

**AMENDED AND RESTATED
RULES AND REGULATIONS
FOR
ON-SITE WASTEWATER TREATMENT SYSTEMS**

ESTANCIA METROPOLITAN DISTRICT

**Adopted: June 5, 2014
Amended and Restated: February 24, 2021**

*This Amended and Restated Rules and Regulations Replaces and Supersedes any and all
Previous Versions of the Rules and Regulations*

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ARTICLE I GENERAL

1.1 Purpose and Authority

The District is duly organized as a quasi-municipal corporation and political subdivision of the State, vested with the powers conferred upon metropolitan district in the Special District Act and the District's Service Plan. The Board of Directors of Estancia Metropolitan District has adopted the following Rules and Regulations pursuant to § 32-1-1001(l)(m), C.R.S., in order to provide for the orderly and efficient conduct of the business and affairs of the District and, in particular, to ensure uniform and proper construction, operation and maintenance of OWTS within the District.

1.2 Policy

The Board hereby declares that the Rules and Regulations hereinafter set forth will serve a public use and are necessary to promote the health, safety, prosperity, security, and general welfare of the residents of the District. All Customers of the District are bound by these Rules and Regulations as a condition of receiving District Services.

1.3 Scope

These Rules and Regulations shall be effective when approved by the Board of the District, are the comprehensive regulations which govern OWTS within the District, and supersede all prior statements with respect to the operation and maintenance of OWTS by the District.

1.4 Intent of Rules and Regulations

These Rules and Regulations shall be liberally construed to effect the general purpose set forth herein, and each and every part is separate and distinct from all other parts. No omission or additional material in these Rules and Regulations shall be construed as an alteration; waiver; deviation; limitation, or restriction from any grant of power, duty, or responsibility imposed or conferred upon the Board by virtue of statutes now existing. Nothing contained herein shall be construed as prejudice or affect the right of the District to secure the full benefit and protection of any law which is now enacted or may subsequently be enacted by the Colorado General Assembly pertaining to the governmental or proprietary affairs of the District.

1.5 Amendment

The Board expressly reserves the right to make revisions to these Rules and Regulations and any exhibits or appendices attached hereto from time to time in order to provide for the orderly construction, management, operation and control of the public facilities and

services of the District and to promote the health, and safety and welfare of the residents and property owners within the District. These Rules and Regulations are supplementary to, and are not to be construed as any abridgement of, the lawful rights of the Board to manage the District as provided for in the Special District Act. Prior public notice shall not be required by the District when exercising its amendment powers pursuant to this Section.

1.6 Waiver, Suspension, or Modification of Rules

The Board or the Manager acting on instructions of the Board, shall have the sole authority to waive, suspend, or modify these Rules and Regulations. Any such waiver, suspension, or modification must be in writing authorizing the specific action. Such waiver, suspension or modification is an exception to the Rules and Regulations for the specific instance and shall not be construed as continuing for future instances. Waivers, suspensions, or modifications are not deemed an amendment of the Rules and Regulations.

1.7 Rights and Authority

The District reserves the right to temporarily discontinue service to any property, at any time, for any reason deemed necessary or appropriate. The District shall have the right to revoke service to any property for violations of these Rules and Regulations in accordance with the procedures set forth in these Rules and Regulations.

1.8 Right of Entry

The granting of Right of Entry by a Customer is a condition precedent and a condition subsequent to the receipt of District Services. Authorized representatives of the District, upon presentation of proper identification, shall be permitted to enter upon all properties receiving District Services at all reasonable times for the purpose of inspection, observation, measurement, sampling, testing, monitoring and maintenance of the OWTS, in accordance with the provisions of these Rules and Regulations. Refusal to permit such access to District personnel may result in discontinuation of District Services to the property in question.

1.9 Right to Replace/Repair

The Management Plan contemplates that in the event a Customer fails to correct a problem he or she has been notified of, the District shall undertake the repair itself and bill the Customer directly for all costs associated therewith. As such, the Right of Entry granted in Section 1.8 as a condition precedent and a condition subsequent to the receipt of District Services shall extend to the repairs and/or replacement of the OWTS as provided herein.

1.10 Violations

Any Person violating any provision of these Rules and Regulations shall become liable to the District for any expense, loss or damage occasioned by reason of such violation, and upon non-payment thereof, shall be assessed a penalty in an amount determined by the Board, which penalty shall be a lien upon the violator's property as allowed by § 32-1-1001, C.R.S., as amended, or a lien upon the property to which the violator was providing services at the time of the violation in question, whichever the District Manager deems appropriate. In the event the District determines to revoke or suspend District Services to any Person or entity for violation of any of the provisions of these Rules or Regulations, the District shall not be liable for any claim for damage resulting therefrom.

1.11 Collections

Any fees, rates, tolls, penalties or charges for any services under these Rules and Regulations left unpaid by a Customer shall be subject to collections in accordance with the procedures set forth in the then current Collections Resolution of the District. The District shall be entitled to assess all legal fees and costs of collection against the subject property in the amounts set forth in such Collection Resolution.

ARTICLE II DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of the terms used herein shall be as follows:

2.1 Board

“Board” and “Board of Directors” are the elected or appointed Board of Directors of the District which has the responsibility for policy and management oversight of the affairs of the District.

2.2 Customer

“Customer” is any person or entity receiving District Services. If the person or entity receiving District Services is not also the property owner, the definition of Customer shall include the property owner.

2.3 District

“District” is the Estancia Metropolitan District.

2.4 District Engineer

“District Engineer” is the person or firm that has been authorized by the District to perform engineering services with respect to the OWTS for the District. The District Engineer may also be the Inspector if so designated by the District.

2.5 District Manager

“District Manager” is the person or firm that, under the direction of the Board, is responsible for administrating and ensuring compliance with these regulations and any related enforcement actions on behalf of the District.

2.6 District Services

“District Services” shall mean any of the services authorized by the Service Plan, as the same may be amended from time to time, to be provided by the District related to the OWTS, including, but not limited to, ongoing operation, monitoring and maintenance of the OWTS, as well as any appropriate repairs or replacement in the event a homeowner fail to correct a problem he or she has been notified of.

2.7 Estancia

Refers to the 80-acre estate lot community located along the south side of Arapahoe Road between Himalaya Street and Liverpool Street in the City of Centennial, Arapahoe County, Colorado, and encompassed by the boundaries of the District.

2.8 Inspector

“Inspector” is the person or firm that has been authorized by the District to perform inspections with respect to the OWTS on behalf of the District and to ensure compliance with these Rules and Regulations.

2.9 ISDS

“ISDS” as referenced in these Rules and Regulations, the OWTS Regulations, or the Tri-County Health Regulations, shall mean an Individual Sewage Disposal System serving a single platted lot. Also known as an OWTS.

2.10 Management Plan

The ISDS Management Plan for the Estancia Subdivision Filing No. 1, submitted by the District to Tri-County Health in December 2004, which designated the District as the “Management Agency,” with the power and authority to implement and manage all ISDS systems within Estancia.

2.11 OWTS

An “OWTS,” or On-site Wastewater Treatment System, is an individual septic system designed to provide wastewater treatment for a single platted lot.

2.12 OWTS Regulations

The “OWTS Regulations” refer to the Colorado Department of Public Health and Environment, Water Quality Control Division (the “CDPHE-WQCD”), On-Site Wastewater Treatment System Regulation, Regulation #43, located at § 5 CCR 1002-43, adopted on May 13, 2013, as may be amended from time to time by the CDPHE-WQCD, as well as any restrictions imposed by the “On-Site Wastewater Treatment Systems Act,” §§ 25-10-101, *et seq.*, C.R.S.

2.13 Rules and Regulations

“Rules and Regulations” are the formal rules and regulations of the District which state the policy and procedures by which the OWTS are managed. Rules and Regulations also include all amendments and policies as set forth in the District minutes and resolutions, and are intended to incorporate by reference all requirements contained within the Tri-County Health Regulations pertaining to OWTS in the District.

2.14 Shall or May

Whenever “shall” is used herein, it shall be construed as a mandatory direction.

Whenever “may” is used herein, it shall be construed as a permissible, but not mandatory direction.

2.15 Service Plan

The “Service Plan” is that document entitled “Service Plan for Estancia Metropolitan District,” dated August 23, 2004, and approved by the Board of County Commissioners for Arapahoe County on September 21, 2004, as may be amended from time to time.

2.16 Tri-County Health

Refers to the “Tri-County Health Department,” which is the local board of health serving and having jurisdiction over the boundaries of the District.

2.17 Tri-County Health Regulations

The “Tri-County Health Regulations” shall include Regulation No. O-14 governing OWTS, promulgated by the Board of Health of Tri-County Health and made effective July 1, 2014, pursuant to the OWTS Regulations, as well as any successor rules and regulations promulgated by Tri-County Health subsequent to the effective date of these Rules and Regulations to further effect the OWTS Regulations.

**ARTICLE III
LIABILITY AND OWNERSHIP**

3.1 Liability of District

The District shall not be liable or responsible for inadequate treatment or interruption of service brought about by circumstances beyond its control.

3.2 Condition Not Actionable

No claim for damage shall be allowed against the District by reason of the following conditions: blockage in an OWTS causing the backup of wastewater; damage from the breaking of any line or component of an OWTS; damage to OWTS from inadequate, excessive, or sporadic flows; or as a result of any other partial or complete failure of an OWTS.

3.3 Ownership of Facilities

Customers shall retain ownership of all OWTS. Customer's ownership of the OWTS shall not entitle the customer to make unauthorized use of the OWTS, connect to the OWTS without prior authorization of the District, or to undertake any changes that would affect operation of the OWTS without the prior authorization of the District and Tri-County Health.

3.4 Responsibility to Protect

Customers shall be responsible for protecting the OWTS and failure to do so may result in the District redesigning and/or replacing the OWTS at the expense of the Customer.

3.5 Tampering

No person shall uncover, alter, disturb, make any connection with, make an opening into, or backfill above an OWTS without prior authorization, notification, or permission as required under the Tri-County Health Regulations or OWTS Regulations.

ARTICLE IV APPLICATION FOR SERVICE

4.1 Service Area

Conventional wastewater collection and treatment services are not presently available within the boundaries of the District. All homes constructed within the District are to be serviced by OWTS.

4.2 Application for Tri-County Health OWTS Permits

Building permits for new homes within the District will not be granted prior to the issuance by Tri-County Health of an approved OWTS Use Permit and, as applicable, an OWTS Operating Permit. All Customers shall comply with all Tri-County Health Regulations and obtain all required permits prior to receipt of District Services.

4.3 Application for District Services

Approval of a District Application for OWTS Service is required before the District will accept any OWTS for operational and maintenance responsibility. The District OWTS Permit process is intended to parallel the Tri-County Health approval process.

4.3.1 Submittals, Form and Instructions

A form District Application for OWTS Service is attached to and incorporated in these Rules and Regulations as Exhibit A. The District Application for OWTS Service shall be accompanied by a complete and approved Tri-County Health OWTS Use Permit and Application including a schematic design and as-built drawing for the OWTS.

4.4 Design Standards

Design, permitting, approval and installation of OWTS shall be primarily governed by the OWTS Regulations and Tri-County Health Regulations. OWTS shall be constructed within the "ISDS Envelope" identified on the final recorded subdivision plat for each lot, except as otherwise approved by the District.

4.5 Events Requiring a New Application

Owners must submit a new District Application for OWTS Service for any event requiring the issuance of a new Tri-County Health OWTS Use Permit or the Renewal of an OWTS Use Permit pursuant to the Tri-County Health Regulations. Qualifying events include, but are not necessarily limited to: a remodel that includes the addition of one (1) bedroom; or any other modification that materially affects the operation of the OWTS. Violation of this section shall be grounds for the discontinuation of District Services.

4.6 Penalties for Unauthorized Modifications

Any violation of this section shall result in the assessment of a fee in the amount of \$1,000.00. The District shall take those steps authorized by these Rules and Regulations and Colorado law regarding the collection of said fees. Any unauthorized connection to the OWTS, including building or use modifications in contravention of an approved permit, may also be prosecuted to the full extent of Colorado law.

4.7 Revocation of Service

District Services shall be revocable by the District for any violation of these Rules and Regulations. The notice shall set forth:

1. The reason for the revocation;
2. That the customer has the right to contact the District, and the manner in which the District may be contacted for the purpose of resolving the obligations; and
3. That there exists an opportunity for a hearing in accordance with Article VI of these Rules and Regulations.

4.8 Denial of Application Approval

The District reserves the exclusive right to deny a District Application for OWTS Service when, in the opinion of the District, the OWTS does not comply with any provision of these Rules and Regulations, the Tri-County Health Regulations, or the OWTS Regulations. Denial may also be based upon an unresolved obligation between the District and the applicant, inadequate documentation of easements for access to the property, or any other reason as determined by the District.

4.9 Cancellation of Application Approval

The District reserves the right to revoke any prior approval of an application for any violation of these Rules and Regulations.

4.10 Existing OWTS

All rules, regulations and laws applicable to OWTS apply regardless of the age of the OWTS. All OWTS existing as of the date of these Rules and Regulations for which a Tri-County Health OWTS Use Permit has been issued are deemed to be in compliance with these Rules and Regulations as of the date hereof. Notwithstanding, all OWTS existing as of the date hereof shall be required to remain in compliance with these Rules and Regulations after the date hereof.

**ARTICLE V
DISTRICT SERVICES**

5.1 General

The District shall be responsible for the inspection, maintenance, and reporting for all OWTS within the District in accordance with the Tri-County Health Department ISDS Program – Model 1,” or any successor program thereto in accordance with the Tri-County Health Regulations. The District shall also be responsible for funding and administering the OWTS program.

5.2 District Services

District Services will be provided by the District to all Customers, subject to these Rules and Regulations. After approval and acceptance of OWTS, the District generally provides one (1) inspection of each OWTS per year and one (1) cleaning of each OWTS every other year, unless the inspection indicates the need for an additional cleaning, as part of the regular District Services provided at no additional charge to District residents.

5.3 Corrective Work

Ownership and ultimate responsibility for the upkeep of OWTS remains with the Customer. In the event an OWTS requires additional cleaning, maintenance, replacement, or other corrective work, such work may be ordered by the District. Such additional work shall be the responsibility of the Customer, subject to oversight by the District and Tri-County Health. In the event any corrective work necessary to maintain compliance with a Tri-County Health OWTS Permit is not completed in a timely manner by the Customer, District Services may be discontinued. In the event a Customer fails to correct a problem he or she is notified of, the District shall be entitled to undertake the repair itself and bill the Customer for all costs associated therewith, including, but not limited to, costs associated with obtaining a Major Repair Permit or a Minor Repair Permit as required by Tri-County Health.

5.4 Limitation of Liability

Except as provided by the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., as may be amended from time to time, it is expressly stipulated that no claim for damage shall be made against the District by reason of any action or inaction of the Board in connection with any improvements or facilities for which the District have operations or maintenance responsibility. The District shall not be liable for any failure of a Customer to comply with Tri-County Health Regulations or the OWTS Regulations.

**ARTICLE VI
HEARING AND APPEAL PROCEDURES**

6.1 Application

The hearing and appeal procedures established by this Article shall apply to all complaints concerning the interpretation, application, or enforcement of the Rules and Regulations of the District, as they now exist or may hereafter be amended. The hearing and appeal procedures established by this Article shall not apply to complaints arising out of the interpretation of the terms of District contracts or complaints which arise with regard to personnel matters which shall be governed exclusively by the District's personnel rules as the same may be amended from time to time.

6.2 Initial Complaint Resolution

Complaints concerning the interpretation, application, or enforcement of Rules and Regulations of the District must be presented in writing to the District Manager, or such representative as he or she may designate. Upon receipt of a complaint, the District Manager or designated representative, after a full and complete review of the allegations contained in the complaint, shall take such action and/or make such determinations as may be warranted and shall notify the complainant of the action or determination by mail within fifteen (15) days after receipt of the complaint. Decisions of the District Manager which impact the District financially will not be binding upon the District unless approved by the Board at a special or regular meeting of the Board.

6.3 Hearing

In the event the decision of the District Manager or his representative is unsatisfactory to the complainant, a written request for formal hearing may be submitted to the District Manager or such hearing officer as the District Manager may appoint within twenty (20) days from the date written notice of the decision was mailed. A deposit in the amount of \$250 shall be made with the District along with the request for the hearing. This amount shall be retained by the District to cover the costs of the hearing until the final decision following such hearing. The amount shall be refunded to the complainant if the District Manager renders a final decision in favor of the complainant.

Upon receipt of the request, if it be timely and if any and all other prerequisites prescribed by these Rules and Regulations have been met, the District Manager or hearing officer shall conduct a hearing at the District's convenience but in any event not later than fifteen (15) days after the submission of the request for formal hearing. The formal hearing shall be conducted in accordance with and subject to all pertinent provisions of these Rules and Regulations. Decisions of the District Manager which impact the District financially will not be binding upon the District unless approved by the Board of Directors at a special or regular meeting of the Board.

6.4 Conduct of Hearing

At the hearing, the District Manager or hearing officer shall preside. The complainant and representatives of the District shall be permitted to appear in person, and the complainant may be represented by any Person of his/her choice or by legal counsel.

The complainant or his/her representative and the District's representatives shall have the right to present evidence and arguments; the right to confront and cross-examine any Person; and the right to oppose any testimony or statement that may be relied upon in support of or in opposition to the matter complained. The District Manager or hearing officer may receive and consider any evidence which has probative value commonly accepted by reasonable and prudent Persons in the conduct of its affairs.

The District Manager or hearing officer shall determine whether clear and convincing grounds exist to alter, amend, defer, or cancel the interpretation, application, and/or enforcement of the Rules and Regulations that are the subject of the complaint. The decision shall be based upon evidence presented at the hearing. The burden of showing that the required grounds exist to alter, amend, defer, or cancel the action shall be upon the complainant.

6.5 Findings

Subsequent to the formal hearing, the District Manager or hearing officer shall make written findings and an order disposing of the matter and shall mail a copy thereto to the complainant not later than fifteen (15) days after the date of the formal hearing.

6.6 Appeals to the Board of Directors

In the event the complainant disagrees with the findings and Order of the District Manager at the formal hearing, the complainant may, within fifteen (15) days from the date of its mailing, file with the District a written request for an appeal thereof to the Board of Directors. The request for an appeal shall set forth with specificity the facts or exhibits presented at the formal hearing upon which the complainant relies and shall contain a brief statement of the complainant's reasons for the appeal. The District shall in response compile a written record of the appeal consisting of: (1) a transcript of the recorded proceedings at the formal hearing; (2) all exhibits or other physical evidence offered and reviewed at the formal hearing; and (3) a copy of the written findings and Order. The Board shall consider the complainant's written request and the written record on appeal at the next regularly scheduled meeting held not earlier than ten (10) days after the filing of the complainant's request for appeal. Such consideration shall be limited exclusively to a review of the record on appeal and the complainant's written request for appeal. No further evidence shall be presented by any party to the appeal and there shall be no right to a hearing *de novo* before the Board of Directors.

6.7 Board's Findings

The Board of Directors shall make written findings and an order concerning the disposition of the appeal presented to it and shall cause notice of the decision to be mailed to the complainant within thirty (30) days after the hearing. The Board of Directors will not reverse the decision of the District Manager or hearing officer unless it appears that such decision was contrary to the manifest weight of the evidence made available at the formal hearing.

6.8 Notice

A complainant shall be given notice of any hearing before the District Manager, the hearing officer, or before the Board of Directors, by certified mail at least seven (7) calendar days prior to the date of the hearing, unless the complainant requests or agrees to a hearing in less time. When a complainant is represented by an attorney, notice of any action, finding, determination, decision, or order affecting the complainant shall also be served upon the attorney.

Rules & Regulations for OWTS

EXHIBIT A

**Estancia Metropolitan District
Application for OWTS Service**

Property Owner: _____ Phone: _____

Mailing Address: _____

Architect Name: _____ Phone: _____

Builder Name: _____ Phone: _____

OWTS application is for: _____ new application _____ remodel / system modification

Location of the OWTS (Physical Address):

Number of Bedrooms: _____

Total Square Footage: _____

Number of Bathrooms (full and ½ combined): _____

Construction Completion Date: _____

Contractor Name: _____ Phone: _____

Enclose a copy of your approved Tri-County Health OWTS Use Permit and Application.

Please submit to the District Manager at: Estancia Metropolitan District
c/o White Bear Ankele Tanaka & Waldron
2154 E. Commons Ave., Suite 2000
Centennial, CO 80122

Applications may also be submitted electronically to dcordova@wbapc.com.

-----FOR DISTRICT USE-----

Approved by _____ Date _____