by the Permit Acreage multiplied by the Production Cap.

**B. Adjustment of Production Caps**

Production Caps shall be reviewed by the District as frequently as annually, and may be adjusted at any time by the District Board. Any adjustment to the Production Cap will affect all new Operating Permits from the effective date of the change. The Production Cap for Operating Permits that existed prior to the date of the change, will remain as originally permitted for the current Permit, future renewals and amendments.

**C. Livable Minimum Standard for Public Water Systems:**

In Keeping with the District Mission to develop and implement rules that protect property rights, balance the conservation and the development of Groundwater to meet the needs and welfare of Kerr County citizens, and to recognize the landowner’s basic needs and ownership of Groundwater (Texas Water Code Chapter 36, Section 36.002), a Public Water System other than a Municipal Water System permitted by the District, (new development, subdividing, , or partitioning) as of November 10, 2021, must provide a daily Livable Minimum Standard (LMS) for each connection served by the system;

- 1) The LMS is a required number of gallons per day that a Public Water System must allocate each connection in their Service Area within the limits of the District Production Cap.
- 2) The LMS is defined by multiplying the number of acres in the Service Area times the applicable Production Cap divided by 365 days, divided by the applicable LMS. This calculation gives the maximum number of connections allowed in the assigned Permit Acreage or Service Area.
- 3) After the effective date of November 10, 2021, the LMS applies to;
  - a) New subdividing, or partitioning tracts of land to be served by a Public Water Supply System.
  - b) New and existing Public Water Supply Systems serving:

- i. New Subdivisions
- ii. New Mobile Home Parks, or any other new multi-unit project on a single tract of land being served by the Public Water System.
- c) Any new subdividing, or partitioning of additional or existing tracts served by an existing Public Water Supply System.
- d) The LMS does not apply to existing tracts of land within a Public Water Supply Service Area, that are not being altered, by new subdividing, or partitioning for one connection only, the LMS will apply to additional connections,
- e) The LMS does not apply when subdividing, or partitioning multiple properties within the Service Area of a Public Water System Service, when reducing the total number of lots or connections for the Public Water System provided that there are no existing Exempt or Permitted Wells on the related properties.

**D. Applying the LMS**

- 1) As of November 10, 2021, all new Subdivisions, Mobile Home Parks, Multi-Unit Attached Dwellings, RV Parks, and Planned Unit Developments as applicable will require the following LMS, not to exceed a total production amount of;
  - a) 80,000 gallons per year per Permit Acre of the Service Area outside the East Kerr Management Zone.
  - b) Tracts of land subdivided, or partitioned on or after June 15, 2022, 65,000 gallons per year per Permit Acre of the Service Area in the East Kerr Management Zone.

**E. The Required LMS per connection is:**

- 1) Stand-alone housing, multi-unit attached dwellings (apartments, duplexes, condominiums); each connection must be allocated an LMS of 432 gallons per day.
- 2) Mobile home parks, owned RV sites and tiny homes; each connection must be allocated an LMS of 250 gallons per day.
- 3) RV Park rentals; each site must be allocated an LMS of 75 gallons per day.
- 4) Transient Lodging, such as any facility or structure for occupancy by Transient Guests who pay rent, fees, or other consideration for temporary lodging or temporary care, shall be regulated by the Production Cap, not to exceed 80,000 gallons per year per acre, or 65,000 per year per acre in the East Kerr Management Zone. Transient Lodging will include the following: Any hotel, resort hotel, motel, motor court, motor lodge, bed and breakfast, lodging house, rooming house, hospital, sanitarium,

medical clinic, convalescent home, nursing home, home for aged people, foster home, asylum, jail, prison, orphanage, student housing, fraternity or sorority housing.

**F. LMS Requirements for adding additional connections or subdividing, or partitioning existing tracts of land that are to be served by an existing Public Water Supply System;**

- 1) As of November 10, 2021, adding additional connections in the form of new subdividing, or partitioning tracts of land that are to be served by an existing Public Water System will require the new tracts to be divided in a manner to meet the LMS per connection as stated in HGCD Rule 7 E.
- 2) Public Water Systems that are at their maximum Production Cap allowance, or are on an exception are not allowed additional connections to the Public Water System.

**G. Crop Acreage**

Crop acreage may have an annual Production/Operating Permit production amount of up to 1 ½ acre feet of Groundwater per crop acre, provided the total Permit Acreage allows the annual permitted amount to remain at or below the Production Cap of 80,000 gallons per Permit Acre per year, 65,000 gallons Permit Acre per year in the East Kerr Management Zone.

**H. Conjunctive Use**

Persons with access to both Groundwater and Surface Water may choose to use Surface Water as their primary source of water supply. Intent to use Surface Water as a primary source of water supply does not preclude a Person from obtaining a Conjunctive Use Groundwater Permit, within the District Production Cap, for back-up supply or other purposes. All conditions and rules pertaining to a Standard Operating Permit apply to a Conjunctive Use Permit. Total Permit Acreage will be considered in issuing Production/Operating Permits to Persons who demonstrate intent to use Surface Water as their primary source of water. A Permit holder's historic use of Surface Water will not, by itself, serve to determine the quantity of Groundwater for which that Person may receive a Groundwater Permit.

**I. Enhancing the Appearance of the Landscape**

Owners or Operators of Groundwater Wells used to fill ponds, lakes, or other reservoirs used for the sole purpose of enhancing the appearance of the landscape shall be permitted for a maximum production of one acre-foot (325,851 gallons) per

year and are to report the production annually in January.

**Rule 8: Permit Amendment, Change, Renewal:**

- A. Texas Water Code Chapter 36, Sec. 36.113: A district may require that a change in the withdrawal or use of groundwater during the term of a permit issued by the district may not be made unless the district has first approved a permit amendment authorizing the change.
- B. Texas Water Code Chapter 36, Sec. 36.1145. OPERATING PERMIT RENEWAL. (a) Except as provided by Subsection (b), a district shall without a hearing, renew or approve an application to renew an operating permit before the date on which the permit expires, provided that:
  - 1) the application, if required by the district, is submitted in a timely manner and accompanied by any required fees in accordance with district rules; and
  - 2) the permit holder is not requesting a change related to the renewal that would require a permit amendment under district rules.
  - 3) A district is not required to renew a permit under this section if the applicant:
    - is delinquent in paying a fee required by the district;
    - 4) is subject to a pending enforcement action for a substantive violation of a district permit, order, or rule that has not been settled by agreement with the district or a final adjudication; or
    - 5) has not paid a civil penalty or has otherwise failed to comply with an order resulting from a final adjudication of a violation of a district permit, order, or rule.
  - 6) If a district is not required to renew a permit under Subsection (b)(2), the permit remains in effect until the final settlement or adjudication on the matter of the substantive violation.
- C. The District will determine each activity for which a Permit Amendment is required. If it is determined a hearing is not required for the Permit Amendment, the HGCD Board of Directors has delegated to the General Manager the authority to act on the Permit Amendment.
- D. A Permit amendment or renewal process, as stated in Texas Water Code Chapter 36 Section 36.1145 and 1146, is concluded when HGCD staff prepares and delivers the permit renewal or amendment forms the permit holder. The permit holder must sign, notarize, and return the permit forms without alterations to the District office within thirty (30) days from the date received.

- E. Texas Water Code Chapter 36 Sec. 36.1146. CHANGE IN OPERATING PERMITS.
- (a) If the holder of an operating permit, in connection with the renewal of a permit or otherwise, requests a change that requires an amendment to the permit under district rules, the permit as it existed before the permit amendment process remains in effect until the later of:
- 1) the conclusion of the permit amendment or renewal process, as applicable; or
  - 2) final settlement or adjudication on the matter of whether the change to the permit requires a permit amendment.
  - 3) If the permit amendment process results in the denial of an amendment, the permit as it existed before the permit amendment process shall be renewed under Texas Water Code Chapter 36, Section [36.1145](#) without penalty, unless Subsection (b) of that section applies to the applicant.
  - 4) A district may initiate an amendment to an operating permit, in connection with the renewal of a permit or otherwise, in accordance with the district's rules. If a district initiates an amendment to an operating permit, the permit as it existed before the permit amendment process shall remain in effect until the conclusion of the permit amendment or renewal process, as applicable, HGCD Rule 8 D.
- F. The General Manager cannot grant an Application to produce Groundwater in excess of the District's Production Cap, as specified in HGCD Rule 7, without Board approval and must set such an Application for consideration by the Board on its next regular meeting agenda.
- G. A Permit Amendment that occurs during the term of the Permit does not create a new Permit, and does not alter the expiration/renewal date of the Permit.
- H. A Permit Amendment is required for the following;
- 1) Altering a Permitted Well.
  - 2) A change in the total maximum quantity of Groundwater to be produced annually from a Permitted Well.
  - 3) Substantially changing the size of a pump.
  - 4) A change in the authorized purpose(s) of use of the Permitted Well.
  - 5) A change in the depth of the Permitted Well that results in Groundwater being withdrawn from a different Aquifer.
  - 6) A change that adds Permit Acres to the Permit Acreage.

### **Rule 9: Enforcement**

- A.** It shall be considered to be unlawful upon the District and on the adjacent landowners and/or owners of annual groundwater allowances for any person to willfully give erroneous information on a well permit application. If any operator willfully produces a well at a higher rate than represented in the well permit application or approved in a permit, such action is a violation of this rule and enjoined by the Board.
- B.** All Rules duly adopted, promulgated and published by this District shall be enforced as provided for under Chapter 36, 102 Texas Water Code and subsequent changes thereto.
- 1) The District may enforce its rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.
  - 2) The Board may set reasonable civil penalties for breach of any rule of the District that shall not exceed the jurisdiction of a justice court as provided by Section 27.031, Government Code.
  - 3) A penalty under this section is in addition to any other penalty provided by the law of this state and may be enforced by complaints filed in a court of competent jurisdiction in Kerr County, Texas.
  - 4) If the District prevails in any suit to enforce its rules, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the District before the court. The amount of the attorney's fees shall be fixed by the court.
  - 5) In an enforcement action by a district against any person that is a governmental entity for a violation of district rules, the limits on the amount of fees, costs, and penalties that a district may impose under Section [36.122](#), [36.205](#), or this section, or under a special law governing a district operating under this chapter, constitute a limit of liability of the governmental entity for the violation. This subsection shall not be construed to prohibit the recovery by a district of fees and costs under Subsection (d) in an action against any person that is a governmental entity.
  - 6) ***Violation of District Rules may be subject to Fines as listed in Appendix "C" of these rules. The District will consider the permit holders past compliance history when determining if fines will be applied. This fine schedule is subject to updates periodically by the Board of Directors.***



## **Rule 10: Public Water Supply Wells**

### **A. Logs and Pump Tests**

The Owner or Operator of a Permitted Well that is to be used as a Public Water Supply Well may be required, at the District's expense, to provide some or all of the following: a lithologic log, a gamma log, a resistivity log and a Pump Test with determination of Aquifer parameters or approved equivalent test performed during drilling. Any results of these logging and Pump Test requirements that are paid for by the District shall be the property of the District. All logging and Pump Tests with determinations of Aquifer parameters shall be conducted or supervised by a registered professional engineer or licensed professional geoscientist selected or approved by the District.

### **B. Well Logs**

- 1) All logs required by this section shall be gathered in an open hole before any casing is inserted into the Borehole, if possible.
- 2) For lithologic logs, samples shall be taken at 10-foot intervals, screened and washed, and placed in well-marked containers.

### **C. Pump Test Requirements**

- 1) The discharge duration shall be a minimum of eight (8) hours with the maximum not to exceed thirty-six (36) hours.
- 2) Any variation from TCEQ Pump Test duration requirements, as specified under TCEQ rules at 30 Tex. Admin. Code Chapter 290, shall be coordinated with TCEQ and the District.
- 3) Testing shall continue long enough to observe a straight-line trend on a plot of Groundwater level versus the logarithm of time pumped.
- 4) If the pumping rates remain constant for a period of at least four (4) hours and a straight-line trend is observed on a plot of Groundwater level versus the logarithm of time pumped before the thirty-six (36) hour limit has been reached, the District's portion of the Pump Test may be terminated.
- 5) The frequency of Groundwater level measurements during the Pump Test shall be such that adequate definition of the time-draw down curve is made available.
- 6) Groundwater level recovery data shall be obtained to verify the accuracy of the data obtained during the pumping portion of the Pump Test.

- 7) Recovery measurements shall be initiated immediately at the conclusion of the pumping portion of the Pump Test and shall be recorded with the same frequency as those taken during the pumping portion of the Pump Test.
- 8) Pump Tests required by this section shall be performed before any acidizing or other flow-capacity enhancement procedures are applied to the Test Well.

#### **D. Drawdown and Recovery Data**

The time-drawdown and time-recovery data obtained during the Pump Test shall determine Aquifer parameters utilizing the non-equilibrium equations developed by Theis or Cooper-Jacob, or acceptable modifications thereof. The following Aquifer parameters shall be determined:

- 1) Rate of average yield and drawdown;
- 2) Specific capacity;
- 3) Transmissivity;
- 4) Storage coefficient, when an observation Well is available; and
- 5) Hydraulic conductivity.

#### **Rule 11: Transport of Groundwater Out of District**

**The District will regulate and impose transport fees as authorized by Water Code Chapter 36.122.**

#### **Rule 12: Transfer of Groundwater Production Rights**

##### **A. Applicability**

Transferring Groundwater Rights from one property to another to be used for an Operating Permit as Permit Acreage;

- 1) Groundwater Rights acquired from a neighboring property for Public Water System Permits must be acquired so that the Public Water System or the properties being served then owns the Groundwater Rights.
- 2) For all other uses Groundwater Rights may be leased or acquired by an Applicant for use as additional Permit Acreage to support a Production/Operating Permit.

This additional Permit Acreage is subject to all Production Cap requirements in Rule 7. Any Person desiring to utilize the acreage from property not owned by that Person to support an increase in the quantity of Groundwater permitted to be produced from a Permitted Well must comply with this rule.

## **B. Documentation**

The Applicant must provide the District with satisfactory documentation of the conveyance or transfer of Groundwater production rights associated with the additional acreage from another Person (the grantor or lessor) to the Applicant (the grantee or lessee). The documentation must be recorded in the real property records of Kerr County, and include, at a minimum, an unequivocal transfer and relinquishment of Groundwater production rights for that acreage to the Applicant (grantee or lessee), including a written waiver of Groundwater production rights by that Person (grantor or lessor).

## **C. Distance limitations**

Property to be considered for this type of a production rights lease or purchase, must be within ¼ mile (1320 feet) of the Applicant's property line.

### **Rule 13: Well Construction**

#### **A. Administrative Rules**

- 1) Each driller or pump installer must be licensed as required by the rules of the TDLR and must provide the District with a copy of his or her license. No Person may begin to drill, construct, complete, or Alter a Well on any property in Kerr County unless he/she is licensed by TDLR and has filed a Headwaters Groundwater Conservation District License Certification form with the District. The driller or pump installer shall inform the Owner or Operator that an application/authorization form to drill a Permit Well, a Permit, Permit Amendment, or Registration Form for an Exempt Well may be required by the District.
- 2) Before beginning to drill a Groundwater Well, including an Exempt Well, the Well driller shall obtain a monument pin from the District office for marking the Groundwater Well, a copy of the District's Well spacing, equipping, and construction requirements, and a copy of an Exempt Well registration form, or Non-Exempt (Permit) well application form.
- 3) Complete records shall be kept, and reports concerning the drilling, equipping and completion of all Wells drilled or Altered shall be provided to the District. Such records shall include an accurate copy of the State of Texas Well Report, a drilling log, the "Driller and Pump Installer's Certified Statement of Completion" and any additional data or reports concerning the drilling, equipping and completion of the

Well, any waivers required by TDLR signed by the landowner or adjacent landowners.

- 4) These records shall be filed with the District within thirty (30) Days after completing construction of the Well, and within thirty (30) Days of the Well becoming operational.
- 5) All Wells shall be drilled, completed, equipped and Altered in accordance with the standards and requirements of the District and any Federal or State Agency having jurisdiction over such actions. After a drilling Permit has been issued, the actual location of the drilling may vary from the GPS location indicated on the Application within 30 feet, but shall maintain all property line and Well spacing distances required by District Rules. The Well location must meet the requirements of 30 Tex. Admin. Code Chapter 285 relating to on-site septic facilities and TDLR technical requirements of 16 Tex. Admin. Code Section 76.100 – Locations and Standards of Completion for Wells.
- 6) Unless waived by the landowner, a licensee shall use a manufacturer's well screen, and select the correct slot size for the screen in the installation of a domestic (household use) or landscape irrigation water Well to prevent sand or sediment from entering the Well. The waiver must be on a TDLR approved form, signed by the landowner or Person having the Well drilled and the driller, and presented to the landowner and the District.
- 7) Each licensee shall use potable water in drilling fluids.
- 8) Each licensed Well driller drilling, deepening, or Altering a Well shall keep any drilling fluids, tailings, cuttings or spoils contained in such a manner so as to prevent spillage onto any neighboring property not under the jurisdiction or control of the Applicant without the neighboring property owner's written consent and shall prevent drill cuttings and fluids from spilling into any body of surface water.

## **B. Notifications**

- 1) The driller shall notify the District of the date and time drilling is expected to begin at least 24 hours in advance to allow the District the opportunity to observe drilling to ensure compliance with District Rules. If the date or time drilling is expected to begin changes, the driller shall notify the District of the change as soon as possible.

- 2) The driller shall notify the District prior to cementing the Well.
- 3) The pump installer shall notify the District prior to installation and testing of a Well pump.

### **C. Construction Standards**

Groundwater Well drillers and pump installers shall comply with 16 Tex. Admin. Code Chapter 76 and all the responsibilities therein. Public Water Supply System Wells shall comply with 30 Tex. Admin. Code Chapter 290, subchapter D.

- 1) Casing shall have a minimum inside diameter of four and one-half (4.5) inches.  
Unless waived by the landowner, a licensee shall use a manufacturer's well screen and select the correct slot size for the screen in the installation of a Domestic Use or landscape irrigation Groundwater Well.
- 2) The diameter of the Borehole shall be a minimum of three (3) inches larger than the outside diameter of the casing to the depth at which the casing is sealed.
- 3) The Annular Space should be sealed as soon as conditions permit. The Owner or Operator shall have the continuing responsibility of ensuring that a Well does not allow Commingling. Commingling is not allowed for The Edwards Group of the Edwards Trinity (Plateau) with any other aquifer.
- 4) The Middle Trinity and Lower Trinity are not allowed to Commingle.
- 5) The Annular Space shall be sealed using a positive displacement technique or tremie method to the land surface. Bentonite grout, using tremie method, with a two (2) foot cement cap may be used in lieu of cementing. The Annular Space for all Wells shall be sealed with a solid column using a positive displacement/tremie technique from a depth of not less than:
  - a) Twenty (20) feet below the land surface to the land surface for Wells completed in the Edwards Group of the Edwards Trinity (Plateau) Aquifer; or
  - b) The top of the production zone to the land surface for all other Wells; or
  - c) When karst formations or similar voids are encountered resulting in lost circulation or drilling pressure, the Annular Space shall be sealed from the top of the zone of completion to the lowest void and from the land surface to twenty feet below the land surface.

- 6) Commingling shall not be allowed at any time during the life of a Well. All Wells must be completed to avoid the Commingling of undesirable water with desirable drinking water based upon TDS measurements while drilling with air rigs. All Wells shall be completed so that Aquifers or zones containing waters that differ in chemical quality are not allowed to Commingle through the borehole casing annulus.
- 7) Rig supply Groundwater Wells used in association with oil and gas activities regulated by the Railroad Commission of Texas shall be drilled and completed either in the Lower or Middle Trinity Aquifer. Commingling shall be prevented.
- 8) To prevent Pollution, all Wells shall be completed with a watertight sanitary seal.
- 9) Except in the case of a mud-drilled Well, the driller shall measure and report the depth and amount of total dissolved solids, in milligrams per liter or parts per million, encountered at each Groundwater bearing stratum.
- 10) Samples of the formation cuttings shall be collected in a mesh prior to the cutting samples hitting the ground and laid out in an undisturbed orderly fashion for observation by District representatives. The samples shall be chronologically ordered in a minimum of ten (10) foot increments.
- 11) The monument pin provided by the District must be placed in the cement within close proximity to the wellhead and must be clearly visible and legible.
- 12) An exception concerning these construction standards may be requested of and granted by the General Manager of the District.

#### **D. Water Quality Analysis**

For all newly completed Wells, including Exempt Wells, the Well Owner shall file a Groundwater quality analysis report with the District within sixty Days after the Well has become operational. At a minimum, the water quality analysis report shall include data regarding the following: E. Coli, Total Coliforms, Chloride, Conductivity, Fluoride, Total Hardness, Iron, Nitrate, PH, and Total Dissolved Solids.

#### **Rule 14: Capping and Plugging of Wells**

The District supports the TCEQ Regulatory Guidance “Landowner’s Guide to Plugging Abandoned Water Wells,” publication RG-347, and TDLR rules at 16 Tex. Admin. Code Section 76.104, related to Technical Requirements—Standards for Capping and Plugging of Wells and Plugging Wells that Penetrate Undesirable Water or Constituent Zones.

- A. Every Owner or Operator of any land within the District upon which is located any Abandoned Well is required to cap or plug the Abandoned Well. 16 Tex. Admin. Code Sec. 76.72(e).
- B. Wells shall be plugged or capped as set forth below and in accordance with Chapter 36, Texas Water Code.
  - 1) The Owner or Operator of land on which an Abandoned Well is located shall either plug the Well or cap it with a covering capable of sustaining weight of at least four hundred (400) pounds.
  - 2) If the Owner or Operator fails or refuses to plug or cap the Abandoned Well in compliance with this Rule within ten (10) Days after being requested to do so in writing by the District, a Person employed and designated by the District may go on the land and properly plug or cap the Abandoned Well safely and securely. Owners or Operators may request, and the District may grant, extensions of time for good cause.
  - 3) Any reasonable expenses that are incurred by the District in plugging or capping an Abandoned Well shall constitute a lien on the land on which the Abandoned Well is located.
  - 4) Nothing in this rule affects enforcement under Subchapter A, Chapter 756, Texas Health and Safety Code.
- C. It is the responsibility of the Owner or Operator to see that a Deteriorated Well is plugged to prevent Pollution of the Groundwater and injury to Persons.
- D. Deteriorated Wells shall be plugged in accordance with the TDLR standards found in 16 Tex. Admin. Code Section 76.104.
- E. No Deteriorated Well may be used for disposal of trash, garbage, sewage, wastewater or other foreign material.
- F. Any Person who plugs a Well in the District shall, within thirty (30) Days after plugging is complete, submit a copy of the TDLR plugging report to the District.

#### **Rule 15: Right to Inspect and Test Wells**

- A. After making reasonable efforts to contact an Owner, Operator or Agent, any authorized officer, employee, Agent or representative of the District shall have the right at all reasonable times to enter lands upon which a Well may be located within the District for the purpose of any one or more of the following activities:

- 1) Inspecting a Well;
  - 2) Determining the pumping capacity of a Well;
  - 3) Reading or interpreting any Monitoring Device, meter, weir box, or other instrument for the purpose of measuring production of Groundwater from a Well;
  - 4) Collecting samples to be used in regard to Groundwater quality programs;
  - 5) Testing the pump and the power unit of the Well;
  - 6) Making any other reasonable and necessary inspections and/or tests, including inspection with a wellbore camera, that may be required for the collection or formulation of Groundwater data and information or the enforcement of the District's rules.
- B.** District employees or official representatives acting under this authority who enter private property shall cooperate with the Owner or Operator's reasonable rules and regulations concerning, but not limited to, safety, internal security, and fire protection and shall notify the Owner, Operator, occupant or management of their presence and shall exhibit proper credentials. Tex. Water Code § 36.123.
- C.** The operation of any Well may be enjoined by the District, at the District's discretion, immediately upon refusal to allow entry to property for the purposes described above.

#### **Rule 16: Drought Management**

- A.** The District hereby adopts the terms and conditions of its Drought Contingency Plan (DCP) as the rule by which the District shall manage the use of Groundwater during designated periods of drought conditions, as defined by the Plan.
- B.** Any Person who violates this rule or the DCP is subject to prosecution by injunction, mandatory injunction or other appropriate remedy in a court of competent jurisdiction and subject to reasonable civil penalties not to exceed \$5000.00 per day per violation and the District's associated court costs.

#### **Rule 17: Alluvial Wells**

In Kerr County, Drilling or Digging a Water Well by a licensed Driller or any other means that is proposed to be an Alluvial Well, requires completing an Exempt Well Registration form and submitting it to the District along with all required documents and fee. The person drilling or digging the well must coordinate with the South Texas Watermaster to witness the drilling or digging of the well and declare it to be surface water to the District. If determined by the South



Texas Watermaster to be surface water, the registration fee will be refunded and the District's jurisdiction terminated.

#### **Rule 18: Aquifer Storage and Recovery (ASR) Wells**

The District adopts the requirements of Texas Water Code 36 Subchapter N. Sec.36.451 through 36.456 with respect to ASR Projects.

#### **Rule 19: Geothermal Wells**

An Application must be submitted to the District before drilling may begin. The District will charge a one-time administrative fee of \$200 for the drilling Application for the Borehole or a series of Boreholes. A drilling log shall be filed with the State of Texas and the District. A file will be maintained in the District offices of the drilling and equipping of the Well.

#### **Authority**

As of September 1, 2023, in accordance with Senate Bill 786 of the 88<sup>th</sup> Legislature, all geothermal wells are under the jurisdiction of the Commission, including closed-loop geothermal wells that use the earth as a heat sink to heat or cool a structure. All rules, standards and forms used by the Texas Commission on Environmental Quality (TCEQ) to regulate closed-loop geothermal wells remain in effect until altered by RRC. TCEQ will transfer any pending closed-loop geothermal well permit applications to RRC by September 1, 2023. As applicable, RRC will issue substitute permits for any closed-loop geothermal wells currently permitted by TCEQ by December 1, 2023.

#### **Rule 20: Hearings**

When the District has developed a proposal involving changes to one or more of the District's Rules, the District will decide at which Board meeting the rulemaking proposal will be considered for action. The Board meeting at which the rulemaking proposal is considered shall be considered the public hearing on the proposal and fulfills the requirement, if any, for a public hearing.

- A.** Notice required by the Open Meetings Act shall be provided for the meeting at which the rulemaking proposal is considered.
- B.** In addition to the notice required by the Open Meetings Act, not later than the 20th Day before the date of the rulemaking hearing, Notice shall be provided as follows:
  - 1) Notice shall be posted in a place readily accessible to the public at the District office;
  - 2) Notice shall be provided to the county clerk of Kerr County;

- 3) Notice shall be published in one or more newspapers of general circulation in Kerr County; and
  - 4) Notice shall be provided by mail, facsimile, or electronic mail to any Person who has requested notice of rulemakings in writing. Failure to provide notice under this rule (20.1(B)) does not invalidate an action taken by the District at a rulemaking hearing.
- C.** Notice of the hearing on the rulemaking proposal, as required by Texas Water Code Sections 36.101(d) and (e) shall include:
- 1) A statement that the District Board of Directors will consider proposed changes to the District Rules at the Board meeting, which will serve as the public hearing on the matter;
  - 2) The date, time, and location of the hearing;
  - 3) The agenda of the hearing, including a brief explanation of the subject of the rulemaking hearing;
  - 4) Make available a copy of all proposed Rules at a place accessible to the public during normal business hours and, if the district has a website, post an electronic copy on a generally accessible Internet site.
  - 5) A statement that the District will accept written comments and the deadline for submitting written comments; and
  - 6) A statement that oral public comment will be taken at the rulemaking hearing.
- D.** Not later than the 20th Day before the date of the hearing, copies of the rulemaking proposal showing the proposed changes shall be available at the District Office. If proposed changes to the Rules can be clearly shown by annotations or "redlines," then an annotated copy of the proposed Rules will also be provided.
- E.** Anyone interested in the proposal may submit written comments about the proposal to the District at least 5 business days prior to the scheduled meeting at which the Board will consider the rulemaking proposal.
- F.** A Person may submit to the District a written request to receive notice of any rulemaking hearings. Such a request is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a rulemaking hearing in a later year, a Person must submit a new request.
- G.** Anyone interested in the rulemaking proposal may attend the meeting and make oral comments at the time designated for such comments.

- H.** The District shall make and keep in its files an audio recording of the rulemaking hearing.
- I.** The Board shall issue a written order or resolution reflecting its decision, and the proposal that the Board approves shall be an attachment to that written order or resolution.
- J.** The effective date of the written rulemaking order shall be the date on which the president of the District signs the order or resolution. The order or resolution shall include a statement that the rulemaking proposal becomes effective and final on that date. Any appeal authorized by the Texas Water Code Chapter 36, Subchapter H shall run from the effective date, because it is the date on which all administrative appeals to the District are final.
- K.** If, in the course of deliberation during the meeting, the Board decides it wants to substantially change the rulemaking proposal, the Board shall "continue" or postpone the matter until a future Board meeting. Prior to consideration of the substantially changed rulemaking proposal, the District shall provide notice and opportunity for comment and hold a hearing on the substantially changed rulemaking proposal under this Rule 20. It is solely within the discretion of the Board what constitutes a substantial change to a rulemaking proposal.

**Rule 20.2: Adoption of Emergency Rules**

- A.** The District may adopt an emergency rule without prior notice or hearing, or with an abbreviated notice and hearing, if the Board:
  - 1) Finds that a substantial likelihood of imminent peril to the public health, safety, or welfare, or a requirement of state or federal law requires adoption of a rule on less than 20 Days' notice; and
  - 2) Prepares a written statement of the reasons for this finding.
- B.** An emergency rule under this Rule 20.2 must be adopted at a meeting of the Board subject to the requirements of the Open Meetings Act. Notice required by the Open Meetings Act shall be provided.
- C.** Except as provided by Rule 20.2.1, a rule adopted under this Rule 20.2 may not be effective for longer than 90 Days.
- D.** If notice of a hearing under Rule 20.1 is provided before the emergency rule expires under Rule 20.2.C, the emergency rule shall be effective for an additional 90 Days.

**Rule 20.3: Public Interest Hearings**

A public hearing may be held on any matter within the jurisdiction of the District when the District Board deems a hearing to be in the public interest or necessary to effectively carry out the duties and responsibilities of the District.

**Rule 20.4: Non-Permit Contested Case Hearing Procedures**

- A.** If any Person wishes to appeal an action of the District, other than a permit or permit amendment action, the Person must request a contested case hearing before the Board by submitting a written request for a contested case hearing within 10 days of the District action.
- B.** The District shall schedule a contested case hearing before the Board at or before the next regularly scheduled board meeting. The appealing party may present the Board with reasons that the party contends warrants a reversal or amendment of the District's prior action. The Board shall issue a decision within 30 days of the hearing either upholding, reversing, or amending the prior District action.

**Rule 20.5. Permit and Permit Amendment Applications; Notice and Hearing Process**

If any Applicant for a permit or permit amendment wishes to appeal an action of the District, the Applicant must request a contested case hearing before the Board by submitting a written request for a contested case hearing within 20 Days of the District action.

**A. Applicability**

In this rule, Applicant means a person who is applying for a Permit or Permit Amendment and applies to the notice and hearing process used by the District for Permit and Permit Amendment Applications for which a hearing is required.

**B. Scheduling of Public Hearing**

- 1) The General Manager or Board may schedule a public hearing on Permit or Permit Amendment Applications received by the District as necessary, as provided by Texas Water Code Section 36.114.
- 2) The General Manager or Board may schedule more than one Application for consideration at a public hearing.

- 3) A public hearing must be held at the District office or regular meeting location of the Board unless the Board provides for hearings to be held at a different location.
- 4) A public hearing may be held in conjunction with a regularly scheduled Board meeting.

**C. Notice**

- 1) If the General Manager or Board schedules a public hearing on an Application for a Permit, Permit Amendment, or a contested case hearing, the General Manager or Board shall give notice of the hearing as provided by the Texas Water Code.
- 2) The notice must include:
  - a) the name of the Applicant;
  - b) the address or approximate location of the Well or proposed Well;
  - c) a brief explanation of the proposed Permit or Permit Amendment, including any requested amount of Groundwater, the purpose of the proposed use, and any change in use;
  - d) the time, date, and location of the hearing; and
  - e) any other information the General Manager or Board consider relevant and appropriate.
- 3) Not later than the 10th day before the date of a hearing, the General Manager or Board shall:
  - a) post notice in a place readily accessible to the public at the District office;
  - b) provide notice to the county clerk of each county in the District; and
  - c) provide notice by:
    - i. regular mail to the Applicant;
    - ii. regular mail, facsimile, or electronic mail to any Person who has requested notice under subsection 4 below; and
    - iii. regular mail to any other Person entitled to receive notice under the Rules of the District.
- 4) A Person may request notice from the District of a public hearing on a Permit or a Permit Amendment Application. The request must be in writing and is effective for the remainder of the calendar year in which the request is received by the District. To receive notice of a public hearing in a later year, a Person must submit a new request. An affidavit of an officer or employee of the District establishing attempted service

by first class mail, facsimile, or e-mail to the Person in accordance with the information provided by the Person is proof that notice was provided by the District.

- 5) Failure to provide notice under this subsection does not invalidate an action taken by the District at the hearing.

**D. Hearing Registration**

The District may require each Person who participates in a public hearing to submit a hearing registration form stating:

- 1) the Person's name;
- 2) the Person's address; and
- 3) whom the Person represents, if the Person is not there in the Person's individual capacity.

**E. Board Action; Contested Case Hearing Requests; Preliminary Hearing**

- 1) The Board may take action on any uncontested Application at a properly noticed public meeting held at any time after the public hearing at which the Application is scheduled to be heard. The Board may issue a written order to:
  - a. Grant the Application;
  - b. Grant the Application with special conditions; or
  - c. Deny the Application.
- 2) The Board shall schedule a preliminary hearing to hear a request for a contested case hearing. The preliminary hearing may be conducted by a quorum of the Board; or an individual to whom the Board has delegated in writing the responsibility to preside as a hearing examiner over the hearing or matters related to the hearing; or the State Office of Administrative Hearings.
- 3) Following a preliminary hearing, the Board shall determine whether any Person requesting the contested case hearing has standing to make that request and whether a justiciable issue related to the Application has been raised. If the Board determines that no Person who requested a contested case hearing had standing or that no justiciable issues were raised, the Board may take any action authorized under subsection D1 above.
- 4) An Applicant may, not later than the 20th day after the date the Board issues an order granting the Application, demand a contested case hearing if the order:

- a) includes special conditions that were not part of the Application as finally submitted; or
- b) grants a maximum amount of Groundwater production that is less than the amount requested in the Application.

#### **H. Hearing Procedures**

- 1) A hearing must be conducted by a quorum of the Board; an individual to whom the Board has delegated in writing the responsibility to preside as a hearing's examiner over the hearing or matters related to the hearing; or the State Office of Administrative Hearings under Texas Water Code Section 36.416.
- 2) If the hearing is conducted by a quorum of the Board, the Board president or the hearings examiner shall serve as the presiding officer at the hearing. If the Board president is not present, the directors conducting the hearing may select a director to serve as the presiding officer.
- 3) The presiding officer may:
  - a) convene the hearing at the time and place specified in the notice;
  - b) set any necessary additional hearing dates;
  - c) designate the parties regarding a contested Application;
  - d) establish the order for presentation of evidence;
  - e) administer oaths to all Persons presenting testimony;
  - f) examine Persons presenting testimony;
  - g) ensure that information and testimony are introduced as conveniently and
  - h) expeditiously as possible without prejudicing the rights of any party;
  - i) prescribe reasonable time limits for testimony and the presentation of evidence;
  - j) limit participation in a hearing on a contested Application to Persons who have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest that is within a District's regulatory authority and affected by a Permit or Permit Amendment Application, not including Persons who have an interest common to members of the public; and
  - k) determine how to apportion among the parties the costs related to:
    - i. a contract for the services of a presiding officer; and
    - ii. the preparation of the official hearing record.

- 4) Except as provided by these rules, the District may allow any Person, including the General Manager or a District employee, to provide comments at a hearing on an uncontested Application.
- 5) The presiding officer may allow testimony to be submitted in writing and may require that written testimony be sworn to. On the motion of a party to the hearing, the presiding officer may exclude written testimony if the Person who submits the testimony is not available for cross-examination by phone, a deposition before the hearing, or other reasonable means.
- 6) If the Board has not acted on the Application, the presiding officer may allow a Person who testifies at the hearing to supplement the testimony given at the hearing by filing additional written materials with the presiding officer not later than the 10th Day after the date of the hearing. A Person who files additional written material with the presiding officer must also provide the material, not later than the 10th Day after the date of the hearing, to any Person who provided comments on an uncontested Application or any party to a contested hearing. A Person who receives additional written material under this subsection may file a response to the material with the presiding officer not later than the 10th Day after the date the material was received.
- 7) The District may authorize the presiding officer, at the presiding officer's discretion, to issue an order at any time before Board action under these Rules that:
  - a) refers parties to a contested hearing to an alternative dispute resolution procedure on any matter at issue in the hearing;
  - b) determines how the costs of the procedure shall be apportioned among the parties; and
  - c) appoints an impartial third party as provided by Section 2009.053, Government Code, to facilitate that procedure.

**I. Evidence**

- 1) The presiding officer shall admit evidence that is relevant to an issue at the hearing.
- 2) The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.



**J. Recording**

- 1) Except as provided by subsection I (2) below, the presiding officer shall prepare and keep a record of each hearing in the form of an audio or video recording or a court reporter transcription. On the request of a party to a contested hearing, the presiding officer shall have the hearing transcribed by a court reporter. The presiding officer may assess any court reporter transcription costs against the party that requested the transcription or among the parties to the hearing. Except as provided by this subsection the presiding officer may exclude a party from further participation in a hearing for failure to pay in a timely manner costs assessed against that party under this subsection. The presiding officer may not exclude a party from further participation in a hearing as provided by this subsection if the parties have agreed that the costs assessed against that party will be paid by another party.
- 2) If a hearing is uncontested, the presiding officer may substitute minutes, or the report required under Texas Water Code Section 36.410 for a method of recording the hearing provided by subsection I (1) above.

**K. Continuance**

- 1) The presiding officer may continue a hearing from time to time and from place to place without providing notice under Texas Water Code Section 36.404.
- 2) If the presiding officer continues a hearing without announcing at the hearing the time, date, and location of the continued hearing, the presiding officer must provide notice of the continued hearing by regular mail to the parties.
- 3) A continuance may not exceed the time limit for issuance of a final decision under Texas Water Code Section 36.165.

**L. Proposal for Decision**

- 1) Except as provided by subsection K (5) below, the presiding officer shall submit a proposal for decision to the Board not later than the 30th Day after the date the evidentiary hearing is concluded.
- 2) The proposal for decision must include:
  - a) a summary of the subject matter of the hearing;
  - b) a summary of the evidence or public comments received; and
  - c) the presiding officer's recommendations for Board action on the subject matter of the hearing.

- 3) The presiding officer or General Manager shall provide a copy of the proposal for decision to:
  - a) the Applicant; and
  - b) each designated party.
- 4) A party may submit to the Board written exceptions to the proposal for decision.
- 5) If the hearing was conducted by a quorum of the Board and if the presiding officer prepared a record of the hearing as provided by Texas Water Code Section 36.408(a), the presiding officer shall determine whether to prepare and submit a proposal for decision to the Board.
- 6) The Board shall consider the proposal for decision at a final hearing. Additional evidence may not be presented during a final hearing. The parties may present oral argument at a final hearing to summarize the evidence, present legal argument, or argue an exception to the proposal for decision. A final hearing may be continued as provided by Texas Water Code Section 36.409.

**M. Board Action**

- 1) The Board shall act on a Permit or Permit Amendment Application not later than the 60th day after the date the final hearing on the Application is concluded.
- 2) The Board shall ensure a decision on a permit or permit amendment application is timely rendered in accordance with Chapter 36 of the Texas Water Code

**N. Request for Rehearing or Findings of Fact and Conclusions of Law**

1. An Applicant in a contested or uncontested hearing on an Application or a party to a contested hearing may administratively appeal a decision of the Board on a Permit or Permit Amendment Application by making a request in writing to the Board.
2. A Party seeking to appeal a decision by the Board must request written findings of fact and conclusions of law not later than the 20th Day after the date of the Board's decision unless the Board issued findings of fact and conclusions of law as part of the final decision.
3. On receipt of a timely written request, the Board shall make written findings of fact and conclusions of law regarding a decision of the Board on a Permit or Permit Amendment Application. The Board shall provide certified copies of the findings of fact and conclusions of law to the Person who requested them, and to each designated party, not later than the 35th day after the date the Board receives the

request. A party to a contested hearing may request a rehearing not later than the 20th Day after the date the Board issues the findings of fact and conclusions of law.

- 4) A party to a contested hearing may request a rehearing must be filed in the District office and must state the grounds for the request. If the original hearing not later than the 20th day after the date the Board issues findings of fact and conclusions of law.
- 5) A request for a rehearing must be filed in the District office and must state the grounds for the request. If the original hearing was a contested hearing, the party requesting a rehearing must provide copies of the request to all parties to the hearing.
- 6) If the Board grants a request for a rehearing, the Board shall schedule the rehearing not later than the 45th Day after the date the request is granted.
- 7) The failure of the Board to grant or deny a request for rehearing before the 91st Day after the date the request is submitted is a denial of the request.
- 8) The Board shall consolidate requests for rehearing filed to multiple parties to the contested case hearing, but only one rehearing may be considered per matter.

**O. Decision; When Final**

A decision by the Board on a Permit or Permit Amendment Application is final:

- 1) if a request for rehearing is not filed on time, on the expiration of the period for filing a request for rehearing; or
- 2) if a request for rehearing is filed on time, on the date:
  - a) the Board denies the request for rehearing; or
  - b) the Board renders a written decision after rehearing.
- 3) Except as provided by L (3) below, an Applicant or a party to a contested hearing may file a suit against the District under Texas Water Code Section 36.251 to appeal a decision on a Permit or Permit Amendment Application not later than the 60th Day after the date on which the decision becomes final.
- 4) An Applicant or a party to a contested hearing may not file suit against the District under Texas Water Code Section 36.251 if a request for rehearing was not filed on time.

**P. Consolidated Hearing on Applications**

- 1) Except as provided by subsection M (2) below, a District shall process Applications from a single Applicant under consolidated notice and hearing procedures on written

request by the Applicant if the District requires a separate Permit or Permit Amendment Application for:

- a) drilling, equipping, operating, or completing a Well or substantially Altering the size of a Well or Well pump under Texas Water Code Section 36.113;
  - b) the spacing of Groundwater Wells or the production of Groundwater under Texas Water Code Section 36.116; or
  - c) transferring Groundwater out of the District under Texas Water Code Section 36.122.
- 2) The District is not required to use consolidated notice and hearing procedures to process separate Permit or Permit Amendment Applications from a single Applicant if the Board cannot adequately evaluate one Application until it has acted on another Application.

**Q. Hearings Conducted by State Office of Administrative Hearings; Rules.**

- 1) If the District contracts with the State Office of Administrative Hearings to conduct a hearing, the hearing shall be conducted as provided by Subchapters C, D, and F, Chapter 2001, Government Code.
- 2) If requested by the Applicant or other party to a contested case, the District shall contract with the State Office of Administrative Hearings to conduct the hearing.
- 3) The Applicant or other party must request the hearing before the State Office of Administrative Hearings not later than the 14th Day before the date the evidentiary hearing is scheduled to begin. The hearing must be held in Travis County or at a location described by Texas Water Code Section 36.403(c). The District shall choose the location.
- 4) The party requesting the hearing before the State Office of Administrative Hearings shall pay all costs associated with the contract for the hearing and shall deposit with the District an amount sufficient to pay the contract amount before the hearing begins. At the conclusion of the hearing, the District shall refund any excess money to the paying party. All other costs may be assessed as authorized by the Texas Water Code Section 36.416 or District Rules.
- 5) An administrative law judge who conducts a contested case hearing shall consider applicable District Rules or policies in conducting the hearing, but the District will not supervise the administrative law judge.

- 6) The District shall provide the administrative law judge with a written statement of applicable Rules or policies.
- 7) The District will not attempt to influence the finding of facts or the administrative law judge's application of the law in a contested case except by proper evidence and legal argument.

**R. Final Decision; Contested Case Hearings**

- 1) In a proceeding for a Permit Application or Amendment in which the District has contracted with the State Office of Administrative Hearings for a contested case hearing, the Board has the authority to make a final decision on consideration of a proposal for decision issued by an administrative law judge.
- 2) The Board may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the Board determines:
  - a) that the administrative law judge did not properly apply or interpret applicable law, District Rules, written policies, or prior administrative decisions;
  - b) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or
  - c) that a technical error in a finding of fact should be changed.
  - d) A final decision issued by the Board must be in writing and must either adopt the proposed findings of fact and conclusions of law as proposed by the administrative law judge or include revised findings of fact and conclusions of law consistent with subsection (b) above.
  - e) Notwithstanding any other law, a board shall issue a final decision under this Texas Water Code Section not later than the 180th day after the date of receipt of the final proposal for decision from the State Office of Administrative Hearings. The deadline may be extended if all parties agree to the extension.
  - f) Notwithstanding any other law, if a motion for rehearing is filed and granted by a board under Texas Water Code Section 36.412, the board shall make a final decision on the application not later than the 90th day after the date of the decision by the board that was subject to the motion for rehearing.

- g) The Board is considered to have adopted a final proposal for decision of the administrative law judge as a final order on the 181st day after the date the administrative law judge issued the final proposal for decision if the board has not issued a final decision by:
  - i. adopting the findings of fact and conclusions of law as proposed by the administrative law judge; or
  - ii. issuing revised findings of fact and conclusions of law as provided in these Rules.
- h) A proposal for decision adopted under this Rule is final, immediately appealable, and not subject to a request for rehearing.

**S. Alternative Dispute Resolution**

The District encourages the use of alternative dispute resolution procedures in the manner provided for governmental bodies under Chapter 2009, Government Code.

**T. Contested Case Hearings; Applicability of Administrative Procedure Act**

- 1) The District, acting through its hearing officer, may, at the hearing officer's discretion, apply the evidence, witnesses, and discovery rules for contested hearings consistent with Subchapter D, Chapter 2001, Government Code, including the authority to issue a subpoena, require a deposition, or order other discovery.
- 2) Except as provided by this Texas Water Code Sections 36.416 and 36.4165, Chapter 2001, Government Code, does not apply to a hearing under this subchapter.

## Rule 21: Achieving the Desired Future Conditions

- A.** Based on the Modeled Available Groundwater (MAG) number resulting from GAM Run 21-014, the District, to the extent possible, will issue Permits up to the point that the total volume of estimated exempt and permitted production will achieve the Desired Future Conditions listed below excluding the Non-Relevant aquifers, that were adopted by Groundwater Management Area (GMA) 9 at a GMA9 meeting on November 15, 2021; determined administratively complete by TWDB on December 9, 2022; and adopted by the HGCD Board of Directors on March 8, 2023.

Trinity Aquifer	Allow for an increase in average drawdown of approximately 30 feet through 2060 (throughout GMA-9) consistent with “Scenario 6” in TWDB GAM Task 10-005.
Edwards-Trinity (Plateau) Aquifer	Allow for no net increase in average drawdown in Bandera and Kendall Counties through 2080.
Ellenburger-San Saba Aquifer	Allow for an increase in average drawdown of no more than 7 feet in Kendall County through 2080.
Hickory Aquifer	Allow for an increase in average drawdown of no more than 7 feet in Kendall County through 2080.

### NON-RELEVANT AQUIFER CLASSIFICATIONS

Edwards Aquifer (Balcones Fault Zone)	Bexar, Comal, Hays, and Travis Counties
Edwards Trinity (Plateau)	Blanco and Kerr Counties
Ellenburger-San Saba	Blanco and Kerr Counties
Hickory	Blanco, Hays, Kerr, and Travis Counties
Marble Falls	Blanco County

- B.** On September 13, 2023, the District updated the HGCD Management Plan with the DFC’s adopted March 8, 2023 which included an update from GAM-Run 16-023 to GAM Run 21-014 MAG. The table below list the Modeled Available Groundwater for the Trinity Aquifer and Trinity Group of the Edwards-Trinity (Plateau) Aquifer for Kerr County for each decade between 2020 and 2060. Values are in acre-feet per year.

Groundwater District	County	Aquifer	2020	2030	2040	2050	2060
Headwaters GCD MAG	Kerr	Trinity	14,918	14,845	14,556	14,329	14,223

- C.** The District will evaluate annually the volume of water permitted by the District and the exempt pumping estimates provided by the Texas Water Development Board, and compare the total volume to the MAG, to achieve the adopted DFC.

## **Rule 22: Miscellaneous**

- A.** All Applications, notices, or documents required under these Rules shall be filed with the District office at 125 Lehmann Drive, Ste. 202, Kerrville, Texas.
- B.** 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 these Rules; and the District Board does hereby declare that it would have adopted and promulgated such remaining portions of such Rules irrespective of the fact that any other sentence, section, paragraph, clause, or part thereof may be declared invalid.
- C.** The District Board shall compile its Rules and make them available for use and inspection at the District's office and on its website: [www.hgcd.org](http://www.hgcd.org).
- D.** Quorum - Texas Water Code Chapter 36, Sec. 36.053 shall mean a majority of the membership of the board constitutes a quorum for any meeting, and a concurrence of a majority of the entire membership of the board is sufficient for transacting any business of the district. HB1971



# **APPENDICIES**

## **APPENDIX A**

### **HGCD POLICY 2010-2**

#### **Headwaters Groundwater Conservation District (the District)**

Policies to comply with Water Code Chapter 36.061

Subject to the law governing the District, the Board has adopted the following:

1. **A code of ethics for District directors, officers, employees, and persons who are engaged in handling investments for the District;**

In accordance with the District Public Funds Investment Policy, only the Public Funds Investment Officer with approval of the Board is authorized to execute investment transactions. All investment transactions shall require two signatures that of the Public Funds Investment Officer and a Director that is an authorized signer.

2. **A Policy relating to travel expenditures;**

The District pays all actual and necessary expenses for directors or employees who must travel to conduct District business. Reimbursement is on the basis of a properly completed and approved expense account form. Receipts are necessary for all expenses turned in on an expense account. Travel expenditures by District directors or the General Manager shall be approved by the Board president. The General Manager shall approve travel expenditures for the District staff. Documented personal mileage re-imbursement will be made according to the current IRS mileage rate.

3. **A Policy relating to District investments that ensures that:**

**A. Purchases and sales of investments are initiated by authorized individuals, conform to investment objectives and regulations, and are properly documented and approved; and**

All purchases and sales of investments for the District will be done in accordance with the District Public Funds Investment Policy under the direction of the Public Funds Investment Officer.

**B. Periodic review is made of District investments to evaluate investment performance and security;**

The District Public Funds Investment Policy requires an annual review by the Board of Directors to evaluate District investments. A monthly deposit/investment treasurers report is prepared by an external Bookkeeper and provided to the Board of Directors.

**4. Policies and procedures for selection, monitoring, or review and evaluation of professional services;**

It is the policy of the District to select and employ professional services in accordance with the District By-Laws article IV section 3 and Texas Water Code Chapter 36. Sections 36.056 and 36.057.

**5. Policies that ensure a better use of management information, including:**

**A. Budgets for use in planning and controlling cost;**

The District Budget Committee prepares and submits an annual budget to the Board of Directors for approval in compliance with Texas Water Code Chapter 36.154.

**B. An audit or finance committee of the Board;**

The District employs an external auditor to provide the District with an “Annual Financial Report”.

The District audit shall be performed according to the generally accepted government auditing standards adopted by the American Institute of Certified Public Accountants. Financial statements shall be prepared in accordance with generally accepted accounting principles as adopted by the American Institute of Certified Public Accountants.

Adopted by the Headwaters Groundwater Conservation District Board of Directors July 14, 2010 -- Revised January 13, 2016

# APPENDIX B

## HB 1971 – Conflicts of Interest

### Water Code Chapter 36: Section 36.058

#### Sec. 36.058. CONFLICTS OF INTEREST.

- (a) A director of a district is subject to the provisions of Chapters [171](#) and [176](#), Local Government Code, relating to the regulation of conflicts of officers of local governments.
- (b) If a director is required to file an affidavit under Section [171.004](#)(a), Local Government Code, the director may not:
  - (1) attend a closed meeting related to the matter for which the director is required to file the affidavit; and
  - (2) vote on a matter for which the director is required to file the affidavit unless a majority of the directors are also required to file an affidavit related to a similar interest on the same official action.

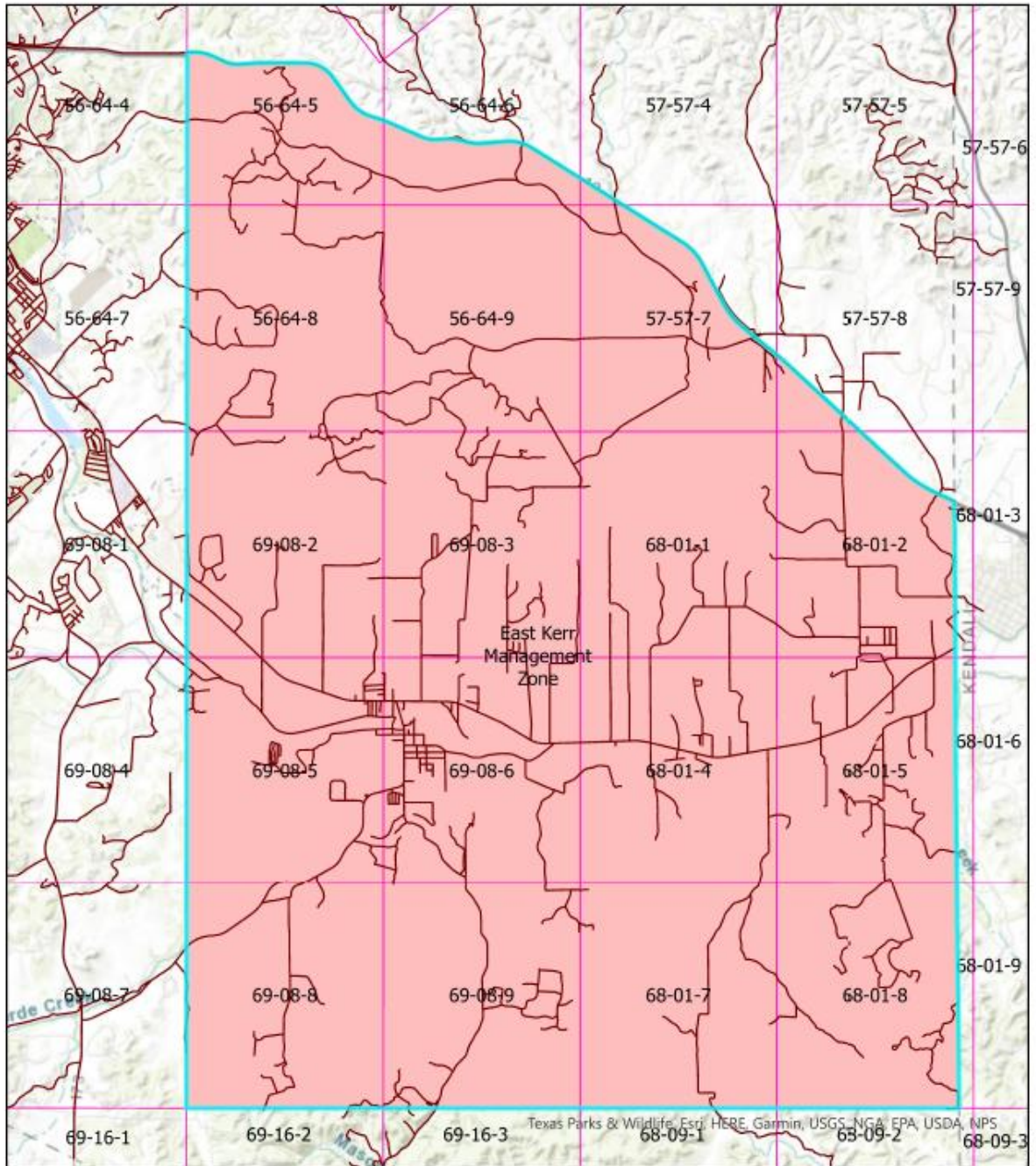
Acts 2023, 88th Leg., R.S., Ch. 436 (H.B. [1971](#)), Sec. 2, eff. June 9, 2023.

# APPENDIX C

HEADWATERS GROUNDWATER CONSERVATION DISTRICT  
CIVIL PENALTIES FOR BREACH OF DISTRICT RULES (Water Code 36.102)  
FINE SCHEDULE AMENDED 2024 - District Rule: 9: B. 6).

Failure to notify the District 24 hrs. prior to the date and time drilling is expected to begin Failure to notify prior to cementing the well.	\$250
Acting or offering to act as a driller or pump installer without being licensed or registered by the executive director, TDLR 76.20, unless exempted under TDLR 76.30.	\$1,000
Drilling new wells, or installing pumps in new wells without registering with the District by furnishing proof of current license and completing a Driller and/or Pump Installer Certification Form.	\$250
Failure to submit a Driller/Pump Installer “Certified Statement of Completion” within 30 days after completing construction and/or equipping the well. HGCD Rule 13: 3 & 4	\$250
Violation of District Rule 16; Drought Management. Violation of District Drought Contingency Plan.	\$250
Failure to notify the District prior to new well installation and testing of a well pump. Installing a well pump that is capable of pumping at a higher capacity than authorized by the District.	\$1,000
Failing to comply with the Conditions stated on an Operating Permit. (Permit Acknowledgments).	\$1,000
Operating a well without applying for and receiving an Operating Permit that the use is for any purpose other than domestic or livestock as stated in Chapter 36, Section 36.117.	\$5,000
Failure to request a Permit Amendment within 30 days after substantially altering the size of a pump, and the purpose, ownership, acreage etc.	\$250
Using groundwater for waste or any other purpose except what is authorized by the District.	\$1,000
Failure to submit an Annual Production Report each year by the end of January. HGCD Rule 5: J.	\$250
Over producing the total production allowed for a Permit.	Up to \$5,000

## APPENDIX D



### East Kerr Management Zone June 15th, 2022