

# PUBLIC NOTICE

Effective April 23, 2007  
**EMERALD BAY MUNICIPAL UTILITY DISTRICT**  
**CHAPTER 7 – STATEMENT OF POLICY FOR DEVELOPERS, SUBDIVISIONS, AND NON-STANDARD WATER AND/OR WASTEWATER SERVICE REQUIREMENTS**

Sec. 7.01 District's Limitations

All applicants shall recognize that the District must comply with local, state, and federal rules and regulations as promulgated from time to time, and by covenants of current indebtedness. The District is not required to extend retail utility water and/or wastewater service to an applicant in a subdivision where the responsible party (Applicant/Developer) of the applicable property (Subdivision) has failed to comply with the terms of this policy. Chapter 13.2502 of the Texas Water Code requires that notice be given herein or by publication or by alternative means to the Developer/Applicant.

Sec. 7.02 Purpose

This Section is applicable to all subdivisions, additions to subdivisions, developments, or whenever additional water and/or wastewater service facilities are required. For the purpose of this Statement of Policy, Applications subject to this Section shall be defined as Non-Standard.

Sec. 7.04 Application of Rules

The Board of Directors of the District shall interpret on an individual basis whether or not the Applicant's water and/or wastewater service request shall be subject to all or part of the conditions of this Chapter 7.

Sec. 7.05 Non-Standard Water and/or Wastewater Service Applications

The Applicant shall meet the following requirements prior to the initiation of a Water and/or Wastewater Service Contract by the District:

A. The Applicant shall provide the District a completed Preliminary Application for Non-Standard Water and/or Wastewater Subdivision Service (Appendix 1A) and Non-Standard Water and/or Wastewater Subdivision Service Agreement.

B. A final plat approved by the Smith County Commissioners Court must accompany the Application showing the Applicant's requested water and/or wastewater service area. The plat must be approved by all regulatory authorities having jurisdiction over lot sizes, sewage control, drainage, right-of-way, and other service facilities. Plans, specifications, and special requirements of such regulatory authorities shall be submitted with the plat. Applicants for single taps involving extensions or upsizing of facilities shall be required to submit maps or plans detailing the location of the requested extension and details of demand requirements.

1. Any subdivision with two (2) or more lots or connections will be required to provide sufficient groundwater and well facilities to serve the subdivision.

C. At the time the Applicant submits the Application, a Non-Standard Service Investigation Fee, which is the total of the initial administrative, legal, and engineering fees, shall be paid to the District. Any additional expenses incurred as a result of efforts by the District to study water and/or wastewater service requirements of the Applicant shall be paid by the Applicant.

D. If after the service investigation has been completed, the District determines that the Applicant's water and/or wastewater service request is for property outside the area

dedicated in the District's Certificate of Convenience and Necessity, service may be extended provided that:

1. The service location is contiguous to or within one-fourth (1/4) mile of the District's Certificated Service Area;

2. The service location is not in an area receiving similar service from another utility;

3. The service location is not within another utility's Certificate of Convenience and Necessity; and

4. The Developer provides, at his cost, sufficient water rights and facilities, subject to the District and its Engineer's approval as set forth herein, to the District to serve the subdivision.

Sec. 7.06 Design

The District shall study the design requirements of the Applicant's required facilities prior to initiation of a Service Agreement by adopting the following schedule:

A. The District's Consulting Engineer shall review and approve designs for all service facilities prepared by the Applicant's Consulting Engineer with regard to requested water and/or wastewater service. All designs shall be in compliance with the District's specifications or within certain codes and specifications of neighboring municipalities for all Applications for Non-Standard Water and/or Wastewater Subdivision Service that lie within a five (5) mile margin around the boundaries of municipalities with a population greater than five thousand (5,000).

B. The cost for the District's Consulting Engineer's review of system design and/or modifications shall be in accordance with the currently applicable hourly rate published by the District's Consulting Engineer plus a ten percent (10%) override.

C. Applicant shall submit construction plans and specifications for requisite improvements to connect the system's infrastructure to a proposed "off-site" development bearing the seal and signature of a professional engineer licensed in the State of Texas in sufficient detail to be reviewed and approved or disapproved by the District and/or its Engineer. The submittal to the District shall include a cost estimate for completion of the project.

D. The District reserves the right to upgrade design of service facilities to meet future demands of customers other than Applicant. The District may reimburse the Developer for the expense of such upgrading above the Applicant's facility requirements through future fees.

E. Solely at the District's option, the District may choose to design and construct all facilities for any Applicant that will meet the demand for water and/or wastewater service as platted and/or requested by Applicant. Applicant shall be responsible for payment of all design and construction charges.

Sec. 7.07 Non-Standard Water and/or Wastewater Service Contract

All applicants requesting or requiring water and/or wastewater non-standard service shall enter into a written contract, drawn up by the District's Attorney, to be specific to the terms agreed to by each Developer and the District, in addition to submitting the District's Application for Non-Standard Water and/or Wastewater Subdivision Service and the District's Non-Standard Water and/or Wastewater Subdivision Service Agreement. Said contract shall define the terms of service prior to construction of required service facilities. Guidelines for the service contract may include,

but are not limited to:

A. All costs associated with required administration, design, construction, and inspection of facilities for water and/or wastewater service to the Applicant's service area and terms by which these costs are to be paid.

B. Procedures by which the Applicant shall accept or deny a contractor's bid, thereby committing to continue or discontinue the project.

C. Monthly Base Service Charges/Flat Rates, as applicable to the service request.

D. Terms by which reserved service shall be provided to the Applicant and duration of reserved service with respect to the impact the Applicant's service request will have upon the District's system capability to meet other service requests.

E. Terms by which the Applicant shall be reimbursed or compensated for fees duplicated in assessments for monthly rates.

F. Terms by which the District shall administer the Applicant's project with respect to:

1. Design of the Applicant's service facilities;

2. Securing and qualifying bids;

3. Execution of the Service Agreement;

4. Selection of a qualified bidder for construction;

5. Dispensing advanced funds for construction of facilities required for the Applicant's service;

6. Inspecting construction of facilities; and

7. Testing facilities and closing the project.

G. Terms by which the Applicant shall indemnify the District from all third party claims or lawsuits in connection with the project contemplated.

H. Terms by which the Applicant shall deed all construction facilities to the District and by which the District shall assume operation and maintenance responsibility, including any enforcement of warranties in connection with construction of the Applicant's project.

I. Terms by which the Applicant shall grant title or easement for right-of-ways, constructed facilities, and facility sites and/or terms by which the Applicant shall provide for the securing for required right-of-ways and sites.

J. Terms by which the Board of Directors shall review and approve the Service Contract pursuant to current rules, regulations, and bylaws.

K. All legal fees associated with drafting, revising and completing the Contract shall be borne by the Applicant.

Sec. 7.09 Bids for Construction

The Applicant shall advertise for bids for the construction of the proposed facilities in accordance with generally accepted practices. Plans and specifications shall be made available, with or without charge, to prospective bidders. Although the District reserves the right to reject any bid or contractor, the Applicant shall generally award the contract to the lowest and best bidder in accordance with the following criteria:

A. The Applicant shall sign the Non-Standard Water and/or Wastewater Subdivision Service Agreement, noting willingness to proceed with the project and shall pay all costs in advance of construction associated with the project. The District, Applicant and Contractor shall sign a three-way contract for construction of the project.

Sec. 7.10 Pre-Payment for Construction and Service

Prior to the start of construction, the Applicant shall execute the Non-Standard Water and/or Wastewater Subdivision Service Agreement and pay any and all costs that the District

shall incur to complete the project, up to and including the award of the construction contract, and including but not limited to all engineering and legal fees.

Sec. 7.12 Water and/or Wastewater Service Within Subdivision

The District's objective to provide water and/or wastewater service to any customer located within a subdivision governed by this section is strictly limited to the non-standard water and/or wastewater service specified by the Applicant. The purchaser of any lots who does not receive service because this service has not been specified or paid for by the Applicant shall have no recourse to the District but may have recourse to the Applicant/Developer.

Sec. 7.13 Exception

Any Division of land of one (1) acre or larger, arising from the transfer or partition of the land between the Owner and members of the owner's family within the first (1st) degree of consanguinity, will be exempt so long as:

A. Each lot has frontage and direct physical access onto an existing street or road or the District is provided with an easement from the existing street or road to the tract of land requesting service and,

B. The division is not part of a larger planned development or a sham, or a contrivance to avoid these regulations.

**SCHEDULE "B" INFORMATION PACKET FOR NON-STANDARD WATER AND/OR WASTEWATER SUBDIVISION SERVICE**

Non-Standard Service Rules and Policies apply to any "subdivision" as defined herein. Non-Standard Service Rules and Policies do not apply to an "individual land owner," as defined here.

DEFINITIONS:

(a) Individual Land Owner: An Individual Land Owner of a tract of land situated in Smith County which has frontage or direct physical access onto an existing public street or road, suitable for a single-family residence and is not part of a large development or an attempt to avoid the District or Smith County's Subdivision Regulations.

(b) Subdivision: The division of a tract of land situated within Smith County into two (2) or more parts, or a tract of land which needs infrastructure including a public utility easement according to the Subdivision Rules for Smith County, Texas or any Applicant who does not qualify as an Individual Land Owner.

The term subdivision as used in this policy expressly includes selling or transferring, by contract, deed, devise or any other method of sale or transfer, a tract or parcel of land which is adjacent to another tract or parcel owned or held in the name of the same person who is selling or transferring the tract or parcel, even if approval of a subdivision plat is not required by the county commissioners court or the governing body of any city prior to such intended or actual sale or transfer. For example, if Person A owns two adjacent tracts of land, but only sells or transfers one tract, a subdivision has occurred.

Subdivision expressly includes any retail, commercial or other development which requires service to more than one hook up and/or more than one single family residence.

(c) District: The Emerald Bay Municipal Utility District or EBMUD.

(d) Off-Site Development: A subdivision being situated exterior to the physical boundaries of the District.

(e) Interior Development: A subdivision being situated interior to the physical bound-

aries of the District.

**PROCEDURES FOR SERVING SUBDIVISIONS**

1. Submit Preliminary Application for Non-Standard Water and/or Wastewater Subdivision Service including the following: Appendix 1A

1a. Off-Site Improvement

Deposits: A \$500.00 deposit for each lot/connection for off-site improvement cost must be deposited, payable to Emerald Bay Municipal Utility District ("the District"), before the feasibility study begins. This \$500.00 deposit per lot/connection may not cover the total cost of off-site improvements that will have been completed or may be required to provide water and/or wastewater service to a development or individual customer. If the results of the feasibility study are not acceptable to the Applicant or Customer, the deposit will be returned. For information purposes only, as an example of these charges, if the Applicant plans to develop 10 lots/connections, the total deposit would be \$5,000.00.

1b. Feasibility Study Charge:

Applicant shall reimburse the District for the cost associated with the District and/or their Engineer performing a feasibility study to determine availability of water and/or sewer. Cost of reviewing system modifications by the District and/or its Engineer shall be in accordance with the currently applicable hourly rate published by the District's Engineer plus a ten percent (10%) override. The minimum "study charge" is \$500.00. These fees are not refundable.

1c. Administrative fees are \$100.00 for one or two lots/connections and \$25.00 for each lot/connection thereafter. These fees are not refundable. For information purposes only, as an example of these charges, if the Applicant plans to develop 10 lots/connections, the total charge would be \$100 for the first two lots/connections and \$200.00 for the additional eight lots/connections, for a total fee of \$300.00.

1d. Legal Fees: Applicant shall reimburse the District for the costs associated with any and all legal fees incurred by the District to draft, revise and complete all necessary documents. Cost of drafting, reviewing and completing all legal documents, including but not limited to the Non-Standard Water and/or Wastewater Subdivision Service Agreement, shall be in accordance with the current applicable hourly rate charged to the District by its legal team plus a ten percent (10%) override. The minimum "legal fees" are estimated to be \$500.00. These fees are not refundable.

1e. Three copies of an engineered preliminary plan or final plat map, as approved by the Smith County Commissioners Court.

1f. Any amount due by the Applicant to the District.

1g. Applicant shall submit construction plans and specifications for requisite improvements to connect the system's infrastructure to a proposed "off-site" development bearing the seal and signature of a professional engineer licensed in the State of Texas in sufficient detail to be reviewed and approved or disapproved by the District and/or its Engineer. (Cost of reviewing system modifications by the District and/or its Engineer is payable by the Applicant with a minimum charge of \$500.00).

2. Present Preliminary Application for Non-Standard Water and/or Wastewater Subdivision Service to the District's Board for approval.

3. District's Engineer to perform Feasibility Study.

4. Return of Feasibility Study with recommendations, if any, to the Applicant. (Approximate four week peri-

od).

5. Applicant shall submit construction plans and specifications for requisite improvements to the system's infrastructure to service a proposed "interior" development bearing the seal and signature of a professional engineer licensed in the State of Texas in sufficient detail to be reviewed and approved or disapproved by the District and/or its Engineer. (Cost of reviewing system modifications by the District and/or its Engineer is payable by the Applicant with a minimum charge of \$500.00 or as negotiated with the District).

6. Return of critique of material on interior system from the District and/or its Engineer to the District and the Applicant.

7. A Non-Standard Water and/or Wastewater Subdivision Service Agreement will be presented to the Applicant by the District.

8. Presentation of Applicant's Non-Standard Water and/or Wastewater Subdivision Service Agreement for District's Board approval.

9. Financial assurance in a form required by the District.

10. District Board approval is required prior to commencing construction, with site visits as deemed appropriate by the District and/or its Engineer. Cost for site visits by the District and/or its Engineer shall be in accordance with the currently applicable hourly rate published by the District's Engineer plus a ten percent (10%) override. Costs associated therewith are payable by the Applicant.

11. Upon completion of proposed improvements, a set of "Record Drawings" on a reproducible medium, bearing the seal and signature of a professional engineer licensed in the State of Texas, shall be furnished to the District.

12. Pressure testing and flushing of lines to be accomplished under the supervision of the District.

13. New mains will be disinfected and samples taken in accordance with TCEQ Rules and Regulations for Public Water Systems and the cost thereof shall be the responsibility of the Applicant and/or his Contractor.

14. Letter of Warranty from the Applicant, for a one-year period, submitted to the District after the subdivision water and/or wastewater service has been approved for service.

15. Title of Deed to the utility infrastructure conveyed to the District.

16. Execute a Non-Standard Water and/or Wastewater Subdivision Service Agreement with the District.

**NOTWITHSTANDING ANYTHING HEREIN OR OTHERWISE TO THE CONTRARY, UNDER NO CIRCUMSTANCES IS THE DISTRICT RESPONSIBLE FOR PAYMENT OF ANY COSTS OR FEES ASSOCIATED WITH NON-STANDARD SERVICE AND/OR PROVIDING NEW SERVICE TO A SUBDIVISION. THERE SHALL BE NO VERBAL AGREEMENTS AND THESE PROCEDURES WILL BE FOLLOWED WITH NO DEVIATION.**

**NOTICE:** This is an abridged version of the Emerald Bay Municipal Utility District's Non-Standard Service Rules and Policies for providing utility service to subdivisions, additions to subdivisions, developments, or whenever additional water and/or wastewater service facilities are required. A complete, unabridged version of these Rules and Regulations is available for review by contacting the District at 903-825-6960 or at its website www.emerald-bay-tx.gov. These Rules will become effective April 23, 2007.