

UPPER TRINITY GROUNDWATER CONSERVATION DISTRICT

Serving Hood, Montague, Parker and Wise Counties
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District Use Only:

Received _____

Approved _____

By _____

Well Reg. No. _____

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APPLICATION FOR EXCEPTION TO SPACING REQUIREMENTS

Rule 4.5 Exceptions to Spacing Requirements.

- (a) The Board may grant exceptions to the spacing requirements of the District only after consideration of an application filed pursuant to this Rule.
- (b) An application for an exception to the spacing requirements of the District must include:
 - (1) a short, plain statement explaining each circumstance that the applicant believes justifies the requested exception to the spacing requirements of the District;
 - (2) a plat or sketch of the property upon which the applicant proposes to locate the well that is the subject of the application for exception to the spacing requirements of the District that:
 - (A) is drawn to scale;
 - (B) accurately identifies and depicts the location of the boundaries of each property located, in whole or in part, within the minimum spacing distances from the proposed well location under Rule 4.3; and
 - (C) accurately identifies and depicts the location of each well registered with the District that is located within the minimum spacing distances from the proposed well location under Rule 4.3; and
 - (3) a list of the names and physical addresses of the owner of each property and the owner of each well described under Paragraphs (2)(B) and (C) of this subsection; and
 - (4) a completed application for new well registration; and
 - (5) a filing fee in an amount to be set by resolution of the Board, which shall cover all expenses involved in recording the exception in the property deed records of the county in which the well is located. This filing fee shall be refunded to the applicant in the event the exception is denied.
- (c) An application for an exception filed pursuant to this Rule must be sworn to or affirmed by a person with personal knowledge of relevant facts who shall swear or affirm that the facts contained in the application are true and correct to the best of the person's knowledge. A plat filed pursuant to this Rule must be certified by the county clerk's office where the land is located or sworn to or affirmed by a person with personal knowledge of relevant facts set forth in the plat, unless the District already has a certified plat by the appropriate county clerk's office on file at the District office that covers the property in question.
- (d) The Board may not approve an application filed pursuant to this Rule unless:
 - (1) the General Manager has declared the application to be administratively complete;
 - (2) following the General Manager's written declaration of administrative completeness to the applicant, the applicant has, using a form provided by the District, provided written notice to each person described in Subsection (b)(3) in accordance with Subsection (e); and
 - (3) following the applicant's satisfaction of the notice requirements of Subsection (d)(2), the Board holds a public hearing on the application at the next available Board meeting or hearing called for that purpose, as determined by the General Manager in his discretion, where the applicant may be required to appear and show cause why the application should be granted, and at which all interested persons shall be given an opportunity to appear and be heard on the application.
- (e) The notice required by Subsection (d)(2) shall:
 - (1) include each of the following:
 - (A) the name and address of the applicant;
 - (B) a description of the location of the property upon which the applicant proposes to locate the well that is the subject of the application for exception to the spacing requirements of the District;
 - (C) a general description of the applicant's request; and
 - (D) the date, time, and location of the public hearing on the application; and
 - (2) be delivered to each person described in Subsection (b)(3), using a method of service that complies with Rule 1.7, no less than ten calendar days before the date of the public hearing on the application.
- (f) The Board may grant or deny an application filed pursuant to this Rule on any reasonable grounds based on information contained in the application or properly and timely presented to the Board for its consideration at the public hearing. Grounds

for granting an exception may include evidence that the well or wells proposed in the application will produce groundwater from an aquifer other than the aquifer from which the wells that are closer than the minimum distances are producing.

- (g) Notwithstanding any subsection of this rule to the contrary, the Board may grant an administratively complete application filed pursuant to this Rule without the requirement of the notice described in Subsection (d)(2) and without the requirement of a public hearing described in Subsection (d)(3) if:
 - (1) the applicant obtains, on a form provided by the District, a signed, voluntary waiver indicating the consent to the applicant's requested exception to the spacing requirements of the District from the following:
 - (A) the owner of each property that is located, in whole or in part, within the applicable minimum spacing distance, as established under these Rules, from the proposed well location; and
 - (B) the owner of each well registered with the District that is located within the applicable minimum spacing distance, as established under these Rules, from the proposed well location; or
 - (2) the applicant seeks an exception to the spacing requirements of the District for a well that is proposed to be located on a tract of land that was platted, meets an exception to platting, or was otherwise lawfully configured, prior to January 1, 2009, as a tract that is too small to comply with the minimum tract size and spacing requirements set forth under Rule 4.3, but only if:
 - (A) the well is to be used solely for domestic, livestock, or poultry watering use;
 - (B) the well as equipped is incapable of producing more than 17.36 gallons of water per minute;
 - (C) such tract is not further subdivided into smaller tracts of land after the January 1, 2009, and prior to the drilling, completion, or equipping of the well; and
 - (D) the applicant provides evidence of the date the tract of land was platted or was otherwise lawfully configured.
- (h) Any person interested in supporting or challenging the application may:
 - (1) submit comments or other information in writing to the District, if received by the District prior to the date of the public hearing on the application; or
 - (2) appear before the Board in person at the public hearing.
- (i) Applications for an exception under Subsections (g)(1) or (2) of this Rule may be approved or denied by the General Manager. A person may appeal the General Manager's ruling by filing a written request for a hearing before the Board. The Board shall hear the applicant's appeal at the next regular Board meeting, unless the General Manager sets the application for consideration by the Board at an earlier Board meeting or hearing called for that purpose, as determined by the General Manager in his discretion, in lieu of approving or denying an application. Upon approval or denial of an application, the General Manager shall inform the registrant in writing by utilizing a method described in Rule 1.7.
- (j) If the Board or General Manager grants an exception to the spacing requirements, the General Manager or his designee shall have such exception recorded in the property deed records of the county in which the well is located.
- (k) The burden of proof in any proceeding related to an application for an exception to a spacing requirement shall be on the applicant. The Board may impose additional restrictions on the exact location or the production of a well to be drilled pursuant to an exception that it grants.
- (l) The Board or General Manager may grant an application for an exception under this rule to a person who owns multiple tracts of land or lots in a platted subdivision for each tract or lot that meets the requirements of Subsection (g)(2) of this rule without the need to include a well registration application with the application for an exception. However, no well shall be drilled on any such tract until a well registration application for such well has been approved by the District.

*Applicants are urged to read all of the Temporary Rules for Water Wells in Hood, Montague, Parker, and Wise Counties, Texas, as revised by the District Board of Directors, on December 16, 2013. Rules can be found at: www.uppertrinitygcd.com. *By providing your e-mail address on this form, you are consenting to disclosure of your e-mail address if requested under the Texas Public Information Act.*

Part I – Applicant Information

Name: _____ Daytime phone: (_____) _____ — _____
Mailing address: _____
City: _____ State: _____ Zip: _____
E-Mail: _____ Fax: (_____) _____ — _____
Name of owner of proposed well (if other than the applicant): _____
Daytime phone: (_____) _____ — _____ E-Mail: _____

If the Applicant is someone other than the owner of the property where the well that is the subject of this spacing exception application is proposed to be located, please attach all necessary documentation that demonstrates your authorization to submit this application on behalf of the proposed well owner (property owner).

Part II – Property Information

Physical address of property where well is proposed to be located: _____

City: _____, County: _____

If the specific parcel that the well is proposed to be located on cannot be readily located with the physical address provided above, please provide any additional information that would further identify the specific parcel of property upon which the well will be drilled:

Part III – Description of Request

Please provide a short, plain statement explaining each circumstance that you believe justifies an exception to the spacing requirements of the District for the well that is proposed to be located on the property identified in Part II of this application. If additional space is needed, please provide the information on a separate sheet of paper and include it as an attachment to this application.

Under District Rule 4.5(b), you are required to include information with this application that will assist the District and potentially affected adjacent landowners in determining whether, or to what extent, the proposed exception to the District’s spacing requirements will have an adverse impact on nearby existing groundwater wells. Please include the following information as an attachment to this application, and indicate that you have included the required information by checking all appropriate boxes.

- I have attached to this application a plat or sketch of the property upon which I am proposing to locate the well that is the subject of this application. The attached plat or sketch:
 - (i) is drawn to scale;
 - (ii) accurately identifies and depicts the location of the proposed well that is the subject of this application;
 - (iii) accurately identifies and depicts the location of the boundaries of each property located, in whole or in part, within 1/2 mile of the proposed well location; and
 - (iv) accurately identifies and depicts the location of each well registered with the District (as of the date of application) that is located within 1/2 mile of the proposed well location.

A plat filed with this application must be certified by the County Clerk’s office where the land is located, or, alternatively, it must be sworn to or affirmed by a person with knowledge of relevant facts set forth in the plat. If the District has an updated, certified plat already on file that is certified by the appropriate County Clerk’s office that covers the property in question, then the plat included with this application does not require an additional certification.

- I have attached to this application a list of the names and physical addresses of the owner of each property located, in whole or in part, within 1/2 mile of the proposed well location.
- I have attached to this application a list of the owner of each well registered with the District (as of the date of application) that is located within 1/2 mile of the proposed well location.
- I have attached to this application a completed application for new well registration.

Part IV – Waiver of Public Hearing Requirement

Please check either of the following that applies:

- I have secured a written waiver from the owner of each property and each groundwater well that exists entirely or partially within the applicable minimum spacing distance of the location of my proposed well, and I have included the following with this application:
 - (1) the name and physical address of the owner of each property that is located, in whole or in part, within the applicable minimum spacing distance, as established by Section 4 of the District’s Rules, from the location of the proposed well;

- (2) the name and physical address of the owner of each well that is located, in whole or in part, within the applicable minimum spacing distance, as established by Section 4 of the District’s Rules, from the location of the proposed well, as well as the District Well Registration Number for each applicable well; and
 - (3) each signed waiver indicating the consent of each applicable land and well owner to the spacing exception I am seeking with this application.
- I propose by this application to locate the well on a tract of land that was platted, meets an exception to platting, or was otherwise lawfully configured—before January 1, 2009—as a tract that is too small to comply with the minimum tract size and spacing requirements set forth under District Rule 4.3, and:
- (1) the proposed well will be used solely for domestic use, watering livestock, or watering poultry, as those terms are defined in the District’s Rules;
 - (2) the well, as equipped, will be incapable of producing more than 17.36 gallons of water per minute;
 - (3) the tract will not be further subdivided into smaller tracts of land between January 1, 2009 and the date that the completed well is finally equipped and operational; and
 - (4) I have included information with this application that demonstrates the date that the tract of land was platted or otherwise lawfully configured.

If you have checked one of the two boxes under this part of the application, then the Board may grant this application, after it has been determined by the General Manager to be administratively complete, without the requirement of the public hearing described by District Rule 4.5(d)(3). Accordingly, if you have checked either box under this part, then you are not required to complete Part V of this application.

Part V – Notice of Public Hearing

Unless you qualify for a hearing / notice waiver under Part IV, please include with this application a proposed written notice (on a form provided by the District) that, upon the General Manager’s written determination that this application is administratively complete, you will submit to each landowner and well owner within 1/2 mile of the proposed well location (in accordance with District Rule 4.5(e)(2) no less than 10 days before the date of the public hearing on the application.

Part VI – Certification

The facts stated in this application are within my personal knowledge and are true and correct to the best of my knowledge and belief. If this application is approved, I hereby commit to recording the spacing exception in the real property records of the county in which the well will be located and providing the District with a true and correct copy of the recordation within 60 days of the date this application is approved.

Signature of Applicant

Date

Printed name of Applicant

DISTRICT TO COMPLETE		
App. Date: ____/____/____	<input type="checkbox"/> Hearing / Pub. Notice waived	<input type="checkbox"/> Approved by Board on: ____/____/____
<input type="checkbox"/> Admin. Complete	Public hearing date: ____/____/____	<input type="checkbox"/> Approved by GM on: ____/____/____
A.C. written notice: ____/____/____	Latest date of public notice: ____/____/____	<input type="checkbox"/> Denied on: ____/____/____