

**NEW BRAUNFELS UTILITIES
WATER-WASTEWATER EXTENSION POLICY**

TABLE OF CONTENTS

<u>Section Number</u>		<u>Page Number</u>
<i>ARTICLE I – GENERAL PROVISIONS</i>		
1.01	Applicability	1
1.02	Definitions	1
1.03	Service Extension	2
1.04	Administrative Approval	4
1.05	Approval of Improvements	4
1.06	Construction of Improvements	5
1.07	Expiration of Service Extension	5
1.08	Fiscal Security	6
1.09	Hardship Policy	6
<i>ARTICLE II – COST REIMBURSEMENT & RECOUPMENT FEES</i>		
2.01	Eligible Projects	7
2.02	Determining Amount of Reimbursement	7
2.03	Amount of Cost Participation	8
2.04	Service Extension Contract Required	8
2.05	Approval Process	9
2.06	Conditions of Cost Reimbursement	10
2.07	Payment	10
2.08	Recoupment Fees for NBU Project	11
2.09	Exemptions	12
<i>EXHIBITS</i>		
	Exhibit A – NBU Standard Pipe Sizes	13

ARTICLE I
GENERAL PROVISIONS

Section 1.01 APPLICABILITY

This subpart applies to the approval and construction of a service extension other than a service extension that is constructed as part of (1) a capital improvement program of New Braunfels Utilities or, (2) a project initiated by New Braunfels Utilities; and to the establishment and collection of recoupment fees and cost participation for oversizing for purposes of reimbursing developers or property owners or recouping costs incurred by New Braunfels Utilities for installation of water or wastewater lines or associated facilities.

Section 1.02 DEFINITIONS

In this policy statement:

- (1) ASSOCIATED FACILITY means an apparatus or improvement that is used in conjunction with a water or wastewater line that provides water or wastewater service to a tract of land, regardless of where the associated facility is located. The term includes a lift station, force main, pump station, storage tank, or an addition to an existing facility that increases the capability of the existing facility to provide water or wastewater service.
- (2) CITY means City of New Braunfels, Texas.
- (3) CONSTRUCTION, with reference to a facility, means only the actual physical construction of the facility. The term does not include the designing of, surveying for, or laying out of a facility that occurs before the physical construction of the facility.
- (4) DEVELOPER means the person, business, corporation or association responsible for the development of a lot, parcel or tract, and includes the property owner or subdivider.
- (5) CHIEF EXECUTIVE OFFICER means the Chief Executive Officer of New Braunfels Utilities, or the designee of the Chief Executive Officer.
- (6) OVERSIZE, with reference to a water or wastewater line or an associated facility, means an increase in the size or capacity of the line or associated facility above the minimum size or capacity, including fire flow requirements, that is necessary to provide utility service to a particular development.

(7) RECOUPMENT FEE means a charge made against a lot, tract or parcel for purposes of reimbursing New Braunfels Utilities or a developer a proportionate share of the costs of extending a water or wastewater line and associated facilities that serves the property against which the charge is made.

(8) SERVICE EXTENSION means a water or wastewater line or an associated facility that is necessary to extend water or wastewater service from a major New Braunfels Utilities transmission main or collection main to a tract of land and across the tract or frontage of the tract to a point determined by the Chief Executive Officer to be consistent with further service extensions of New Braunfels Utilities, provided that the extension does not extend beyond the property boundaries of the tract.

(9) SERVICE EXTENSION APPLICATION means a request in writing to New Braunfels Utilities for extension of water or wastewater service to a development.

(10) SERVICE EXTENSION CONTRACT means a legal document that defines the responsibilities and requirements of the entity requesting a service extension and New Braunfels Utilities with regard to the service extension. A service extension contract may be required at the sole discretion of New Braunfels Utilities.

(11) WATER OR WASTEWATER LINE means a necessary appurtenance to a water distribution or wastewater collection system. The term includes a valve, manhole, connection, air release, diversion, and other equipment necessary to make the water distribution or wastewater collection system operable in compliance with the design criteria and standards in the Water/Sewer Connection Policy Manual.

(12) NBU Standard Size means the size of water or wastewater main line needed to serve a particular development as determined by New Braunfels Utilities from time to time, set forth in Exhibit A attached to this policy.

(13) NBU means New Braunfels Utilities.

Section 1.03 SERVICE EXTENSION REQUIREMENTS AND APPLICATION

(A) The developer or property owner shall extend all water and wastewater lines and associated facilities needed to connect the development or land use with New Braunfels Utilities' approved water distribution system and wastewater collection system. The developer or property owner shall extend all lines across the property currently being developed or to the point on such property from which such lines will be extended to serve adjoining land as determined by New Braunfels Utilities. NBU also as a condition of acceptance of water and wastewater lines may require

conveyance of an easement across other contiguous property owned by the developer for purposes of future extension of the water or wastewater lines. All initial costs of installing such facilities, including the costs of oversizing, shall be borne by the developer or property owner, subject to reimbursement from proceeds of recoupment fees pursuant to Article II and subject to limitations provided in Section 2.03. Requests for extension of water and wastewater lines shall be as provided for in this section.

- (B) A service extension application is required to:
- (1) connect a tract of land to the existing New Braunfels Utilities system;
or
 - (2) to provide utility service to a tract of land if an existing line or associated facility is unsuitable or insufficient to provide service to the tract.
- (C) A developer or property owner must submit an application for a service extension to the Chief Executive Officer of New Braunfels Utilities.
- (D) An application for a service extension must:
- (1) include a general description of the location, size, and capacity of the service extension; and
 - (2) if outside the corporate limits of the City, be accompanied by an irrevocable petition to the City for voluntary annexation at such time and under such conditions as deemed appropriate by the City.
- (E) If either water or wastewater service is to be provided by an entity other than New Braunfels Utilities, the application must be accompanied by evidence of a commitment from the other entity to provide the other required service. The evidence must be in the form of:
- (1) a contract with the entity;
 - (2) a letter from the entity; or
 - (3) the minutes of the relevant meeting of the governing body of the entity.

Section 1.04 ADMINISTRATIVE APPROVAL OF A SERVICE EXTENSION APPLICATION

(A) The Chief Executive Officer of New Braunfels Utilities may approve an application or contract for a service extension if:

- (1) the requested service extension does not include a request for establishment of recoupment fees or cost participation by New Braunfels Utilities; and
- (2) the Chief Executive Officer of New Braunfels Utilities determines that sufficient capacity exists or will be available to meet the projected demands of the development or land use to be served.

(B) If a requested service extension includes a request for establishment of recoupment fees or cost participation by New Braunfels Utilities, or if the Chief Executive Officer of New Braunfels Utilities does not determine that sufficient capacity exists or will exist, the application must be processed under Sections 2.04 (Service Extension Contract Required) and 2.05 (Approval Process) and requires a service extension contract.

Section 1.05 APPROVAL OF IMPROVEMENTS

(A) After a service extension application or service extension contract has been approved, an applicant must submit the construction plans for needed improvements to the Chief Executive Officer of New Braunfels Utilities for review and approval of the size, capacity, and routing of the improvements.

(B) The Chief Executive Officer of New Braunfels Utilities may approve the size, capacity, or routing of an improvement only if it complies with generally accepted engineering practices, the Water/Sewer Connection Policy Manual and each applicable New Braunfels Utilities requirement.

(C) Water and wastewater lines shall be oversized where needed to provide capacity to other existing or new developments in the area to be served in order to avoid duplication of facilities, in conformity with New Braunfels Utilities' generally accepted engineering practices.

(D) The location and size of all water and wastewater lines necessary to serve land to be developed shall be in accordance with New Braunfels Utilities' generally

accepted engineering practices and in accordance with the City's subdivision regulations.

(E) When an existing water or wastewater line provides service to a proposed development, the developer shall pay all applicable recoupment fees pursuant to Article 2 for the water line or wastewater line before extension of or connection to such main is made.

Section 1.06 CONSTRUCTION OF IMPROVEMENTS

An applicant for a service extension shall provide information determined by the Chief Executive Officer of New Braunfels Utilities to be necessary to demonstrate that construction of the service extension complies with the requirements of New Braunfels Utilities.

Section 1.07 EXPIRATION OF SERVICE EXTENSION APPROVAL

(A) Unless extended under Subsection (B) or (C), the approval of a service extension application remains valid until the latest of:

(1) the date on which the preliminary plan expires for the property to be served by the service extension;

(2) the second anniversary of the date on which the service extension application was approved, if on or before that date:

(a) a preliminary plan for the property to be served has not been approved; and

(b) construction of the service extension has not begun; or

(3) the third anniversary of the date on which the service extension application was approved, if:

(a) on or before that date a preliminary plan for the property to be served has not been approved; and

(b) construction of the service extension began before the second anniversary of the date on which the service extension was approved, but on or before the third anniversary of that date, construction of the service extension has not been completed and accepted for operation and maintenance by New Braunfels Utilities.

(4) the date established in the service extension contract.

(B) If construction of a service extension begins before the approval ceases to be valid under Subsection (A), the Chief Executive Officer of New Braunfels Utilities may extend the approval of a service extension for the period of time estimated to be necessary to complete construction of the service extension.

(C) Under this section, if the approval of a service extension requires a service extension contract:

(1) construction of the service extension shall not begin until fiscal security is posted or money is deposited in compliance with Section 1.08; and

(2) the service extension approval is extended until construction of the service extension is complete and New Braunfels Utilities accepts the lines and associated facilities constructed under the contract.

Section 1.08 FISCAL SECURITY

(A) For construction contracts administered by New Braunfels Utilities, the fiscal security in an amount equal to 100 percent of the estimated cost of the service extension must be deposited in cash with New Braunfels Utilities prior to entering into a construction contract.

(B) For construction contracts administered by a party other than New Braunfels Utilities, the fiscal security must be posted prior to the execution of a construction contract and must be in the form of:

(1) an irrevocable letter of credit that has a minimum term of three years and is acceptable to New Braunfels Utilities; or

(2) a performance bond; or

(3) a cash deposit.

Section 1.09 HARDSHIP POLICY

(A) New Braunfels Utilities may, at its expense and in its sole discretion, upon written request of a property owner, extend a water or wastewater line of a size determined by New Braunfels Utilities to serve a single dwelling unit if funds are available to pay the cost of installing the line and the extension meets the standards in subsection (B).

(B) The person requesting the extension must demonstrate that (1) a substantial hardship would result if the extension is not made, (2) denial of the extension would result in potential water quality degradation, and (3) the extension is necessary to provide like benefits to similarly served property. New Braunfels Utilities may require that the property owner making the request share in the costs of extending the water or wastewater line, and that the property owner grants all necessary easements to continue line extensions to serve adjoining land.

(C) This policy has no application to circumstances in which multiple connections are requested or necessary to serve existing or proposed development, or in which New Braunfels Utilities determines to initiate construction of a water or wastewater line or associated facility that serves multiple users. This policy may not be invoked to finance serial connections to lots in an existing subdivision.

ARTICLE II

Cost Reimbursement & Recoupment

2.01 ELIGIBLE PROJECTS

A developer or property owner that agrees to construct a water or wastewater line or an associated facility that on acceptance will become part of New Braunfels Utilities water and wastewater system and which supplies capacity to other existing or new developments, may apply to New Braunfels Utilities to establish recoupment fees to be paid by other users of the facilities and to reimburse the developer or property owner a proportional amount of the costs of constructing such improvements. The developer or property owner also may apply for cost participation by New Braunfels Utilities for the costs of oversizing water or wastewater lines in excess of one size larger than the NBU Standard Size required to serve the development.

Section 2.02 STUDY DETERMINING AMOUNT OF COST REIMBURSEMENT

The amount of the cost reimbursement for an improvement, if any, shall be based on engineering cost estimates agreed upon in writing by the Chief Executive Officer and the applicant, and verified in a study provided by the applicant. The study shall

aggregate the costs of associated improvements where feasible. New Braunfels Utilities may establish guidelines for eligible costs to administer the policy in this section. The study shall contain the following minimum elements:

- (1) identification of the area and all properties to be served by the water or wastewater lines or associated facilities to be installed;
- (2) identification of the costs of the facilities to be installed;
- (3) apportionment of the costs of the facilities to be installed among lots, tracts or parcels to be served by the improvements, based upon capacity to be utilized by such properties, using accepted engineering standards and practices;
- (4) calculation of the maximum amount of the costs which are to be reimbursed to the developer or property owner, net of costs attributable to the developer's or property owner's utilization of capacity of the lines or associated facilities; and
- (5) calculation of a recoupment fee to be charged per unit of land that is to be connected to the water or wastewater lines or associated facilities.

Section 2.03 AMOUNT OF COST PARTICIPATION

NBU in its sole discretion shall determine the amount of any cost participation based on engineering estimates of the costs attributable to the increase in the size of lines exceeding one size larger than the NBU Standard Size, taking into consideration the degree to which the need for such oversizing is created by the development for which service extension is being requested.

Section 2.04 SERVICE EXTENSION CONTRACT REQUIRED

- (A) The applicant for approval of a service extension must request the establishment of recoupment fees or cost participation in writing at the time the applicant applies to the Chief Executive Officer of New Braunfels Utilities for approval of the service extension. If the applicant for approval of a service extension requests establishment of recoupment fees or cost participation, a written service extension contract is required.
- (B) The service extension contract shall include at a minimum the recoupment fee and cost participation, if any, approved by NBU, the duration of the right to collect recoupment fees, and provisions for forfeiture of such fees to NBU

in the event they are not collected by the contracting party, his successor-in-interest, or assignee.

- (C) An executed service extension contract may be assigned by the party requesting service extension with the written consent of New Braunfels Utilities, which shall not be unreasonably withheld.

Section 2.05 APPROVAL PROCESS

- (A) The Chief Executive Officer of New Braunfels Utilities shall review each request for cost reimbursement from recoupment fees or cost participation for oversizing lines.
- (B) The Chief Executive Officer of New Braunfels Utilities may approve the study for cost reimbursement from recoupment fees or cost participation for oversizing lines, with or without modifications, only if the Chief Executive Officer of New Braunfels Utilities, or the Board of Trustees on review of the Chief Executive Officer decision, determines that:
 - (1) the line(s) to be extended has not been included on the impact fee capital improvements plan for that category of capital improvement;
 - (2) the size of each proposed line or facility complies with the generally accepted engineering practices and other planning criteria of the New Braunfels Utilities and final design and routing will comply with the Water/Sewer Connection Policy Manual;
 - (3) the study proposing recoupment fees fairly apportions the extension costs among prospective users of the facilities to be installed;
 - (4) the proposed line or facility is a reasonable extension or addition to the water and wastewater utility system; and
 - (5) funds for participation in the costs of oversizing lines are available from an identified source of funds or that funds will be available to meet the proposed payment schedule.
- (C) Requests which are not approved by the Chief Executive Officer of New Braunfels Utilities under (B), may be presented to the Board of Trustees for further consideration at the discretion of the Chief Executive Officer.

- (D) Upon approval of the request for reimbursement from recoupment fees, any development on or user of property identified in the approved fee study thereafter that connects to or utilizes the capacity of the water or wastewater line or associated facility for which a recoupment fee has been established shall pay the applicable fee. Recoupment fees shall be collected by New Braunfels Utilities before construction commences on any water or wastewater improvements to serve such land or before connection to the facility, whichever first occurs.

Section 2.06 CONDITIONS OF COST REIMBURSEMENT

- (A) A developer or property owner constructing a water or wastewater line or an associated facility that is eligible for cost reimbursement from recoupment fees or cost participation for oversizing may not receive cost reimbursement payment for the line or facility unless the entity complies with each requirement or regulation of New Braunfels Utilities relating to:
 - (1) the public advertising of the line or facility;
 - (2) the bidding on the line or facility;
 - (3) a performance or payment bond for the line or facility; and
 - (4) a warranty on the line or facility.
- (B) The developer or property owner constructing the line or facility is not entitled to receive a cost reimbursement payment from recoupment fee proceeds or cost participation for oversizing lines until the entity submits documentation showing the entity's compliance with each requirement described by Subsection (A) and the line or facility is accepted in writing by New Braunfels Utilities.

Section 2.07 PAYMENT OF COST PARTICIPATION AND RECOUPMENT FEES

- (A) For projects subject to a service extension contract approved by NBU by April 1 of any year, New Braunfels Utilities shall pay the developer or property owner holding the extension contract any eligible cost reimbursement for oversizing, without interest, within 60 days of completion and acceptance of the project by NBU, but no earlier than the following September 1.

- (B) For projects for which a service extension contract is approved by NBU after April 1 of any year, New Braunfels Utilities shall pay the developer or property owner holding the extension contract any eligible cost reimbursement for oversizing, without interest, for a completed and accepted project within 60 days of completion and acceptance of the project by NBU but no earlier than September 1 of the next calendar year.
- (C) For a period of 15 years following New Braunfels Utilities' acceptance of the water line, wastewater line, or associated facility, the developer or property owner shall be entitled to reimbursement from the proceeds of the recoupment fees established pursuant to this section, up to the maximum amount of the reimbursement established in the approved recoupment fee study. New Braunfels Utilities may deduct two (2) percent of the amount of recoupment fees collected from the amount of the fees reimbursed to the developer or property owner as an administration fee.
- (D) Recoupment fees, which have been collected pursuant to the service extension contract, shall be paid to the developer or property owner annually no later than October 1 of each year, until the term of the agreement expires.
- (E) New Braunfels Utilities may establish one or more recoupment fee accounts for purposes of administering the policies of this Article. New Braunfels Utilities shall deposit all recoupment fees collected pursuant to this article into such account(s). Expenditures from such accounts shall be earmarked solely for reimbursement of developers or property owners for the installation of water lines or wastewater lines or associated facilities for which recoupment fees have been established pursuant to this article.
- (F) It shall be the responsibility of the service extension contract holder or his assignee to provide to NBU in writing current contact information. NBU will mail reimbursement payments to the last contact of record reflected on it books. In the event that the service extension contract holder or his assignee has not collected recoupment payments or cost participation in oversize lines sent to the contact of record for a period of one year from the date such payments are due pursuant to this section 2.07, such accrued amounts shall become the funds of NBU for purposes of expenditure on cost participation for oversizing lines or other system improvements in NBU's sole discretion.

2.08 RECOUPMENT FEES FOR NEW BRAUNFELS UTILITIES PROJECT

- (A) New Braunfels Utilities may initiate capital projects from time to time involving construction of water or wastewater lines or associated facilities, and may seek to recoup its costs through establishment of recoupment fees.
- (B) Prior to establishing fees, New Braunfels Utilities shall cause a study to be prepared that satisfies the requirements of section 2.02. The Board of Trustees shall establish recoupment fees based upon the approved study, with or without modification.
- (C) Following establishment of recoupment fees by the Board, any development on or user of property identified in the approved recoupment fee study thereafter that connects to or utilizes the capacity of the water or wastewater line or associated facility for which a recoupment fee has been established shall pay the applicable fee. Recoupment fees shall be collected by New Braunfels Utilities before construction commences on any water or wastewater improvements to serve such land or before connection to the facility, whichever first occurs.
- (D) Recoupment fees established under this section may be collected for a period of ten (10) years following final construction by New Braunfels Utilities of the waterline, wastewater line, or associated facility.

2.09 EXEMPTIONS

This Article II shall not apply to any project for which cost participation for oversizing lines was approved by the Board of NBU pursuant to the rules in effect immediately preceding these rules.

EXHIBIT A

NBU Standard Pipe Sizes

WATER

8 inch

12 inch

24 inch

30 inch

WASTEWATER

8 inch

12 inch

15 inch

18 inch

24 inch

30 inch