

## **CHAPTER 12. FEE SCHEDULE**

### **Section**

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As of the effective date of these rules, all non-exempt wells within the District are required to be registered with the District on the appropriate District form. Information on the form shall include the owner's name, mailing address, well location, well size, use and any other information the District may determine necessary.

#### **12.1 Definition of Terms**

For the purposes of this chapter, the following definitions shall apply, unless defined within the body of the chapter:

- (1) Agricultural water use: as defined under Section 36.001(19), (20), Texas Water Code.
- (2) Non-exempt well: a well not exempted under District Rules, for which the owner is required to report pumpage volume to the District and required to pay a fee based on the amount of groundwater produced. A non-exempt well has the production capacity of more than 25,000 gallons per day.
- (3) Production: withdrawal of groundwater by pumping or by another method.
- (4) Water well: any artificial excavation constructed for the purpose of exploring for or producing groundwater. The term, however, shall not include any test or blast holes in quarries or mines, or any well or excavation constructed for the purpose of exploring for, or producing oil, gas, or any other minerals unless the holes are also used to produce groundwater. The term shall not include any injection water source well regulated by the Railroad Commission of Texas.
- (5) Well owner: person who owns a possessory interest in the land upon which a well or well system is located or to be located.

#### **12.2 Administrative Fees**

- (1) Returned Check Fee. The District will assess the person writing the returned check a \$25.00 fee for each check returned by the District Depository due to non-sufficient funds, account closed, signature missing, or any other problem causing such a return. This fee will be charged every time a check is returned.
- (2) Late fee. A late fee of 10% of the amount due will be assessed if payments due the District are not received within 15 days following the due date. The fee payment and the late payment fee must be made within 30 days following the date of the assessment of the late payment fee.

- (3) Trip Fee. If the District is required to have an employee or agent observe a well or meter or review documents not located within the District's office due to the actions or inaction of a Landowner, the District may charge a trip fee equal to the federal standard mileage rate for distance traveled to and from the location.
- (4) Enforcement Fee. If the District is required to incur expenses to enforce the District's rules, including the payment of the District's production fee, the person responsible for causing the District to incur the expense shall reimburse the District for such expenses within ten days after receipt of a demand for payment from the District.
- (5) Court-related Fee. If the District prevails in any suit to enforce its Rules, the District shall seek, and the Court may grant, in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the District before the Court. The Court may fix the amount of the attorney's fees.
- (6) Application and Processing Fee. For fees incurred during the process or if the District incurs additional costs including, but not limited to, professional consultant fees, or legal counsel, the applicant will be responsible for all costs incurred by the District.

### **12.3 Production Fees**

- (1) Exemptions: The following types of wells are exempt from the District's production permit and fee:
  - a) Domestic and livestock use.

Any well used solely to supply water for domestic use within a home or residence, or for livestock or poultry use, regardless of lot land size and is drilled, completed, or equipped so that is incapable of producing more than 25,000 gallons of groundwater per day;
  - b) Any well that is not capable of producing more than 10,000 gallons per day; or is metered, and does not produce more than 10 acre-ft of groundwater in a calendar year.
  - c) Per Texas Water Code, section 36.117.

Any person or well exempt from payment of production fees assessed by the District under Texas Water Code, section 36.117, as modified by the Enabling Act.

    - i. A water well used solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas provided that the person holding the permit is responsible for drilling and operating the water well and the well is located on the same lease or field associated with the drilling rig; or,
    - ii. A water well authorized under a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, for production from such a well to the extent the withdrawals are required for mining activities regardless of any subsequent use of the water.

- (2) Fees for Non-Exempt Users: The District imposes reasonable annual production fees on each well that is not exempt from permitting based on the amount of water actually withdrawn from the well as follows:
- a) Agricultural use: \$1 per acre-foot; or
  - b) Other Non-Exempt Production: \$20.00 per acre-foot for groundwater used for any other purpose.

#### **12.4 Measuring Devices**

Domestic and livestock exempt wells are not required to have a meter installed. The owner of a non-exempt well shall install and maintain a water well meter, or alternative measuring device, or method approved by the District, designed to indicate the flow rate and cumulative amount of water withdrawn by that well, on each individual well no later than 36 months after the effective date of the enacting Act HB2407.

#### **12.5 Payment**

It shall be the responsibility of the non-exempt well owner, or their representative, to submit detailed usage per well on a quarterly basis on form(s) approved by the District.

Production Fees shall be due and payable as follows:

- (1) For non-exempt wells not equipped with meters prior to August 1, 2018. Alternative measuring devices or methods must be approved by the District. Actual groundwater withdrawal, and corresponding payment, is reported to the District on a quarterly basis on the appropriate District form. Usage report and corresponding payment are due ten (10) days after the end of the calendar quarter, effective January 1, 2016. The amount of the production payment shall be calculated as follows:
  - a) Agricultural:  
Number of gallons produced multiplied by \$0.0000030689 per gallon.
  - b) All other uses:  
Number of gallons produced multiplied by \$0.00006138 per gallon.
- (2) Wells equipped with a meter. Actual groundwater production, and corresponding payment, is reported to the District on a quarterly basis on the District form. Usage report and payment are due ten (10) days after the end of the calendar quarter, effective January 1, 2016. The amount of the production payment shall be calculated as follows:
  - a) Agricultural:  
Number of gallons produced multiplied by \$0.0000030689 per gallon.
  - b) All other uses:  
Number of gallons produced multiplied by \$0.00006138 per gallon.

#### **12.6 Enforcement**

Upon failure to make payment of fees, all enforcement mechanisms provided by Texas Water Code 36.102 shall be available to the District and may be initiated by the District.

- (1) A District may enforce this chapter and its rules against any person by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.

- (2) The Board, by rule, may set reasonable civil penalties against any person for breach of any rule of the District not to exceed \$10,000 per day per violation, and each day of a continuing violation constitutes a separate violation.
- (3) A penalty under this section is in addition to any other penalty provided by the law of this state and may be enforced against any person by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office or meeting place is located.
- (4) If the District prevails in any suit to enforce its rules, the District may seek and the court may grant against any person, in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the District before the court. The amount of the attorney's fees may be fixed by the court.
- (5) In an enforcement action by the 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 the District may impose under Section 36.122, 36.205, or this section, or under a special law governing the District's operation 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 (4) in an action against any person that is a governmental entity.

*Adopted December 21, 2015 by Board Order; effective January 1, 2016.*