

AN ORDINANCE TO AMEND CHAPTER 52 OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSONVILLE TO ADD A NEW SECTION 52-97, POLICY AND PROCEDURES FOR THE EXTENSION OF WATER AND SEWER UTILITIES

WHEREAS, North Carolina General Statutes Chapter 160A Article 16 (“Public Enterprises”) stipulates that the rules for any public enterprise system that the City operates shall be adopted by ordinance and

WHEREAS, the City’s official policy for the extension of water and sewer utilities has not been comprehensively revised in over twenty years and

WHEREAS, City staff have made a concerted effort over the past two years to review, update, and compile the various regulations applicable to utility extensions and

WHEREAS, the policy to be included in this new section represents the culmination of those efforts and

WHEREAS, City staff presented this policy to the Water and Sewer Advisory Council at their January 25, 2021 meeting and have updated it to reflect the feedback provided,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hendersonville, North Carolina as follows:

Section 1. A new section 52-97, Policy and Procedures for the Extension of Water and Sewer Utilities, to be added to Chapter 52 of the Code of Ordinances for the City of Hendersonville, is hereby adopted as follows:

Sec. 52-97. – Policy and Procedures for the Extension of Water and Sewer Utilities

All utility extensions will be made in accordance with the Policy and Procedures for the Extension of Water and Sewer Utilities adopted by the City Council.

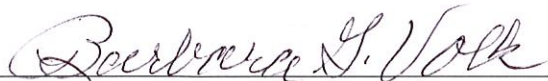
Section 2. This Ordinance shall be effective upon its adoption.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 2nd day of September 2021.

Attest:



Angela L. Reece, City Clerk



Barbara G. Volk, Mayor, City of Hendersonville

Approved as to form:



Angela S. Becker, City Attorney

Policy and Procedures



Extension of Water and Sewer Utilities

Last Updated September 2, 2021

**CITY OF HENDERSONVILLE
HENDERSON COUNTY
NORTH CAROLINA**

*POLICY AND PROCEDURES FOR THE
EXTENSION OF WATER AND SEWER
SERVICE*

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PREAMBLE

The City of Hendersonville recognizes that there will be a need from time to time to extend the water and/or sewer systems operated by the City to serve new industrial, commercial and residential development and to serve existing development not currently served by the City. The purpose of this document is to set forth the policy, rules, and procedures for extension of water and sewer systems to serve users and allow for future orderly development of these systems, to the end that a healthy, orderly, and coordinated system of growth and development will be attained in a manner most conducive to the public health and general welfare. This policy shall provide for the orderly and fiscally responsible extension of the systems and is applicable to the entire City water and sewer utility service area. In general, all extensions of water and sewer mains shall be dependent on adequate capacity within the existing system, approved funding, and receipt of all required permits, approvals, and any other required ancillary material and documentation. This policy is intended to afford sufficient flexibility to accommodate the particularity of each project while simultaneously maintaining high, uniform standards and an orderly procedure. Terms used herein are defined below (“General Provisions – Definitions”) and shall retain their respective meanings throughout the entirety of this document unless otherwise specified or unless context clearly indicates a separate meaning. Terms not explicitly defined are subject to their common or customary meaning.

GENERAL PROVISIONS

- a. All water and sewer extensions shall be constructed in accordance with the City [Code of Ordinances](#), all applicable rules promulgated by the [North Carolina Department of Environmental Quality](#), the City's design and construction [Standard Specifications and Details](#), the City's [Fee Schedule](#), the City's [Water System Master Plan](#) and [Sewer System Master Plan](#), and any other material that the City may deem relevant and applicable to extensions of the System.
- b. Public water and sewer facilities constructed within public rights of way or utility easements are owned by the City and are subject to the same rules, regulations, and policies as other water and sewer facilities.
- c. All extensions must be constructed in accordance with the City's Standard Specifications and Details and must adhere to all requirements outlined in the City's standard Utility Extension Agreement (UEA) executed by the Applicant as well as all correspondence from appropriate personnel.
- d. All contracts for extension of mains are subject to approval by the City Council, City Manager, or his/her designee where allowed by law. All extensions are subject to review, approval, and regulation by local, state, and/or federal agencies as required by law.
- e. The size, depth, and location of all mains extended shall be determined or approved by the City based on NCDEQ requirements, prevailing industry standards, anticipated fire flow and fire protection needs of all buildings and structures, and typical service requirements. The Applicant may withdraw his/her application if he/she does not wish to meet these requirements. If the application is withdrawn, the Applicant shall reimburse the City for any costs incurred by the City up to the date of withdrawal.
- f. This policy is applicable to proposed extensions which involve the subdivision or re-subdivision of land. The rules and regulations outlined in the City's [Subdivision Ordinance](#) also apply when the project is to be constructed within the City's corporate limits or within the City's ETJ. This policy shall control in any instance where the language of this policy is determined to conflict with the Subdivision Ordinance.
- g. Whenever reference is made to an Ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition or amendment of such Ordinance, statute, regulation, or document and all provisions, rules, and guidelines contained therein shall be incorporated by reference into this policy.

- h. City Council Resolution #20-0582, adopted October 1, 2020, and all its provisions are hereby incorporated into this policy. All official actions of the City Council pertaining to water and/or sewer extensions, whether effectuated by Ordinance, Resolution, or otherwise, shall be incorporated into this policy.
- i. City Council reserves the right to deny any or all water and/or sewer extension requests under this policy. Successfully meeting all requirements outlined herein does not in and of itself guarantee approval of any water and/or sewer extension.

DEFINITIONS

Applicant: Any person(s), firm, association, partnership, corporation, or other entity requesting water and or/sewer service from the system whose request requires an extension of said system in accordance with this policy; all authorized agents of the Applicant, including but not limited to persons or entities that the Applicant may engage to assist in the design, construction, and/or installation of an extension.

Availability Letter: The document sent by the City to all Applicants in response to a request for water and/or sewer service. This document provides information regarding the requirements for public water and sewer extensions as stipulated by the North Carolina Department of Environmental Quality, the City's Code of Ordinances, the City's design and construction Standard Specifications and Details, the City's Fee Schedule, and any other material that the City may deem relevant and applicable to extensions of the system. This document also states that the City's water and/or sewer infrastructure has the capability to serve the proposed development's preliminary demand estimates. This document provides information to the Applicant regarding the feasibility of an extension of the system as a means of assisting the Applicant with preliminary plan development. This document is not an approval for any extension of or connection to the system. This document is valid for two years from the date of issuance by the City.

Availability Request: The document sent to the City by the Applicant in which the Applicant provides general information regarding the proposed extension of the system. This information includes the number of lots/units, estimated demand per day, and adjacent public streets to the proposed project or development. Once submitted, appropriate personnel review the document and communicate their response to the Applicant in the form of the Availability Letter (see definition above).

Capital Improvements Plan (CIP): A short-range plan (usually four to ten years) that identifies capital projects, provides a planning schedule, and identifies options for financing the projects listed in the plan. The CIP can be found online in the City's annual budget document.

City: The City of Hendersonville, North Carolina. A political subdivision located in Henderson County in the State of North Carolina.

City Attorney: The City Attorney appointed by the City Council or such other attorney contracted with to provide legal advice to the City when the City Attorney is unavailable or unable to provide legal advice.

City Council: The governing board of the City of Hendersonville.

City Engineer: Head of the City's Engineering Department.

City Manager: The City Manager of the City of Hendersonville.

Construction: The erection of any water or sewer facilities or appurtenances, or any preparations (including land-disturbing activities) for the same.

Contractor: An individual, firm, or corporation that is properly registered and licensed to perform public utility and/or unclassified construction projects in the State of North Carolina by the North Carolina Licensing Board for General Contractors (ref. 21 NCAC 12A.0202).

Designee: A person selected or designated to carry out a duty or role.

Director: The Utilities Director of the City's Water and Sewer Department. This term includes any permutations or changes to the name, structure, or organization of this position that may occur after the adoption of this policy.

Encroachment: An agreement with the North Carolina Department of Transportation, a railroad, or other entity to place water or sewer facilities within that entity's right of way.

ETJ: A municipal extraterritorial planning area or jurisdiction.

Easement (Utility): A permanent easement which grants the right to install and maintain utilities including, but not limited to, water lines, sewer lines, and storm sewer lines and provides for continuous and unrestricted public vehicular and pedestrian access to the properties subject to said easement; and the construction, reconstruction, operation, maintenance, and repair of one or more water and/or sewer lines and associated facilities. Utility easements constitute a recognized interest in real property, but legal title to the underlying land is retained by the owner granting the easement.

Easement (Construction): A right in a specific tract of land for which the City or developer has entered into an agreement with the owner granting the City the right to use the land in order to provide space needed to construct water, sewer, or stormwater facilities. Construction easements constitute a recognized interest in real property, but legal title to the underlying land is retained by the owner granting the easement.

Easement (Drainage): An easement which grants the right to maintain, relocate, or utilize land within the easement for the improvement of drainage and stormwater flow. Drainage easements constitute a recognized interest in real property, but legal title to the underlying land is retained by the owner granting the easement.

Extension: A new or proposed water, sewer, or stormwater main.

Fee Schedule: The list of all rates and fees adopted each year by the City Council with the City's annual budget. Unlike the tax levy, these fees may be amended at any formal meeting of the City Council throughout the fiscal year. Stormwater Fees require a public hearing.

Finance Director: The Finance Director of the City of Hendersonville. This term includes any permutations or changes to the name, structure, or organization of this position that may occur after the adoption of this policy.

Gravity sewer system: The typical form of wastewater collection system that relies on the natural, downhill flow of wastewater through pipes constructed along drainage patterns and creeks to a wastewater treatment facility.

Jurisdiction: The geographic boundaries of a municipality; or, the extent over which a particular entity has control; or, the official power to make legal decisions and judgements.

Standard Specifications and Details: A written compilation of specifications, construction requirements, design details, engineering standards, and drawings for construction of water distribution and wastewater collection and transmission facilities. This information is maintained on file with the City's Water and Sewer and Engineering departments.

Lateral: The portion of a water connection which does not include the meter, meter box, or meter setter, and the portion of a sewer connection between the main line and right-of-way or easement limit. A sewer service (or lateral) connection consists of the connection to a public sewer main or manhole of a service line which is extended to the street right of way line or to the edge of the utility easement if the public sewer main is not at the street. The Applicant is responsible for the cost of connecting their private plumbing system at that point and for securing any additional easements that may be required to connect into the lateral.

Main: The water or sewer pipe usually laid in or adjacent to a street running parallel to the property line within a public right of way or utility easement which distributes water or collects sewage.

Master Plan: A written document that provides a roadmap to maintain, improve, and expand the City's water distribution system or sewer collection system. This document contains information such as condition assessments, hydraulic models, flow projections, projected growth patterns, as well as risk-based, prioritized capital improvement projects.

May: Is permissive (see "Shall")

North Carolina Department of Environmental Quality (NCDEQ/DEQ): The regulatory agency in the State of North Carolina responsible for the stewardship, preservation, and protection of the State's natural resources and public health; the principal State regulatory body that administers water quality and public health-related regulatory programs to which all local governments in North Carolina must adhere. This term includes any permutations or changes to the name, structure, or organization of this agency that may occur after the adoption of this policy.

Ordinance: A legislative enactment of the City.

Owner: The person or persons who own, rent or lease a structure or facility at the time of water/sewer service application.

Personnel: A staff member employed by the City

Private Street: A road or way for the use of private individuals that is not dedicated to the City, the State, or any other public entity.

Public Street: A dedicated public right-of-way in which the roadway has been accepted and typically constructed to public standards for vehicular traffic, but not an alley.

Private System: Any water, sewer, and/or stormwater systems and/or infrastructure not owned, operated, and maintained by the City.

Public Health Hazard: A situation that has the potential to cause a significant threat to human life, a significant threat of serious adverse health effects, or a serious risk of damage to the environment if swift and deliberate action is not taken. This definition shall only cover public health hazards that are substantially related to potable water and or wastewater issues. The City shall, in conjunction with Henderson County Environmental Health staff and any other relevant officials, determine whether a given situation falls within the parameters of this definition based on prevailing public health industry standards.

Resolution: A formal administrative action of the City Council

Pump Station: A structure owned, operated, and maintained by the City containing pumps designed to collect and transfer wastewater via pressurized force main to a section of the collection system that ultimately leads to the City's wastewater treatment facility or is designed to transfer water, treated at the City's water treatment facility, via pressurized pipeline to a portion of the water distribution system located at higher elevations.

Shall: Is mandatory (see "May")

System: The public water and sewer system owned, operated, and maintained by the City. This term encompasses all infrastructure and basic components of the water and sewer system outlined above ("General Provisions") .

Utilities Director: See Director.

Utilities Engineer: Civil engineer in the City's Water and Sewer Department.

Utility Extension Agreement (UEA): A legal agreement, in standard form as approved by the City, executed by and between the City and an Applicant that formalizes responsibilities and obligations for the utility extension process. Applicants shall be required to sign a UEA as part of a request for an extension of the system.

Water & Sewer Utility Service Area: All properties that receive water and/or sewer service from the system. This term includes all properties currently receiving such services, along with any properties that may receive these services at any point in the future after review and approval by the City in accordance with the rules and requirements outlined in this policy.

SOURCE OF AUTHORITY, EFFECTIVENES, SEVERABILITY

Authority: This policy and all associated rules and procedures contained herein are adopted by the City of Hendersonville. Whenever a provision of this policy requires or authorizes an officer or employee of the City to do some act or perform some duty, the officer or employee may designate, delegate, and authorize subordinates to perform the act or duty, unless the terms of the provision specifically provide otherwise. In addition to the officer or employee designated, the City Manager shall have authority to take any action that the designated officer or employee is authorized to take.

Effectiveness: This policy was revised and restated effective the 2nd day of September 2021 and supersedes all previously adopted rules, regulations, and policies pertaining to extensions of the system.

Severability: If any provision of this policy or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application, and to that end, the various provisions of this policy are hereby declared to be severable.

APPLICANT RESPONSIBILITIES

- a. The Applicant shall be solely responsible for all costs and expenses associated with extensions that will serve new development, including construction inspection fees, unless otherwise approved in writing by the City.
- b. The Applicant shall only be allowed to seek reimbursement for an extension of the system in accordance with the “Reimbursements” section of this policy.
- c. The Applicant shall be solely responsible for all planning, engineering, and/or architectural design necessary to determine the purpose(s) and rate(s) of delivery of water required for the size and type of project proposed, including conformance with building and/or fire code requirements. The City shall not warrant nor guarantee that the capacity, volume, pressure, or quantity of service provided will be adequate to meet the needs of any Applicant other than the minimum requirements of a typical single-family residential service. The Applicant is responsible for judging the adequacy of service for his/her intents and purposes prior to requesting an extension of the system.
- d. The Applicant shall be entirely responsible for the installation of water and sewer lines that connect to the City’s water and sewer laterals or mains at the

- property line and extend across the Applicant's property to connect to the structure(s) being served.
- e. The Applicant shall be responsible for securing jurisdictional approval from the appropriate unit of local government for his/her proposed development project.
 - f. Water and sewer mains shall only be installed within dedicated public streets or duly recorded rights-of-way secured by easements satisfactory to the City. The Applicant shall be solely responsible for providing and securing the necessary easements and rights-of-way in name of the City required for the extension, both on-site and off-site. All Applicants shall be required to use the City's standard Utility Infrastructure Easement Agreement or Deed of Dedication and Conveyance with Associated Easements as applicable, in securing the easements in the name of the City, or documents otherwise approved by the City Attorney.
 - g. As part of the process for requesting an extension of the system, the Applicant shall be required to enter into the City's standard Utility Extension Agreement (UEA) as amended with the City. The Applicant shall be subject to all rules and requirements set forth in the UEA. The UEA shall control in any instance where the language of this policy is determined to conflict with the UEA.
 - h. Applicants shall be responsible for securing and recording any easements and/or encroachment agreements necessary for an extension. All easements shall be of unlimited depth. Water and sewer facilities shall be placed within the permanent easement or right of way, to allow at least ten feet of distance between the outer dimensions of the facility and any easement boundary. The Director or his/her designee or the City Engineer or his/her designee may require additional easement footage based upon location, depth, slope, terrain, or topography of the line as deemed appropriate to replace, repair, install and/or maintain water and sewer facilities. The Applicant shall adhere to all rules and requirements outlined in the "Utility Easements" Standard Operating Procedure (No. 0631.00AD or version currently in force) document, a copy of which is on file with the City's Water and Sewer and Engineering departments.
 - i. The Applicant shall convey real property in fee simple to the City for all property on or in which pumps or water storage tanks are constructed as part of an extension. The dimensions of the real property shall be of sufficient size to allow proper access for maintenance and/or repair of such facilities, as determined by the City Engineer or his/her designee based on prevailing industry standards and typical service requirements.

- j. The Applicant shall convey to the City one or more permanent utility easements for future expansion of the system, to serve adjoining properties or to complete future looped connections with the system serving adjoining property or to add an additional water storage tank in the future or to expand the pump station in the future as determined by the City Engineer or his/her designee based on prevailing industry standards and typical service requirements
- k. This policy is intended to provide that the water pumping and distribution system be designed and operated to provide flow rates and pressures that meet standard fire protection requirements at the time the water mains are designed and constructed for existing land uses and construction methods. If higher flow rates or pressures are required due to changes in land use, differing construction types, changes in fire code requirements, or other circumstances, the City will endeavor to work with the affected party to satisfy the new requirements. However, the City shall not assume any obligation of the public distribution system for the adequacy of public or private fire protection service. Each case shall be evaluated on its individual merits and public benefits, but the Applicant shall generally be responsible for making the necessary improvements and shall bear all the costs incurred to satisfy the higher level of service required.
- l. This policy is also intended to provide that the sewer pumping, if so required, and collection system be designed and operated to provide flow rates that meet or exceed all State and local standard requirements at the time the sewer systems are designed and constructed for existing land uses and construction methods. If additional capacities are required due to changes in land use, differing construction types, changes in State and local requirements, or other circumstances, the City will endeavor to work with the affected party to satisfy the new requirements. Each case shall be evaluated on its individual merits and public benefits, but the Applicant shall generally be responsible for making the necessary improvements and shall bear all the costs incurred to satisfy the higher level of service required.

The enumeration in this section of the responsibilities of the Applicant shall not be construed as an exhaustive or comprehensive list. The Applicant may be required, at any given stage of the proposed project, to fulfill other reasonable and necessary tasks or duties at the request and direction of the Utilities Director or his/her designee or the City Engineer or his/her designee.

CITY RESPONSIBILITIES

- a. The City shall provide certain basic components of the water and sewer system. These components include existing treatment facilities, regional water pumping stations, regional wastewater lift stations, regional water storage tanks, wastewater interceptor and trunk mains, and major water transmission mains. The purpose of these facilities is to treat, store, and convey water and wastewater throughout the service area. These facilities shall be constructed and/or improved according to the City's Master Plans (water and sewer) and Capital Improvements Program ("CIP") which is reviewed and approved annually by the City Council. Some requests by Applicants for an extension of the system may require the new installation or additional capacity of these components or facilities, the costs for which shall be borne exclusively by the Applicant unless otherwise approved in writing by the City.
- b. The City reserves the right to terminate or abandon any project to extend water or sewer service at any time if the City discovers at any point that such project will result in unreasonable cost increases incurred by the City, deleterious environmental impact, or excessive disruption to the public or the system.
- c. The City shall not be required to improve or expand pavement, structures, drainage facilities, or landscaping features at any time during or after any extension of the system. If work of this nature is required by applicable law or is necessary for the construction of any extension of the system, the Applicant shall agree to be responsible for the costs of such work.
- d. All municipalities in North Carolina must meet certain service requirements for newly annexed areas as prescribed by State law. The City is required to extend water and sewer service to involuntarily annexed areas so that involuntarily annexed property owners can secure water and sewer service as required by applicable law.
- e. City funds shall not be used for construction of any facility which would reasonably be expected to be infeasible unless such facility is required to fulfill statutory requirements or to maintain service to existing customers.
- f. The City does not guarantee that minimum fire flow, water pressure or flow rates will be available to operate fire suppression, irrigation and/or plumbing fixtures. The Applicant shall ensure that a minimum pressure of 40-psi can be maintained at each meter serving his/her project. If pumping is required to provide adequate pressure inside any structure to be constructed that may be located at a higher elevation than the meter, it shall be the responsibility of the

Applicant or the owner of the structure to provide such pumping at their expense and perpetual maintenance of same.

- g. Sanitary sewer service connections shall be installed at a depth that is practical and alleviates the need for extensive or unusual construction or safety methods. The City does not guarantee that the depth of all sewer service connections will allow gravity flow connections. If pumping is required, the pumping equipment and installation may be the responsibility of the Applicant or Owner and shall be completed in accordance with all applicable Ordinances, rules, and regulations.
- h. This policy is intended to provide sewer mains that can serve the ground floor of most buildings when the ground floor is approximately at street level and where the distance from the structure to the street, topography, other utilities, structures, natural features or other conditions does not make gravity service infeasible. The City does not guarantee that any customer (particularly those who have basements or buildings substantially lower than the street) can be served without pumping by the property owner.
- i. The City has no obligation to provide water or sewer service to premises located outside the City's service area. However, upon request and in accordance with this policy (or at its own initiative) the City may, after appropriate consultation with other relevant governmental entities including Henderson County and all municipalities therein, extend the water or sewer system to serve premises outside the service area upon a finding by the City that such extension is feasible and can be achieved in a manner conducive to public health and the general welfare.

The enumeration in this section of the responsibilities of the City shall not be construed as an exhaustive or comprehensive list. The City may determine, at any point, that other reasonable and necessary tasks or duties be completed by appropriate personnel in order to properly address any given project.

NEW PUBLIC EXTENSIONS

Availability

- a. All Applicants desiring an extension of the system must first complete and submit an availability request to appropriate personnel (see "Definitions,"

- “Availability Request” for a more detailed description of the submittal process).
- b. Upon receipt of the availability request, City personnel shall review the Applicant’s submission and communicate the City’s response to the request in the form of the availability letter (see “Definitions, “Availability Letter” for a more detailed description of the availability letter). City personnel shall provide this response within a reasonable timeframe.
 - c. Upon receipt of the availability letter, the Applicant shall review the letter and comply with all requirements therein as outlined by City personnel. The availability letter is solely an informational document to assist the Applicant with preliminary plan development and is not an approval for any extension of or connection to the system.

Requirements

- a. Prior to the commencement of any construction activities, the Applicant shall sign and execute a Utility Extension Agreement (UEA) with the City. Construction shall not commence until the UEA has been executed and the Applicant has received all required permits and encroachments and has received City approval.
- b. All construction of water and sewer facilities shall be performed by utility contractors properly registered and licensed to do business in the State of North Carolina. These contractors shall also be approved and deemed satisfactory by the City based on objective criteria. All work is subject to inspection and approval by the City. The Applicant shall be required to reconstruct or replace any work that fails to meet the City’s standards. Construction observation by the City does not in and of itself imply supervision or acceptance of the work.
- c. The City shall only consider gravity sewer extensions to the system. Pump stations shall only be allowed on extensions to the system where, in the sole opinion of the City, gravity service is not achievable or is determined to be financially infeasible. The rationale that informs this policy is that pump stations may cause disproportionate operation and maintenance expense to provide service to a limited customer base and that failure of pump stations poses significant environmental risks.
- d. Water and sewer extensions having the capability to be further extended beyond the Applicant’s property shall be constructed along the entire street frontage of the property, in accordance with Chapter 52, Section 52-95 Extensions Inside Public or Private Street Rights-of-Way in the City Code of Ordinances.

- e. Each residential, commercial, or industrial structure under one roof and/or under single ownership shall have an individual water meter for each structure, in accordance with Chapter 52, Section 52-130 Separate Connections Required; Service Easements Required of the City Code of Ordinances. Master meters may be considered for certain or unusual circumstances including, but not necessarily limited to, the following:
- Residential or commercial structures with individual units intended as rental units (apartment buildings, office complexes, etc.)
 - Commercial, industrial, or institutional complexes with multiple structures under single ownership
 - Recreational facilities (parks, golf courses, etc.)
 - Areas designated as manufactured home, mobile home, and/or recreational vehicle parks or courts where the spaces are rented may be considered for service by a master meter
 - A manufactured home, mobile home, and or recreational vehicle placed on a lot with an existing house may be served from that meter provided that the person financially responsible for the house account is also financially responsible for the additional service required of the manufactured or mobile unit

Master meters shall be approved by the Director or his/her designee. A master meter does not relieve the owner from compliance with fire protection provisions of other policies.

- f. Where feasible, sewer extensions shall be extended to the uppermost portion of the property or of the entire street frontage of the property, following the natural terrain of the property while maintaining distance from streambanks, in order to allow upstream properties to access the installed sewers, where feasible. Such extensions to the terminus of the property shall be required as a condition of service.
- g. Low pressure sewers, vacuum sewers, inverted siphons, or any other specialized modes of conveyance or alternative systems shall not be allowed unless approved in writing by the Director or his/her designee.
- h. All Applicants shall participate in a pre-construction conference with City personnel and the contractor responsible for completing the work prior to the commencement of any construction activities. In no event shall a project schedule or timeline be binding upon the City.

- i. Under no circumstances shall construction begin prior to approval of the UEA, issuance of all required permits, and proper notification of the City, unless otherwise approved in writing by the City.
- j. Upon completion of project close-out requirements and final acceptance by the City of all facilities constructed under this policy, such facilities shall become the property of the City and the City shall be responsible for their perpetual operation and maintenance. The Applicant shall convey such property by instruments in form and content satisfactory to the City.
- k. The Applicant shall warrant and guarantee to the City the entire extension and each part thereof against defective materials and workmanship for 12 months from the date of final acceptance and approval by the City including, without limitation, such incidental and consequential damages that may arise from such claims. The Applicant and/or his/her agent(s) shall correct or have corrected any defects resulting from substandard materials or workmanship. If the Applicant or his/her agent(s) neglect to correct such defects, the City shall retain the right to remove and/or disconnect any connections that may have been made to the system, or the City may elect to make the necessary repairs and improvements and institute a lien on the Applicant's property, both real and personal. The Applicant shall guarantee to indemnify and hold harmless the City from all claims for injury to person or property arising out of or resulting in any way from such defective materials and workmanship.
- l. Nothing in this section shall be interpreted to preclude the City from extending the system at its own initiative.

Easements and Ownership

- a. Water and sewer mains shall only be installed within dedicated public streets or duly recorded rights-of-way secured by easements satisfactory to the City. The Applicant shall be solely responsible for providing and securing all necessary easements (including access easements, utility easements, temporary construction easements, and drainage easements, as applicable) and rights-of-way required for the extension.
- b. Following proper installation and acceptance by the City, all infrastructure and facilities associated with the approved extension up to and including the point of connection (water meter and sewer cleanout) shall become and remain the property of the City. No Applicant by payment, charge, fee, or any other means, shall acquire any interest or right in any of such facilities or infrastructure or any portion thereof other than the privilege of having their property connected thereto and service provided in accordance with all applicable City policies, rules, and regulations.

Outside Service Area

- a. It is the intent of the City to continue to expand existing water and sewer facilities into certain areas located outside the corporate limits of the City (particularly those areas located within the City's ETJ) in order to adequately and efficiently provide water and sewer services to these areas in a fiscally responsible and sustainable manner.
- b. All Applicants proposing to extend sewer service to properties wholly or partly outside the corporate limits of the City shall sign and submit a petition for voluntary annexation where required unless annexation is prohibited by state law or interlocal agreement. Applications will also be governed by the City's POLICY GOVERNING VOLUNTARY ANNEXATIONS AS A RESULT OF SEWER EXTENSION REQUESTS, as amended.¹
- c. Proposed water and/or sewer extensions to serve areas outside the corporate limits of the City may be eligible to receive financial participation from the City. However, such participation shall only take place in accordance with the rules outlined in the "Reimbursements" section of this policy.
- d. The "Reimbursements" section of this policy outlines various financing options available to the Applicant. The City, in its sole discretion, shall determine which (if any) of these financing options may be utilized. This decision shall be made based on a dispassionate personnel review of the proposed project, taking into consideration such relevant factors as the availability of funds, project priority and degree of alignment with the CIP and Master Plans, and project constructability.

EXISTING PRIVATE SYSTEMS

- a. The City recognizes that there are existing sub-standard private water and sewer systems within or adjacent to the City's water and sewer utility service area. These private systems have not been accepted for ownership by the City and are neither maintained nor operated by the City.
- b. Such substandard systems shall not be considered for acceptance for ownership by the City unless upgraded at the private owner's expense to conform with the City's standard specifications and details and all other applicable rules.
- c. The City is not obligated to accept ownership of private water and sewer systems.

¹ As of the date of the adoption of this Sewer Extension Policy, the date of the last amendment was March 3, 2011.

REIMBURSEMENTS

Generally

- a. Reimbursements shall only be available for extensions proposed to serve areas within or adjacent to the City's water and sewer utility service area or areas identified in the City's CIP and/or Master Plans.
- b. The Applicant shall be solely responsible for requesting reimbursement from the City.
- c. The Applicant's ability to seek reimbursement from the City shall be subject to City Council review and approval.
- d. The Applicant shall pay the total cost of all extensions constructed outside the corporate limits of the City, except for any extensions which may, in the sole opinion of the City, require oversizing.
- e. If the City determines that an extension requires oversizing, the Applicant shall be subject to the rules outlined below ("Additional Capacity Reimbursement") and the terms of a written utility oversize reimbursement application, if the City determines that such an application is required.
- f. The City may also require the Applicant to install extra or larger mains, service lines, and/or other or additional water and/or sewer facilities and appurtenances, including but not limited to storage tanks and pumps as part of an extension not then necessary solely for the Applicant's purposes. These additional improvements may also be covered in a written reimbursement agreement between the Applicant and the City.
- g. Applicants receiving approval for reimbursements shall be required to enter into the City's standard Reimbursement Agreement, as amended.
- h. The City recognizes that it may only provide reimbursements to Applicants in accordance with the provisions outlined in [§G.S. 160A-320](#) and [§G.S. 160A-499](#)

This policy is intended to provide for the construction of water and sewer mains sized to provide long-term service as described in the CIP. If a requested extension conflicts with or is in the same location as a project identified in the CIP, the City shall decide whether to approve the extension as described in the CIP or a smaller or temporary main. This decision shall consider the following factors:

- Funding availability from other sources
- Impact of expenditure on appropriated funds for this program
- Physical space and/or any other constraints of installation

- Time required to provide the requested service
- Other considerations unique to the circumstances

Installed facilities that are smaller than those identified in the CIP or that are smaller than required for long-term service shall be funded solely by the Applicant with no opportunity or consideration for reimbursement from the City. The City furthermore retains the discretion to require appropriately sized mains to be extended to serve the area.

City reimbursement to the Applicant shall be subject to available funding. The City shall have no obligation to reimburse any Applicant until the extension of the system has been conveyed to and accepted by the City in accordance with all applicable rules outlined in this policy.

Additional Capacity Reimbursement

1. Reimbursements for additional capacity shall only be considered where the extension will serve additional properties outside of the Applicant's project that are conducive to public health and the general welfare and allow for future orderly development of the system to serve other properties in accordance with the CIP and/or Master Plans.
2. Any Applicant desiring reimbursement for additional capacity must receive approval from the Director or his/her designee and must complete the "Utility Oversize Reimbursement Application," along with any other required material.
3. The reimbursement amount is strictly limited to that portion of the cost of the Applicant's project which is in excess of the minimum line size required for the development. The precise amount of the reimbursement shall be at the sole and absolute discretion of the City.
4. The City shall remit payment of the additional capacity reimbursement to the Applicant after construction of the Applicant's project is complete and accepted by the City.
5. Additional capacity reimbursement requests are to be submitted to the Director or his/her designee at the same time that plans are initially submitted for the proposed extension. Requests submitted outside this timeframe shall not be considered.
6. Additional capacity reimbursement determinations shall be at the sole and absolute discretion of the City.

Developer to Developer Reimbursement

The City recognizes the potential for additional beneficiaries of certain extensions of the system aside from the Applicant. Where such users were not identified in the original extension request and where such users desire service after the City's acceptance of the extension, these users may be required to reimburse the original Applicant a portion of the cost paid by the original Applicant to construct the extension (including engineering design, construction, land and easements, and other administrative costs). Such reimbursements shall be based on the ratio of the water or wastewater flows for the potential users to their total combined flow (i.e., a development installed water infrastructure to provide 10,000 gallons per day capacity and a new development makes connection).

Water and sanitary sewer pump station reimbursements shall be on a percentage participation basis as defined by the size of the station built compared to the size of the station necessary to serve the development itself. This difference in cost shall be reimbursed by the beneficiaries to the original Applicant as determined by the development's percentage of peak design flow of the basin that flows to the station (i.e., a station built to provide 1000 gallons per minute peak capacity but only 500 gallons per minute of which is for the specific development would have a base reimbursement percentage participation of 50%).

The precise amount of the reimbursement shall be at the sole and absolute discretion of the City. This requirement shall remain in effect for five years after the date of City acceptance of the extension. The determination of this time period shall be based on all records the City has retained in connection with the original Applicant's extension request.

NEW ATTAINABLE HOUSING PROJECTS

The City Council supports the policy objective of creating new, attainable housing units as a means of strengthening the local economy and providing development assistance to interested parties. The City recognizes that it may only provide financial support to such projects insofar as this activity is permitted by the laws of the State of North Carolina, including but not necessarily limited to the provisions of Article 1 of §G.S. 157 (Housing Authorities Law). Proposed projects in this category shall be subject to the requirements outlined in this section and shall be eligible to receive revenues generated by user fees at the discretion of the City Council and upon recommendation of City personnel after review of factors

specific to the project. Disbursement of estimated revenues shall only be made after the extension is complete and has been accepted and approved by the City.

- a. The Applicant's proposed project must meet the criteria for attainable/affordable housing of the local governing jurisdiction where the project will be located.
- b. Reimbursement may include construction and engineering costs.
- c. The recovery of costs by the City shall be achieved solely from user fees applied by the City over a five-year period.
- d. The City, in its sole discretion, shall determine the size, extent, layout, alignment, and details of any water or sewer extension considered under this section.

Any Applicant wishing to participate in the City's attainable housing cost recovery reimbursement program shall first submit a written request to the Director. This request must be submitted concurrently with the initial plans for the proposed water or sewer extension. Requests submitted after City approval has been issued to construct the water or sewer extension will not be considered. The written request shall include, at a minimum, the following information:

1. Applicant's contact information (Applicant's name, organization, physical mailing address, email address, and telephone number)
2. Project narrative (project name, project location, PINs and addresses of proposed connections)
3. Water and/or sewer extension information (pipe size and linear feet of proposed water and/or sewer extensions)
4. Proposed construction schedule with estimated progress milestones and final completion dates
5. Construction cost estimate (including unit prices) for all water and/or sewer extensions
6. Proposed schedule of connections to City water and or sewer facilities for each year of the five-year period
7. Letter confirming that the proposed project meets the definition of attainable/affordable housing

Appropriate personnel will review the Applicant's request and determine, based on the information provided by the Applicant, if the proposed project is eligible for reimbursement under this section. If the project is deemed eligible, the Director or his/her designee shall notify the Applicant and begin discussions regarding the specific parameters of the reimbursement agreement.

ECONOMIC DEVELOPMENT

A key strategic focus area of the City Council is the promotion and encouragement of economic development initiatives both within the City and in the County at-large. In support of this objective, the City may offer some incentives for water and sewer extensions to Applicants considering Hendersonville or Henderson County as a site. The purpose of this section is to encourage the creation of permanent, quality jobs in Hendersonville and Henderson County, to increase the tax base and diversify the economy of these jurisdictions, and to foster the orderly and continual economic growth of the region as a whole. The City recognizes that it may only offer such economic development incentives as are expressly permitted in the laws of the State of North Carolina, including but not necessarily limited to the Local Development Act of 1925 (§G.S.158-7.1. et seq.).

- a. Applicants may request that the City participate in the cost to extend water and/or sewer service to the Applicant's property, facility, or development. The City Manager, City Engineer, Director and/or their designee(s) shall facilitate negotiations between the City and the Applicant.
- b. Proposed economic development projects located within and outside the City's water and sewer utility service area may be eligible for City participation towards costs relating to the construction of water and/or sewer infrastructure. The City's level of cost participation shall be at the discretion of the City Council and may vary based on project-specific circumstances and other relevant factors.
- c. The City shall endeavor to partner with other units of local government that may contribute similar cost participation towards the project whenever possible.
- d. No deferral or waiver of tap fees shall be allowed under this policy.
- e. No offer for reduced consumption charges shall be made in connection with this policy.
- f. The City Council may augment any initial offer made on its behalf by the City Manager, City Engineer, Director or their designee(s).

CITY'S PREFERRED METHOD OF INSTALLATION

The City recognizes that for certain projects, multiple methods of installation may be available to the Applicant that are both technically and financially feasible and meet all extension requirements as outlined herein. The City furthermore acknowledges the need to extend water and sewer infrastructure in a manner that

supports long-range infrastructure planning objectives and overall system viability benchmarks. The City prefers and encourages project installation methods that promote long-term system viability.

1. The Applicant may be eligible for reimbursement if the City determines that the project can be installed utilizing the City's preferred method of installation.
2. Subject to available funding and City review and approval, the Applicant may be reimbursed for eligible construction costs incurred by the Applicant as a result of utilizing the City's preferred method of installation.
3. Determination of eligible reimbursement amounts shall be at the sole and absolute discretion of the City based on a dispassionate personnel review of the project exercised in good faith.

EXTENSIONS TO ELIMINATE PUBLIC HEALTH HAZARDS

This method for extending the system shall only be employed when there is a documented public health hazard requiring swift and deliberate action to remediate adverse effects to the occupant and/or the general public. Common examples of such public health hazards include, but are not necessarily limited to, contaminated drinking water wells and failing septic systems. This method shall only be employed when personnel deem the project feasible after considering such relevant factors as cost and constructability. The City shall reimburse the Applicant for extensions of this type only as set forth in this section. The City's ability to reimburse the Applicant shall be subject to available funding, and the City shall have no obligation to reimburse any Applicant until the extension of the system has been conveyed to and accepted by the City in accordance with the requirements outlined below.

1. To qualify for this extension method, the Applicant must first furnish evidence from Henderson County Environmental Health staff, a registered sanitarian, or a soil scientist properly licensed in the State of North Carolina that a public health hazard exists. The Applicant may seek assistance from City or County staff or other government officials in order to obtain such evidence.
2. Failure of mechanical equipment does not constitute a public health hazard.
3. This extension method shall not be used for new construction or when a mobile home or other structure is moved onto a new site.
4. Homes that are unoccupied or ineligible for a certificate of occupancy for any reason other than lack of sanitary sewer service are not eligible for this extension method.

5. This extension method is only available to existing residential dwellings.
6. An Applicant may apply for water and sewer extensions simultaneously provided that adequate funding is available and that both the Applicant's water and wastewater facilities meet the definition of a public health hazard as determined by City and/or County staff.
7. The Applicant shall be required to pay all applicable fees and charges required to establish service to the City prior to construction of the extension.

APPENDICES

APPENDIX I - FEES

The City Council adopts the Fee Schedule each year with the annual budget. These fees may be amended at any formal meeting of the Council throughout the fiscal year. The most current Fee Schedule can be found on the [City's website](#). Fees are listed alphabetically under their respective department. The Applicant shall be responsible for the cost of all fees associated with extension projects.

APPENDIX II - APPEALS

This policy has been approved by the Water & Sewer Advisory Council and adopted by the City Council for implementation by City personnel. It is the intent of the City Council that City personnel apply the provisions of this policy equitably to all Applicants and potential Applicants. It is recognized, though, that situations may arise where disagreements may materialize concerning equitable treatment. In these instances, the Applicant may petition for a deviation that relaxes or waives a requirement of this policy. However, no deviations from the standards, rules, and regulations outlined in this policy shall be allowed unless the Applicant demonstrates that, due to special circumstances or conditions beyond the Applicant's control, a literal application of the standards would result in undue and unique hardship to the Applicant and that allowing the requested deviation would not be contrary to the public interest. As such, the burden rests solely with the Applicant to completely and persuasively demonstrate inequitable application of this policy.

APPENDIX III - AMENDMENTS (REVISION TABLE)

This policy and any portions, parts, sections, or subsections of it may be modified, amended, supplemented, or deleted at any time by a majority vote of the City Council acting in formal session upon the recommendation of City staff. All

modifications, amendments, and additions shall carry the same force and effect as these policies. All such revisions shall appear in the table below and shall have the same force and application as all other sections of this policy once adopted.

ORD #	TITLE	DESCRIPTION	AFFECTED SECTIONS	DATE ADOPTED

REFERENCES

- City of Hendersonville Code of Ordinances ([Chapter 52 – Utilities](#))
- City of Hendersonville [Standard Specifications and Details](#)
- City of Hendersonville [Fee Schedule](#)
- City of Hendersonville [Water System Master Plan](#)
- City of Hendersonville [Sanitary Sewer Asset Inventory and Assessment \(Master Plan\)](#)
- City of Hendersonville [Subdivision Ordinance](#)
- City of Hendersonville [Staff Contact Directory](#)
- [§G.S. 158 Article 1](#) “Local Development Act of 1925”
- [§G.S. 157 Article 1](#) “Housing Authorities Law”
- [§G.S. 160A-320](#) “Public enterprise improvements”
- [§G.S. 160A-499](#) “Reimbursement agreements”