

RESOLUTION 09-2019

RESOLUTION OF THE BOARD OF DIRECTORS OF
COLORADO CITY METROPOLITAN DISTRICT
AMENDING RULES AND REGULATIONS
REGARDING USE OF CISTERNS AND/OR SEPTIC SYSTEMS
AND SETTING RELATED FEE

WHEREAS, Colorado City Metropolitan District ("District") in the County of Pueblo and the State of Colorado is a quasi-municipal corporation and political subdivision duly organized and existing under the Constitution and laws of the State of Colorado; and

WHEREAS, C.R.S. § 32-1-1001(1)(m) states that, among other powers, the Board of Directors (the "Board") has the power "[t]o adopt, amend, and enforce bylaws and rules and regulations not in conflict with the constitution and laws of this state for carrying on the business, objects, and affairs of the board and of the special district"; and

WHEREAS, Rule 4.4 of the Rules and Regulations (the "Rules") of the District provides in part, "No water system or sewage disposal system shall be constructed within the District, unless such system is connected with the District's sewer or water systems, unless specifically authorized by the Board"; and

WHEREAS, Pursuant to Rule 1.13, the Board has the ability, in its discretion, to grant variances to the Rules, and "Any person seeking a variance of a provision of the Rules and Regulations shall have the burden of providing that the operation of such a provision would cause hardship, or should not be applied to the person for another justifiable reason, and such variance shall not endanger the health, safety and welfare of the residents and inhabitants of the District"; and

WHEREAS, the Board recognizes that some property owners within the District own residential property located more than 400 feet from existing water mains and that extending the District's water mains to serve the property may cause hardship and the Board would like to adopt a policy for considering variance requests in connection with construction of cisterns and/or on-site wastewater disposal systems; and

WHEREAS, the Board has reviewed and has held a public hearing on the proposed amendments to the Rules and Regulations, which are attached hereto as **Exhibit A**, after publication of notice announcing the proposed change or addition and the time and place of a public hearing relating to the proposed amendment; and

WHEREAS, the Board finds that amending its Rules, as set forth herein, is appropriate and in the best interests of the District, its residents, and its customers; and

WHEREAS, the Board is authorized to fix and from time to time to increase or decrease fees, rates, tolls, penalties and charges for services, programs or facilities furnished by the District, pursuant to § 32-1-1001(1)(j)(I) & (k), C.R.S.; and

WHEREAS, the Board wishes to adopt a fee for cistern or septic system variance applications to cover costs including administrative review, and the Board hereby finds that the variance application fee is reasonable.

NOW, THEREFORE, BE IT RESOLVED that:

1. The Board hereby amends the District's Rules and Regulations to adopt new Paragraphs 4.6 and 5.9.2, as shown on **Exhibit A** attached hereto and incorporated herein by this reference, *effective immediately*.

2. The Board hereby adopts a Cistern/Septic Application Fee in the amount of \$ 100 per application, *effective immediately*.

3. District Manager is hereby directed to revise the Rules and Regulations to reflect this amendment and to add the Cistem/Septic Application Fee to Appendix A to the Rules and Regulations.

ADOPTED this 30 day of July, 2019.

COLORADO CITY METROPOLITAN DISTRICT

By:  _____
Terry Kraus, Chairperson

ATTEST:



Greg Collins, Secretary

Exhibit A

Proposed Amendment to Rules and Regulations of Colorado City Metropolitan District

A new section 4.6 shall be added to the Rules and shall read as follows:

4.6 Temporary Variance for Use of Cisterns / Septic Systems:

A property owner within the District may submit an application for a temporary variance to the Rule stating that every water system or sewage disposal system constructed within the District must be connected with the District's water or sewer systems, in order to allow for construction of a water cistern and/or on-site wastewater disposal system ("Septic System"). The request shall be in writing on the form provided by the District and shall include the requirements set forth below:

- 1) Proof that the property is located within the boundaries of the District.
- 2) Proof that the outside boundary of the property is more than 400 feet (as the crow flies) from the nearest District water main (in the case of a cistern request) and / or sewer main (in the case of a Septic System request).
- 3) Proof that the property owner is fee title owner of the property.
- 4) Plans for proposed development of the property and all adjacent property owned by the same or a related entity and estimated water use. (Commercial uses or uses greater than 1 EQR will generally be required to extend the main and not permitted a cistern variance).
- 5) Plans for the cistern, which must comply with all state and local regulations.
- 6) Plans for a Septic System, which must comply with all state and local regulations, or connection to the District's sewer system.
- 7) Proof that the requirement to connect to the District's water and/or sewer system would cause hardship, or should not be applied to the applicant for another justifiable reason.
- 8) Proof that the variance shall not endanger the health, safety and welfare of the residents and inhabitants of the District.
- 9) Payment of the Cistern / Septic Application Fee, in the amount set by the Board from time to time, which shall be non-refundable and due regardless of whether the application is approved.

The Board may approve, conditionally approve or deny a temporary variance to allow construction of a cistern and/or Septic System. The Board's decision shall be final and conclusive. The Board may consider whether District water and/or sewer facilities are available or will be available in the future to serve the development or construction proposed, the expected future demand for water and/or sewer use for the property and other property in the vicinity (including whether District main extension would better serve the residents of the District), and other factors related to the request to provide the variance. It is the District's policy to require main extensions by the property owner where several EQRs of water use are located in the same vicinity, rather than allowing for multiple variances in the same vicinity.

The Board's approval will expire if the approved cistern and/or Septic System is not constructed within three years of the Board's approval of the variance. Otherwise, any approved, temporary variance for a cistern and/or Septic System shall continue until one of the below-described circumstances occurs:

- A. Owner obtains a building permit to expand or enlarge the square footage of the building or to build any new human-occupied buildings on the property.
- B. The septic tank and leach field system on the property or cistern fails for any reason, including failure to comply with County regulations.
- C. The District determines that a change in circumstances allows the owner to connect to the District's water or sewer main, which may require payment of a portion of the cost of extending the water or sewer main.

Any party granted a temporary variance from connection will be required, as a condition of receiving the variance, to enter into an agreement with the District setting forth the terms and conditions for the variance, in form acceptable to the District. Said written agreement shall be

recorded with the Pueblo County Clerk and Recorder's office so that future owners of said property shall be made aware of said agreement. The variance agreement will include terms regarding the use of bulk water for the cistern and an agreement that if and when the District water and/or sewer main lines are extended to 400 feet or less from the boundaries of the property, the property owner shall connect to the District's water and/or sewer system and pay all costs associated therewith including tap fees, and decommission the cistern and/or on-site wastewater disposal system.

Property owner shall be solely responsible for ownership, operation and maintenance of the cistern and/or on-site wastewater disposal system. The District shall have no liability associated therewith.

A new section 5.9.2 shall be added to the Rules and shall read as follows:

5.9.2 Bulk Water for Cisterns: Property owners who have received a temporary variance under Rule 4.6, allowing installation of a cistern, may purchase bulk water from the District, subject to availability and payment of applicable fees. The District makes no representations regarding the timing or quantity of bulk water which may be available. Landowner is responsible for hauling any water purchased from the District. The District shall have no liability for water quality after sale at the bulk water station.