

By-Laws

and

General Rules

of

Rural Water
District No. Six

Douglas County
Kansas

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RURAL WATER DISTRICT NO. SIX
Douglas County, Kansas

BYLAWS

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Article 1: Name and Place of Business:

Section 1: The name of this Association shall be Rural Water District No. Six, Douglas County, Kansas.

Section 2: The principal office of this District shall be located in Douglas County, Kansas.

Article 2: Governing Powers: The governing powers of this District shall be vested in the Board of Directors, hereinafter referred to as the Board.

Article 3: Purpose, Objective, and Authority:

Section 1: To acquire water and water rights and to build and acquire pipe lines and other facilities, and to operate the same for the purpose of furnishing water for domestic, garden, livestock and other purposes to owners and occupants of land located within the District, and others as authorized by these Bylaws.

Section 2: To borrow money from any Federal or State agency, or from any other source, and to secure said loans by mortgaging or pledging all of the physical assets and revenue and income of the District, including easements and rights-of-way.

Section 3: To hold such real and personal property as may come into its possession by will, gift, purchase, or otherwise, as authorized by law, and to acquire and dispose of such real and personal property, including rights-of-way and easements, wherever located, as may be necessary and convenient for the proper conduct and operation of the business of the District.

Section 4: To establish rates and impose charges for water furnished to Participating Members and others. **Participating Members** are those individuals or entities who possess the legal authority to exercise the rights of a Benefit Unit. A **Benefit Unit** is a right to receive water service to meet a customer's requirements, the statutory right to share in the benefits of improvements of the District, and the right to one line from the District's water system to receive water service from the district.

Section 5: To enter into contracts for the purpose of accomplishing the purposes of the District with any person, entity, or governmental agency.

Section 6: To cooperate with any person, entity, or any governmental agency in any undertaking designed to further the purposes of the District.

Section 7: To establish, expand, release and otherwise control the lawful territory of the District to ensure efficient service to existing and future customers within the territory or properties adjoining the same.

Section 8: To do and perform any and all acts necessary or desirable for the accomplishment of the purposes of the District which may lawfully be done by such District under the laws of the State of Kansas.

Article 4: Water Users:

Section 1: Water shall be supplied only to land located within the District: Provided, however, that the Board may make water available to the public for purchase at such distribution points as it may establish.

Section 2: No owner of land located within the District shall be eligible to become a water subscriber unless he or she has first subscribed and paid for one or more Benefit Units. Tenants occupying land located within the District may become water subscribers: Provided, that the owner, or someone on behalf of the owner, has subscribed and paid for one or more Benefit Units in favor of the land the tenant is occupying. The owner of land that holds the Benefit Unit shall be responsible for all charges upon said property for any services by the District should the water subscriber fail to pay said charges.

Section 3: An applicant for a Benefit Unit shall complete the Water Meter Application form provided by the District and shall sign the Water User Agreement provided by the District at the time of application. The application form shall require the grant of necessary easement(s) and/or rights-of-way reasonably necessary to provide water to the land described in the application. The applicant will be required in some instances to pay the cost of extension of service to the property in addition to any Benefit Unit fees or other charges, as the Board of Directors may establish. Application for a Benefit Unit will include an application fee, due at the time of application, for payment of administrative costs and an engineer's review establishing availability of service.

Article 5: Right to Vote: Only Participating Members shall have the right to vote, and each Participating Member shall be entitled to a single vote, regardless of the number of Benefit Units to which the member may have subscribed. There shall be no proxy voting. A Participating Member may be an individual, firm, partnership, association, or corporation. A firm, partnership, association, or corporation may vote designating one of its members to vote on its behalf. Provided, no Participating Member shall vote unless the payment of charges are current on the Benefit Units.

Article 6: Benefit Units:

Section 1: The Board shall establish a fee for Benefit Units. Such fee shall be adopted by the Board by a majority vote with the amount and effective date published in the adopted Rules and Regulations. Each Benefit Unit shall carry with it the obligation of paying a minimum monthly meter charge from the time service can be established as determined by the Board of Directors. Additional Benefit Units shall be available only as capacity of the District's facilities permit as determined by the Board of Directors. Subscriptions for Benefit Units shall be given preference and priority by the Board of Directors in the order in which received and paid. The Board may refuse the subscription for a Benefit Unit in favor of a particular tract of land located within the District, or impose special conditions on granting the same if in the judgment of the Board, the granting of said subscription and the furnishing of water pursuant thereto, would impair the service to other water users in that locality or be uneconomical, unfeasible or place an undue burden on the District

Section 2: Upon the purchase of Benefit Units, the owner(s) of land shall designate the tract of land to which the Benefit Units shall be assigned, and the Benefit Unit shall not be transferred from one tract of land to another without the approval of the Board. The owner(s) of lands subscribing to more than one Benefit Unit to be assigned to one tract of land shall be at the time of said subscription designate as nearly as practical the location on said tract where he or she intends to utilize said Benefit Units and no major change in location shall be made without the approval of the Board. Benefit Unit Certificates shall be issued by the Board, signed by the Chairman and Secretary, showing name of owner, and tract of land to which the Benefit Unit is assigned, numbered consecutively in the order in which issued.

Section 3: The consideration paid for Benefit Units shall be considered donations to the District and shall in no event and under no circumstances be refunded to the subscriber.

Section 4: Benefit Units shall follow the title of land unless the owner of the land designates otherwise. Owners may transfer Benefit Units from one tract of land to

another tract owned by them within the District subject, however, to the approval of the Board. No transfer in ownership of Benefit Units shall be permitted without the approval of the Board. No transfer will be approved unless all charges against the Benefit Unit are paid. All transfers, when approved, shall be recorded in the books of the District. In the event the ownership of the land has changed and no request for transfer was initiated by the Benefit Unit owner, then the District shall consider the transfer of the Benefit Unit to the new owner upon proof of ownership of the land. All transfers, when approved, will be subject to a transfer fee, published in the adopted Rules and Regulations.

Section 5: Each Benefit Unit shall entitle the owner to not exceed one line from the District's water system. Each line shall serve not to exceed one residence or business establishment together with the necessary and usual out-buildings. The Board may establish rules, regulations or policies that control the determination whether a benefit unit is serving more than one residence or business. Benefit Units approved by the Board to serve rental properties or other multifamily uses shall be used in accordance with those conditions provided by the Board.

Section 6: A Benefit Unit shall be subject to forfeiture any time that any minimum monthly charge or charge for metered water remains unpaid for six months or longer after becoming first due and payable. Forfeiture shall occur only in accordance with the following procedure:

Notice shall be given to the Benefit Unit owner at the owner's last known address by registered mail, return receipt requested. Such notice shall state that the Benefit Unit is subject to forfeiture, the reason therefore, the date, time, and place of the next regular meeting of the Board of Directors, and that the unit shall be subject to forfeiture by action of the Board of Directors at its next regular meeting unless the Benefit Unit owner appears and shows cause why the Benefit Unit should not be forfeited. If the Benefit Unit is not forfeited at the meeting, the same notice shall be given again before that Benefit Unit is forfeited.

Section 7: A Benefit Unit that has been subject to forfeiture for non-payment under this section may be reinstated based upon the established procedures in the District's Rules and Regulations, and by payment of a reinstatement fee. Reinstatement is not required when the Benefit Unit is subject to forfeiture for any other reason apart from non-payment.

Article 7: Billing and Delinquency:

Section 1: All water bills are due and payable by the 15th day of each month for the previous month serviced. The bill must be paid in full by the 15th of each month to the District's clerk with which the District conducts its official business and as shown on the record of the water payment billing. Payments not received prior to the 16th of the month shall be considered delinquent. A delinquent charge of \$10.00 or 10% of the delinquent balance, whichever is greater, shall be added to each delinquent bill.

Section 2: Failure to timely pay any charges or fees payable to the District, or violation of any of these Bylaws or the Rules and Regulations of the District, shall be cause for termination of water service.

Section 3: Nonpayment of Bills and Returned Checks:

- (a) An account delinquency and service discontinuance notice shall be issued in writing on the first day of the month, following the month during which the bill was due, with respect to any delinquent water bill. Notice shall be sent by U.S. Mail to the Benefit Unit owner (and copy also sent by U.S. Mail to the occupant of the premises served, if the occupant is not the Benefit Unit owner, referred herein collectively as the "customer") at the last known address of the customer as shown on the records of the District.
- (b) The notice of account delinquency and service discontinuance shall provide the following information:
 - (1) Name of customer and address where service is being provided.
 - (2) Amount past due.
 - (3) **Notice that water service shall be terminated upon failure to pay the delinquent billing within 10 days of the day of the mailing of the notice** or the day following the hearing, whichever last occurs.
 - (4) Notice that the customer has a right to appear and be heard at a hearing on the hearing date set by the district.
- (c) **Any customer receiving a notice of account delinquency and service discontinuation shall have the right to a hearing prior to disconnection. The hearing shall be held within ten (10) days after the date of notice.** The hearing shall be conducted by such person as the Board appoints for that purpose. The Board may appoint additional persons to assist the hearing

officer; however, the sole findings and determination of the hearing officer are final. At such hearing the customer and the District shall each have the right to present such evidence as is pertinent to the issue, may be represented by counsel, and may examine and cross-examine witnesses. Formal rules of evidence shall not apply. The hearing officer shall promptly make his or her findings available to the customer and the Board. Unless otherwise ordered by the hearing officer, water service to the customer shall be discontinued the day after the order of discontinuance is issued by the hearing officer. Extension of the date of discontinuance may be granted to enable the customer to make arrangements for reasonable installment payments or for other good cause shown. The hearing officer's order shall be filed and a copy thereof shall be provided to the customer in the same manner as set forth in subparagraph (a) above.

(d) Any party aggrieved by the decision of the hearing officer may appeal the decision by filing a written notice of appeal with the Secretary of the District within five (5) days of the decision notice. Notwithstanding the order of discontinuance, service shall not be discontinued if the notice of appeal has been received prior to termination. Any such appeal shall be heard before the Board at its next regularly scheduled meeting or specially called meeting. The determination of the Board shall be final. The determination of the Board shall be recorded in the minutes of its proceedings and notice thereof shall be provided to the customer in the same manner described in subparagraph (a) above.

(e) **Reconnection fees:** Prior to reconnecting a water service disconnected pursuant to this rule, the customer shall pay the entire balance due to the District at the time of reconnection together **with a reconnection charge of \$50.00.**

(f) A charge for each returned check will be added to the account balance of the patron who issued the check. The amount of the charge will be \$30.00.

Article 8: Election of Directors:

Section 1: The Board of Directors shall consist of five (a minimum of three) members, all of whom shall be a Participating Member of the District. The Participating Members shall elect for a term of three years the number of Directors whose terms of office have expired. Such election shall occur at the District's annual meeting.

Section 2: Immediately following the annual meeting of the Participating Members, the Board shall meet and shall elect a Chair, Vice-Chair, Secretary, and Treasurer from among themselves, each of whom shall hold office until the next annual meeting and until the election and qualifications of his or her successor, unless sooner removed by death, resignation or for cause. The offices of Secretary and Treasurer may be held by one person.

Section 3: Any vacancy on the Board, other than from the expiration of a term of office, shall be filled by appointment by the remaining members of the Board. Such appointment shall take effect immediately following confirmation by a majority of the remaining members of the Board. The disqualification of a Director as a Participating Member of the District shall operate to disqualify him or her as a Director and to create a vacancy in the office of the Director.

Section 4: A majority of the Board shall constitute a quorum at any meeting of the Board.

Section 5: Any Director of the District may be removed from office for cause by a vote of not less than 3/4ths of the Participating Members of the District present at any annual or special meeting called for that purpose. The Director shall be informed in writing of the charges and preferred against him or her at least 10 days before such meeting, whether regular or special, and at the meeting shall have an opportunity to present witnesses and be heard in person in answer thereto. Officers of the Board may be removed for cause by majority vote of the Board.

Section 6: Members of the Board of Directors are allowed compensation equal to one benefit unit base charge on a monthly basis. Compensation will coincide with each months water usage bill.

Article 9: Powers and Duties of Directors: The Board, subject to the restrictions of law, and these Bylaws shall exercise all the powers of the District and without prejudice to or limitation upon their general powers. It is hereby expressly provided that the Board shall have, and is give hereby, full power and authority with respect to the matters as hereinafter set out:

Section 1: To select and appoint all agents and employees of the District or remove such agents and employees of the District for just cause, prescribe such duties and designate such powers as may not be inconsistent with these Bylaws, and fix their compensation and pay for faithful services.

Section 2: To borrow from any source, money, goods, or services and to make and issue notes and other negotiable and transferable instruments, mortgages, deeds of trust and trust agreements, and to do every act and thing to effectuate the same.

Section 3: To prescribe, adopt and amend, from time to time, such equitable and uniform Rules and Regulations, as in their discretion, may be deemed essential or convenient for the conduct of the business and affairs of the District, and the guidance and control of its agents and employees.

Section 4: To fix charges to be paid by each water user for services rendered by the District to the member, the time of payment, and the manner of collection, and to establish rates for services furnished.

Section 5: To require all officers, agents, and employees, charged with the responsibility for the custody of any funds of the District to give adequate bond, the cost thereof to be paid by the District, and it shall be mandatory upon the Directors to so require

Section 6: To select one or more banks to act as depositories of the funds of the District and to determine the manner of receiving, depositing and disbursing the funds of the District in the form of checks or other recognized means of disbursement, and the person by whom the same shall be signed on behalf of the Chair with the power to change such bank or person signing such checks and the form thereof at will.

Section 7: Prepare annually an estimated budget for the coming year, adjust water rates if necessary to produce sufficient revenue required by such budget, cause an annual audit of the District records and accounts, order a compilation, and make a report on said matters at each annual meeting of Participating Members.

Section 8: When a person is sued or prosecuted in a civil or criminal action in his or her capacity as an employee, officer or director of the District, such person shall be indemnified for such claim including the reasonable cost of defense thereof so long as:

- a) such person is successful in the defense of the claim, or the claim is settled; and
- b) the court finds that such person's conduct fairly and equitably merits such indemnity.

Article 10: Powers and Duties of Manager: The Board may employ such employees, agents, managers and contractors upon such terms as the Board of Directors sees fit. No Director shall be simultaneously employed by said District. Acceptance of employment by a Director shall serve as an immediate resignation and disability to serve as a Director. Election to a Director position shall immediately terminate any employment with the District held by that person.

Article 11: Duties of Officers:

Section 1: Chair. The Chair, who shall be a member of the Board, shall preside over all meetings of the District and the Board, call special meetings of the District and the Board, perform all acts and duties usually performed by an executive and presiding officer, and shall sign all Benefit Unit Certificates and such other papers of the District as authorized or directed to sign by the Board, provided that the Board may authorize any person to sign checks, on behalf of the District, provided that all checks must be countersigned by the Treasurer or someone on the Treasurer's behalf. The Chair shall perform such other duties as may be prescribed by the Board.

Section 2: Vice-Chair In the absence or disability of the Chair, the Vice-Chair, who shall be a member of the Board, shall perform the duties of the Chair.

Section 3: Secretary. It shall be the duty of the Secretary, who shall be a member of the Board, to keep a record, or cause a record to be kept, of the proceedings of the meetings of the Board and the District. The Secretary shall serve, or cause to be served, all notices required to be served by law of the Bylaws of the District; and, in case of the Secretary's absence, inability, refusal, or neglect to do so, then such notices may be served by any member of the board directed by the Chair.

Section 4: Treasurer. The Treasurer, who shall be a member of the Board, shall account for all funds of the District, and shall pay out of the Depository only on the checks of the Chair, or someone authorized on the Chair's behalf, countersigned by the Treasurer or someone on the Treasurer's behalf. Deposits and disbursements may be accomplished electronically if generally accepted and proper financial controls are implemented. At each annual meeting of the District, the Treasurer shall submit, for the information of the Participating Members, a complete statement of account for the past year and shall discharge such other duties pertaining to the Treasurer as shall be prescribed by the Board.

Article 12: Books and Records: The books and records of the District, and such papers as may be placed on file by a vote of the Board of Directors shall, during reasonable hours mutually adopted by the inquirer and the District's clerk, be subject to inspection according to law. The Kansas Open Records Act (KORA), which applies to the District, mandates that all official records of the District are available for public review. The District shall maintain a Web site accessible to the general public. The following documents will be posted on said Web site:

- (a) Bylaws
- (b) Rules and Regulations
- (c) Financial Statements
- (d) Budgets
- (e) Minutes of Annual Meetings
- (f) Water Meter Application
- (g) Water User's Agreement
- (h) Water Conservation Plan

Documents maintained by the District will be available to the public and the District may charge reasonable fees for access to records, copies of records, and staff time for processing requests. However, the District, as allowed by KORA, will not publish or provide identifiable customer information to any participating member or any third party.

Article 13: Annual or Special Meetings of Participating Members:

Section 1: The annual meeting of the Participating Members of the District shall be held at some suitable location designated by the Board in accordance with K.S.A. 82a-626 as amended. The current statutory requirement for annual meetings of members is that the meeting will be held between January 1 and April 1 of each year following the year of incorporation of such district. The board of directors shall cause notice of the time and place of each annual meeting and the purpose thereof to be mailed or emailed to each of its participating members. Every such notice shall be distributed not less than 10 nor more than 30 days prior to any such meeting but no failure or irregularity of a notice of any annual meeting, regularly held, shall affect any proceedings at the meeting.

Section 2: Special meetings of Participating Members may be called at any time by the Chair or upon resolution of the Board by a majority vote, or upon written petition to the Chair of the Board, signed by 51% or more of the Participating Members of the District. The purpose of every special meeting shall be stated in the notice thereof and no

business shall be transacted except such as is specified in the notice.

Section 3: Annual and Special meetings of participating members shall adhere to the rules and regulations set forth within the Kansas Open Meetings Act (KOMA).

Section 4: The Participating Members present at any meeting of Participating Members shall constitute a quorum for the purpose of transacting business.

Section 5: The order of business at the annual meeting and, so far as possible, at all other meetings shall be:

- (a) Call to order;
- (b) Proof of notice of meeting;
- (c) Reading and approval of minutes of last meeting;
- (d) Report of officers and committees;
- (e) Unfinished business;
- (f) Election of directors;
- (g) New business;
- (h) Adjournment.

Article 14: Monthly Board Meetings:

Section 1: The Board shall meet immediately following the annual meeting of Participating Members, for the purpose of electing the Chairman, Vice-Chairman, Secretary, and Treasurer of the Board. The Board may meet at such other times as may be determined, or upon the call of the Chair or any two members of the Board. The Board shall designate a monthly meeting date, time, and location, which will be communicated to each Director at least two weeks prior to the scheduled meeting. The District's clerk will ensure that all Directors are timely notified of any special meetings apart from the regularly scheduled monthly meeting.

Section 2: Monthly board meetings of participating members shall adhere to the rules and regulations set forth within the Kansas Open Meetings Act (KOMA).

Article 15: Manner of Election and Voting: At all meetings of the District each

Participating Member, qualified as stated in these Bylaws, shall be entitled to vote upon all propositions coming before said District. No cumulative voting shall be permitted and each Participating Member of the District shall have one vote. The methodology of voting will be determined and administered by the Board.

Article 16: Seal: The District shall have a corporate seal, consisting of a circle having on its circumference and face the words, "Rural Water District No. 6, Douglas, County, Kansas," which shall be in the custody of the Secretary.

Article 17: Fiscal Year: The fiscal year of the District shall begin the first day of January of each year.

Article 18: Amendment: These Bylaws may be repealed or amended by a vote of 3/4ths of the Participating Members present at any regular meeting of the District or at any special meeting of the District called for that purpose except that the Participating Members shall not have the power to change the purpose of the District so as to impair its rights and powers under the laws of the State of Kansas or to waive any requirement of bond or other provision for the safety and security of the property and funds of the District or its Participating Members or to deprive any Participating Member or landowner of rights and privileges then existing or to so amend the Bylaws as to affect a fundamental change in the policies of the District. Notice of any amendment to be made at any regular or special meeting of the Participating Members must be given at least 10 days before such meeting and must set forth the amendments to be considered. Article 18 of these Bylaws may not be repealed or amended.

Article 19: Basis of Operation: The District shall at all times be operating on a non-profit basis for the mutual benefit of its Participating Members. However, this provision shall not restrict the ability of the District to establish rates or develop territory to obtain funds sufficient for reasonable reserves, future expansions or acquisition of supply and treatment facilities.

Article 20: Benefits and Duties of Participating Members:

Section 1: The District shall install, own, maintain and operate a water distribution system to the point of delivery, which point shall be the discharge side of the water meter located at the property line.

Section 2: Each Participating Member shall be entitled to purchase from the District such water as the participating Member may desire, subject however, to the provisions of these Bylaws and such Rules and Regulations as may be prescribed by the Board. The water delivered to each Participating Member shall be metered.

Section 3: In the event the total water supply is insufficient to meet all of the needs of the Participating Members and users, or in the event there is a shortage of water, the District may prorate the water available according to the Water Conservation Plan as approved by the Board.

Section 4: Each Participating Member is responsible for proper care of the District's water distribution system to include water meters serving a Participating Member's property. Any and all damage, apart from normal wear and tear, and irrespective of cause, is the responsibility of the Participating Member utilizing the subject meter. The District will maintain a schedule of charges for repairing or replacing a damaged meter. Appropriate charges for replacing or repairing a damaged meter will be billed to the Participating Member subject to the provisions of Article 7.

Section 5: There shall be no non-metered physical connection between any private water system and the water system of the District. Should reasonable suspicion exist that a non-metered connection exists, representatives of the District shall have the right at all reasonable hours to enter upon the consumer's premises for the purpose of inspection and enforcement of this provision. Violation of this provision shall constitute cause for disconnection of a consumer's service.