

NEW BRAUNFELS UTILITIES
IMPACT FEE POLICY
(CAPITAL RECOVERY POLICY)
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ARTICLE I GENERAL PROVISIONS

Section 1.01 General Policy Statement

Economic growth is stimulated when water and wastewater facilities are available for new development at reasonable cost, and such economic growth expands the ratepayer base. It is the policy of New Braunfels Utilities (“NBU”) to establish a comprehensive system, consistent with state law and the ordinances of the City of New Braunfels (the “City”), to assure that the costs of capital improvements and facility expansions made by NBU on account of new development are fairly distributed between the owner of the new development and the ratepayers. The City has passed and adopted Ordinance No. 2000-48, the Water and Wastewater Capital Recovery Fees Ordinance and subsequent amendments thereto (the “Ordinance”) authorizing the collection of water and wastewater capital recovery fees and directing NBU to establish a policy with respect to implementation of the Ordinance. This Policy shall replace all previous policies with respect to capital recovery fees charged for lots with final plats dated on or after the effective date of this Policy.

Section 1.02 Authority

NBU is authorized to adopt this Policy pursuant to the Ordinance. NBU has been directed in such Ordinance to implement and administer the provisions of the Ordinance in accordance with Chapter 395 of the Texas Local Government Code, as amended (the “Act”).

Section 1.03 Definitions

Words and terms used in this Policy shall have the same meaning and definition as contained in Section 395.001 of the Act.

As applied and used in this Policy statement, the following words and terms shall be used and shall have the meaning and definition set forth herein whether or not the term is capitalized:

- A. Assessment means a determination of the amount of the impact fee in effect on the date or occurrence provided in this Policy and is the maximum amount that can be charged per service unit of such development.
- B. Capital Improvement means any of the following facilities that have a life expectancy of three or more years and are owned and operated by or on behalf of NBU: water supply, treatment, and distribution facilities;

wastewater collection and treatment facilities; whether or not they are located within the service area.

- C. Capital Improvements Plan (CIP) means a plan that identifies water and wastewater capital improvements or facility expansions pursuant to which impact fees may be assessed and collected.
- D. Capital Recovery Fee means and refers to an impact fee for water or wastewater facilities as defined in the Act.
- E. CEO means the Chief Executive Officer of NBU.
- F. Collection Rate means the amount of a capital recovery fee per LUE NBU collects pursuant to Schedule 3; provided; however, that such amount shall never exceed the maximum capital recovery fee per LUE assessed by the City as described in Schedule 2.
- G. Existing Development means a development within the service area that is not a new development and which has a water meter and/or wastewater connection, whether on the NBU system or other centralized water or wastewater system, as of the date of the latest update of capital recovery fees and adoption of the Ordinance.
- H. Facility Expansion means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement in order that the existing facility may serve new development. Facility expansion does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.
- I. Final Plat means the map, drawing or chart on which is provided a developer's plan of a subdivision or development, and which has received final approval by the Planning and Zoning Commission or City Council and which is recorded with the office of the County Clerk. Final Plat includes final approval of a subdivision plat, a development plat, a minor plat, or an amending plat. Final plat also includes a replat.
- J. Fire Line Tap means the unmetered connection of a privately owned water line to an NBU water line to provide water for a qualified fire protection system.
- K. Impact Fee means a charge or assessment imposed upon new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges,

lump-sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described by this definition.

- L. Land Use Assumptions includes the description of the service area and the projections of changes in land uses, densities, intensities, and population in the service area over at least a 10-year period, adopted by the City, as may be amended from time to time, upon which the capital improvement plan is based.
- M. Living Unit Equivalent (LUE) means the basis for establishing equivalency among and within various customer classes based upon the relationship of the continuous duty maximum flow rate in gallons per minute for a water meter of a given size and type compared to the continuous duty maximum flow rate in gallons per minute, using American Water Works Association C700-C702 standards. LUEs for water meters are set forth on Schedule 1 attached to this Policy. For multifamily development utilizing master meters, each dwelling unit is equivalent to 0.5 LUE; master meters are not used for determining the number of LUEs for the development. One LUE is one service unit.
- N. New Development means the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units.
- O. Service Area means the area shown on the service area maps maintained in NBU's offices to be served by the capital improvements or facilities expansions in the capital improvements plan.
- P. Service Unit means the standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements or facility expansions, expressed in LUEs.
- Q. Site-related facility means an improvement or facility that is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of water or wastewater facilities to serve the new development, which is not included in the capital improvements plan, and for which the developer or property owner is responsible under subdivision or other applicable regulations.
- R. Tap means the joining on public property by any mechanical means of a new water or wastewater line to an existing NBU water or wastewater pipeline.

- S. Wastewater Service Connection means the connection of a wastewater service line to an NBU wastewater line to serve a single customer.
- T. Water Service Connection means the connection of a water service line to an NBU water line and the installation of a water meter to provide a metered water source to a single customer.

Section 1.04 Capital Recovery Fees as Conditions of Development Approval

As set out in the Ordinance, no new development shall be approved without assessment of capital recovery fees pursuant to the Ordinance and this Policy.

ARTICLE II ADOPTION OF CAPITAL RECOVERY FEES

Section 2.01 Water and Wastewater Service Areas

The water and wastewater service areas for capital recovery fee purposes have been approved by the City Council. The maps showing such service areas are maintained in NBU's offices and on NBU's website.

Section 2.02 Land Use Assumptions

Land use assumptions used in the development of capital recovery fees in the Ordinance have been approved by the City Council and are being maintained in NBU's offices and on NBU's website.

Section 2.03 Living Units Equivalent

- A. As defined in the Ordinance, LUE is the standardized measure referred to in the definition of "service unit" in this Policy. Service units are established in accordance with generally accepted engineering and planning standards.
- B. Upon water meter and/or wastewater connection purchase, the LUE service units for the basis of charging a capital recovery fee shall be calculated based on the size of the water meter(s) for the development as indicated on Schedule 1 attached, except that for master-metered multifamily developments, the number of LUEs shall be based on the number of dwelling units contained in the development, with each dwelling unit equal to 0.5 LUE; or alternatively, based on engineering reports acceptable to NBU, prepared by qualified professional engineers licensed to perform such professional engineering services in the State of Texas, which demonstrate that the number of LUEs of service for the new development will be less than those indicated by the size of the water meter.
- C. If NBU staff determines that the water pressure in the NBU transmission main is significantly higher or lower than standard pressure such that the size of the water meter is not indicative of actual service demand, the number of LUEs based on a smaller or larger sized meter that more accurately reflects the flow rate and the system pressure conditions may be adjusted.

- D. Water demand for a new development related solely to fire protection shall be supplied through unmetered infrastructure.
- E. Upon wastewater service connection for which no water service connection has been purchased, LUEs shall be established by a professional engineer licensed in the State of Texas and approved by NBU staff.

Section 2.04 Capital Recovery Fees Per LUE

- A. The maximum capital recovery fee assessed per LUE is reflected on Schedule 2 attached to this Policy and described in Section 2.05. This maximum capital recovery fee has been adopted by the City Council pursuant to the provisions of the Act, and NBU may not charge capital recovery fees in excess of the maximum capital recovery fee per LUE as established by the City, and as such maximum capital recovery fee schedule shall be amended from time to time by the City.
- B. Capital recovery fees to be collected by NBU have been adopted by the Board of Trustees of NBU in accordance with the Ordinance. The capital recovery fees per LUE to be collected are set forth on Schedule 3 attached to this Policy and described in Section 2.07. Capital recovery fees to be collected shall be recommended by a majority vote of the NBU Board of Trustees in an amounts less than or equal to the maximum capital recovery fee assessed by the City and reflected on Schedule 2 attached to this Policy. Any such recommendations shall occur at a regular or special meeting of the NBU Board of Trustees at which comments shall be heard concerning the merits of the change in collection rate.

Section 2.05 Assessment of Capital Recovery Fees

- A. The approval of any subdivision of land or of any new development shall include as a condition the assessment of the capital recovery fee applicable to such development.
- B. Assessment of the capital recovery fee for any new development shall be made as follows:
 - 1. Capital recovery fees shall be assessed against new development using the maximum capital recovery fee per LUE in Schedule 2 attached to this Policy.
 - 2. For a new development for which final plat recordation occurred after June 20, 1987, assessment shall occur at the time of such plat recordation, and shall be the amount of the maximum capital recovery fee per LUE in effect on the date of such final plat

recordation.

3. For (i) a new development on land which is unplatted at the time of application for a water meter and/or wastewater connection purchase and for which platting is not required, or (ii) for a new development for which final plat recordation occurred on or before June 20, 1987, and for which replatting is not required, assessment shall occur at the time of application for a meter purchase, and shall be the amount of the maximum capital recovery fee per LUE then in effect.
- C. Following assessment of the capital recovery fee pursuant to Section 2.05B, the capital recovery fee per LUE to be collected for a new development cannot be increased above the maximum capital recovery fee per LUE assessed by the City, unless the owner proposes to increase the number of LUEs for the development, in which case a new assessment for the additional LUEs to be developed shall occur at the Schedule 2 rate then in effect and at the times prescribed in this Section.

Section 2.06 Calculation of Capital Recovery Fees

- A. Capital recovery fees shall be charged for the connection of water/wastewater service to any single element customer, and shall include, but not be limited to, cost per LUE of elevated storage, ground storage, water treatment facilities, pumping stations, wells, wastewater lift stations and wastewater treatment facilities. Costs for the capital recovery fee shall be developed based on the LUEs available through the required meter size, (except for master-metered multifamily development which shall be charged 0.5 LUE per dwelling unit) not including separate required fire line connections. Additional costs shall be required for tapping fees, metering and fire line requirements. The amount of capital recovery fees to be paid to NBU is determined by multiplying the capital recovery fee per LUE to be collected using Schedule 3 of this Policy by the number of LUEs specified in Schedule 1 of this Policy.
- B. A water meter installed solely for the purpose of metering a landscape irrigation system and that shares the same tap as the domestic meter serving the establishment, shall not be charged a separate Impact Fee for the irrigation meter providing the tap is one (1) inch diameter or less.

Irrigation meters that share the same tap as the domestic meter, where the tap is greater than one (1) inch diameter and the tap is ½ inch diameter or greater than the size of the domestic meter, shall be required to pay an additional Impact Fee for the irrigation meter.

- C. If engineering evidence acceptable to NBU staff demonstrates that the

amount of water that can go through a water meter proposed to serve an industrial development cannot enter the wastewater system because the water either stays in the product being manufactured or is disposed of in some lawful manner other than through the NBU wastewater system, a reduced wastewater capital recovery fee may be approved to more accurately represent the actual use of the wastewater system.

Section 2.07 Collection of Capital Recovery Fees

- A. Collection of capital recovery fees shall be at the times and the amounts prescribed below in accordance with Schedule 3. No water or wastewater tap or service connection shall be made until all capital recovery fees have been paid to NBU, except as provided in subsection C.
1. Capital recovery fees shall be collected at the time an application to purchase a water meter and/or wastewater connection is submitted to NBU based on the collection rate in Schedule 3. The property owner may elect to pay the capital recovery fee at the time a building permit is issued.
 2. If the water meter and/or wastewater connection purchase application or building permit for which a capital recovery fee has been paid has expired and a new application is thereafter filed, the maximum capital recovery fees assessed shall be computed using Schedule 2 as described therein and collected based on Schedule 3 then in effect, and previous payments of capital recovery fees shall be credited against the new fees due.
 3. Whenever the property owner proposes to increase the number of LUEs for a development, the capital recovery fees for the additional LUEs shall be assessed using Schedule 2 then in effect and collected using Schedule 3 then in effect and such additional fee shall be collected at times prescribed by this Section.
- B. Refunds of capital recovery fees paid shall be in accordance with the Act.
1. Any impact fee or portion thereof, which has not been expended within the service area within ten (10) years from the date of payment, shall be refunded, upon application, to the record owner of the property at the time the refund is paid, or if the impact fee was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Section 302.002 of the Texas Finance Code or any successor statute. An impact fee shall be considered expended on a first-in, first-out basis.

2. An impact fee shall be considered expended if the total expenditures for capital improvements or facilities expansions identified in the adopted impact fee capital improvements plan for the service area within ten (10) years following the date of payment exceeds the total fees collected for such improvements or expansions during such period.
 3. If a refund is due pursuant to Subsections (1) and (2), NBU shall prorate the same by dividing the difference between the amount of expenditures and the amount of the fees collected by the total number of LUEs assumed within the service area for the period to determine the refund due per LUE. The refund to the record owner shall be calculated by multiplying the refund due per LUE by the number of LUEs for the development for which the fee was paid, and interest due shall be calculated upon that amount.
- C. In the event that a water or wastewater utility service is provided as the result of a conversion from an individual well, or septic or other individual waste disposal system, the appropriate capital recovery fee shall be collected at the time of application for water meter and/or wastewater connection purchase, except as provided below:
1. At the request of the applicant, and with the approval of the CEO, the capital recovery fees for such customers may be paid in increments over a period of not more than one year, with interest computed on the unpaid balance at the statutory rate as set forth in Section 302.002 of the Texas Finance Code or any successor statute.
 2. If the applicant chooses this extended payment option, the applicant shall, as a condition of utility service, sign and file with the CEO, and consent to the recordation of, a "notice of capital recovery fee due," which shall be recorded as a lien against the subject property. NBU shall release the lien held only upon payment in full of the capital recovery fees and any late penalties and applicable interest.
 3. Late payments shall subject the applicant to a penalty of ten percent of the amount due and additional interest in addition to all other remedies available to NBU as lien holder.

Section 2.08 Reimbursement of Capital Recovery Fees

- A. A property owner who constructs a water facility or a wastewater facility pursuant to an agreement for capital improvements designated on the impact fee capital improvements plan may receive a reimbursement from NBU for the reasonable costs of constructing the facility from the proceeds of capital recovery fees due from other new developments that will utilize the

facility for that category of capital improvement, or, by agreement, from other funds in the amount determined under subsection C.

- B. NBU shall set forth in a written agreement for capital improvements the amount to be reimbursed and the area (“reimbursement area”) in which capital recovery fees shall be collected from new developments utilizing the facility.
- C. The amount of the reimbursement shall be determined pursuant to rules established in this Section or pursuant to administrative guidelines promulgated by NBU. The following rules shall apply:
 - 1. No reimbursement shall be given for capital improvements that are not identified within the applicable capital recovery fee capital improvements plan, unless otherwise agreed to by NBU.
 - 2. No reimbursement shall be given for the dedication or construction of site-related facilities.
 - 3. The amount of the reimbursement shall not exceed the costs of constructing the improvement multiplied by a fraction, the numerator of which is the capital recovery fee per LUE to be collected using Schedule 3 and the denominator of which is the maximum capital recovery fee assessed per LUE using Schedule 2.
 - 4. In no event shall reimbursement for construction of any facility exceed the total amount of capital recovery fees due from new developments utilizing the facility.
- D. Capital recovery fees collected from new developments utilizing the capital improvements constructed pursuant to this Section shall be paid to the property owner annually.

ARTICLE III ADMINISTRATIVE MATTERS

Section 3.01 Establishment of Accounts

NBU shall establish separate interest-bearing accounts with its authorized depository for each major category of capital facility or facility expansion for which a capital recovery fee is imposed pursuant to the Ordinance. Accounting for interest earned and financial and accounting controls with respect to money deposited in such accounts shall be maintained in accordance with the Ordinance and the Act. The records of the accounts into which capital recovery fees are deposited shall be open to public inspection and copying during ordinary business hours as required by the Ordinance.

Section 3.02 Use of Proceeds of Capital Recovery Fee Accounts

Capital recovery fees collected pursuant to the Ordinance may only be used as set forth in the Ordinance and the Act.

Section 3.03 Appeals

- A. A person who has exhausted all administrative remedies with NBU staff may appeal the following decisions to the NBU CEO:
1. the applicability of a capital recovery fee to the development;
 2. the amount of the capital recovery fee due;
 3. the amount of any capital recovery fee adjustment; or
 4. the amount of any reimbursement for construction of an impact fee water or wastewater facility.
- B. The burden of proof shall be on the appellant to demonstrate that the amount of the fee or the amount of the adjustment or reimbursement was not calculated according to the applicable capital recovery fee schedule or the guidelines established for determining adjustments or reimbursement.
- C. The appellant must file a notice of appeal with the CEO within thirty (30) days following the decision of NBU staff. If the notice of appeal is accompanied by a bond or other surety sufficient to NBU in an amount equal

to the original determination of the capital recovery fee due, the application for water meter and/or wastewater connection purchase may be processed while the appeal is pending.

- D. The CEO may grant the relief requested in whole or in part, or deny the relief requested.
- E. The appellant may appeal the decision of the CEO to the NBU Board of Trustees. The appellant must file a notice of appeal with the Board of Trustees within thirty (30) days following the decision of NBU CEO. If the notice of appeal is accompanied by a bond or other surety sufficient to NBU in an amount equal to the original determination of the capital recovery fee due, the application for water meter and/or wastewater connection purchase may be processed while the appeal is pending.
- F. The burden of proof shall be on the appellant to demonstrate that the amount of the fee or the amount of the adjustment or reimbursement was not calculated according to the applicable capital recovery fee schedule or the guidelines established for determining adjustments or reimbursement.
- G. The Board of Trustees may grant the relief requested in whole or in part, or deny the relief requested.

SCHEDULE 1

LUE EQUIVALENCIES FOR VARIOUS TYPES AND SIZES OF WATER METERS

METER TYPE	METER SIZE	CONTINUOUS DUTY MAXIMUM RATE (gpm)	LUE RATIO TO 5/8" METER
SIMPLE	5/8" × 3/4"	10	1.0
SIMPLE	1"	25	2.5
SIMPLE	1 – 1/2"	50	5.0
SIMPLE	2"	80	8.0
COMPOUND	2"	80	8.0
TURBINE (CL 1)	2"	100	10.0
COMPOUND	3"	175	17.5
TURBINE (CL 1)	3"	220	22.0
COMPOUND	4"	300	30.0
TURBINE (CL 1)	4"	420	42.0
COMPOUND	6"	675	67.5
TURBINE (CL 1)	6"	865	86.5
COMPOUND	8"	900	90.0
TURBINE (CL 2)	8"	2,400	240.0
TURBINE (CL 2)	10"	3,500	350.0
TURBINE (CL 2)	12"	4,400	440.0

SOURCE: AWWA Standards C700, C701, C702.

NEW BRAUNFELS UTILITIES POLICY
CAPITAL RECOVERY FEES SCHEDULES

SCHEDULE 2

MAXIMUM CAPITAL RECOVERY FEES

Capital Improvement	Maximum Fee per LUE
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1. For new developments for which the final plat was recorded prior to June 20, 1987, or after November 12, 2018, or for which development is to occur without platting, the maximum capital recovery fee per LUE shall be:

Water	\$7,989.00
Wastewater	\$3,251.00

2. (a) For new developments for which the final plat was recorded after May 4, 2016, but before November 13, 2018, the maximum capital recovery fee per LUE shall be:

Water	\$5,321.64
Wastewater	\$4,081.48

(b) *Exception: For new developments for which final plat approval was received prior to May 5, 2016, and for which such final plat was recorded prior to November 1, 2016, the maximum capital recovery fee per LUE shall be the impact fee rates shown below in Section 3.*

3. For new developments for which the final plat was recorded after March 31, 2011, but before May 5, 2016, the maximum capital recovery fee per LUE shall be:

Water	\$2,311.40
Wastewater	\$1,570.00

4. For new developments for which the final plat was recorded after December 11, 2000, but before March 31, 2011, the maximum capital recovery fee per LUE shall be:

Water	\$ 935.92
Wastewater	\$1,545.23

5. For new developments for which the final plat was recorded after May 29 1990, but on or before December 11, 2000, the maximum capital recovery fee per LUE shall be:

Water

Rock	\$1,313.00
Dirt	\$1,160.00

Wastewater

Rock	\$1,578.00
Dirt	\$1,271.00

6. For new developments for which final plat recordation occurred after June 20,1987, but on or before May 29, 1990, the maximum capital recovery fee per LUE shall be determined by the sum of component fees for central facilities and for water or wastewater mains. The central facilities fee for water facilities shall be \$230 per LUE and the central facilities fee for wastewater facilities shall be \$430 per LUE. The maximum fee for mains shall be determined by formula pursuant to ordinance.

NEW BRAUNFELS UTILITIES POLICY
CAPITAL RECOVERY FEES SCHEDULES

SCHEDULE 3

CAPITAL RECOVERY FEES TO BE COLLECTED

1. For new developments for which the final plat was recorded prior to June 20, 1987, or after November 12, 2018, or for which development is to occur without platting, the capital recovery fee per LUE to be collected shall be:

Capital Improvement	Fee per LUE
Water	\$7,989.00
Wastewater	\$3,251.00

2. (a) For new developments for which the final plat was recorded after May 4, 2016, but before November 13, 2018, the capital recovery fee per LUE to be collected shall be:

Water	\$5,321.64
Wastewater	\$3,251.00

(b) *Exception: For new developments for which final plat approval was received prior to May 5, 2016, and for which such final plat was recorded prior to November 1, 2016, the capital recovery fee per LUE shall be collected at the impact fee rates shown below in Section 3.*

3. For new developments for which the final plat was recorded after March 31, 2011, but before May 5, 2016, the capital recovery fee per LUE to be collected shall be:

Water	\$2,311.40
Wastewater	\$1,570.00

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Rock	\$1,313.00
Dirt	\$1,160.00

Wastewater

Rock	\$1,578.00
Dirt	\$1,271.00

6. For new developments for which final plat recordation occurred after June 20,1987, but on or before May 29, 1990, the capital recovery fee to be collected per LUE shall be determined by the sum of component fees for central facilities and for water or wastewater mains. The central facilities fee for water facilities shall be \$230 per LUE and the central facilities fee for wastewater facilities shall be \$430 per LUE. The fee for mains shall be determined by formula pursuant to ordinance.