

## **SECTION 11 – MISCELLANEOUS**

### **11.1 BBWD Boundaries**

The BBWD boundaries, as established by Ordinance No. 848, are depicted on Appendix II.

### **11.2 Service Area**

The service area of the District is that area within the District boundary as established by County Ordinance.

### **11.3 Special Conditions**

In the event that conditions arise which are not specifically covered by these Rules, the Board of Trustees may take whatever action, including establishing rates and charges which, in their discretion, is warranted.

### **11.4 Effective Date**

These Rules shall become effective on the date specified by the Board in its motion for adoption.

### **11.5 Interpretation and Application**

Except for the provisions put forth in Section 1, Water Commitment, the General Manager shall have discretion in the interpretation and application of these Service Rules. This discretion shall be exercised to maintain equity among users with full documentation that will accomplish the intent of the rules, policies, and procedures of the BBWD and protect the public health, safety, and welfare.

### **11.6 Water Use Limitations**

In the event of water shortages, emergency conditions, or inability of the delivery system to provide adequate volumes of water the General Manager shall have the authority to limit water usage. Any actions taken by the General Manager pursuant to this section shall be reviewed by the Board at its next regularly scheduled meeting in complete compliance with Chapter 241 of NRS. The BBWD, may enforce any action taken under these sections by any legal means, including disconnection of a customer's water service.

### **11.7 Expansion of Facilities - BBWD Financing**

As the need arises, as determined solely by the BBWD, the BBWD will construct major facilities required to provide an adequate water supply, including wells, transmission mains, reservoirs, and pumping stations from proceeds of General Obligation Bond sales. As BBWD funds are available, the Board may direct the BBWD to construct main extensions and other improvements that are required to improve or reinforce the distribution system.

### **11.8 Customer's Premises**

BBWD employees shall have the right to access to customer's property at all reasonable hours for any purpose related to the furnishing of service and protection of water quality. Except where specifically authorized for purpose of conservation, employees are prohibited from entering upon customer's premises to engage in repair or alteration of customer piping and fixtures.

### **11.9 Continuity**

Adoption of these rules shall not be construed as a waiver of any right or obligation under any prior agreement, contract, or commitment.

### **11.10 Administrative Appeal**

#### **a. Administrative Appeal Process**

An Applicant or customer who is aggrieved by a denial of any water service request may appeal that decision within ten (10) days from written notice of the denial by the BBWD. Written notice of appeal shall be served upon the General Manager, who shall conduct a review of the grounds alleged for appeal. Upon receipt of the General Manager's decision, the aggrieved party has 10 days to appeal that decision to the Board.

#### **b. Rules of Administrative Appeal**

1. Any notice given in accordance with this Section shall commence to run on the day following the mailing of the decision addressed to the Applicant or customer at the address used by such person on their application.
2. The burden of proof is on the party appealing the decision.
3. All notices of appeal shall clearly identify the matter appealed and as concisely as possible, state the argument for reversal of the decision appealed from.
4. Review by the General Manager shall be conducted and completed within 30-days of the receipt of the written notice of appeal.
5. Not later than 30-days from the date of notice of appeal from the action of the General Manager, the Board shall set the date for the public hearing at a regular meeting of the Board, within not less than 30-days.
6. The Board may reverse the final decision of the General Manager if it is:
  - a. In violation of constitutional, statutory, or Big Bend Service Rules rights.
  - b. Clearly erroneous in view of the reliable probative and substantial evidence of the hearing
  - c. Arbitrary or capricious or characterized by abuse of direction

## c. Hearing Procedure

The following procedures shall apply to Administrative Appeals heard before the Board:

1. The proceedings shall be reported either stenographically or by a phonographic reporter
2. Oral evidence shall be taken only upon oath or affirmation
3. Every party to a hearing shall have the right to:
  - a. Call and examine witnesses
  - b. Introduce exhibits relevant to the issues of the case
  - c. Cross-examine opposing witnesses on any matter relevant to the case, even though the matter was not covered in a direct examination
  - d. Offer rebuttal evidence
4. The hearing is not conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted and may be sufficient in itself to support a finding if it is the sort of evidence that responsible persons are accustomed to rely on during the conduct of serious affairs, regardless of common law or statutory rule that might make improper the admission of such evidence over objection in an action in a court of law.
5. The Board may take official notice of any generally accepted information or technical or scientific matter, any other fact that may be judicially noticed by the courts of this state and the content of any BBWD record or official report. Parties shall be informed of any information, matters or facts so noticed, and shall be given a reasonable opportunity to refute such information, matters, or facts.

**11.11 Business Impact Statement Appeals**

A petition authorized by NRS Chapter 237 shall be filed with the General Manager or their designee. The petition must meet the requirements as set forth in NRS Chapter 237 and will be reviewed by the General Manager within sixty days (60) from receipt. The petition will be scheduled for Board review at the first meeting following the review process.