

## **SECTION F: DEVELOPER, SUBDIVISION, AND NON-STANDARD SERVICE REQUIREMENTS**

### **Part I. General Requirements**

#### **1. *Districts' Limitations***

All applicants shall recognize the District must comply with local, state, and federal rules and regulations as promulgated from time to time, and with the covenants of current indebtedness. Kaufman County Developmental Services holds a meeting with all involved parties for a development, ie: water, electrical, County Engineer, OSS representative, and the Fire Marshall. As there are specific requirements for development in Kaufman County, Developer must contact Developmental Services before moving forward to request water/wastewater service(s).

<https://www.kaufmancounty.net/development-services/about/>

#### **2. *Purpose***

It is the purpose of this Section to define the process by which the specific terms and conditions for all kinds of nonstandard service, including specifically for nonstandard service to subdivisions and the respective developers and sub-dividers, are determined, including the Non-Standard Service Application and the districts' respective costs.

#### **3. *Application of Rules***

This Section sets forth the terms and conditions pursuant to which the additions to subdivisions, additions to subdivisions, developments, or whenever additional service facilities are required for a single tract of property. Examples of Non-Standard service for a single tract of property include but are not limited to, road bores, extensions to the distribution system, meters larger than 5/8" x 3/4" residential meter, water service lines exceeding 3/4" diameter and exceeding feet in length, or sewer service or collection lines exceeding 4" diameter and exceeding feet in length. For the purposes of this service policy, applications subject to this section shall be defined as nonstandard. In cases of service to a single tract, the General Manager shall determine whether or not an applicants' service shall be subject to all or part of the conditions of this Section. Non-Standard service to subdivisions is governed by this Section.

- a. The District maintains a minimum 6" waterline requirement when installation of waterlines are required. District Engineer will determine the necessary new waterline size to accommodate the service(s) requested and will ensure the addition of the new service(s) will not significantly negatively impact the existing system.
- b. Where private roads/new roads are required to obtain water service, roads must be reasonably accessible by District. (see District Rate Order [Section E\(2\)\(c\)\(i\)](#) and [Section E\(12\)\(a\)\(xii\)](#))

#### **4. *Nonstandard Service Feasibility Study***

All nonstandard services shall require a Feasibility Study by District engineer to determine what, if any, improvements that must be made to obtain services being requested by Applicant. The Feasibility Study will be completed prior to Non-Standard Contract. Applicant/Developer shall submit the following to District to implement Feasibility Study:

- a. Feasibility application detailing the number of lots water and/or sewer service is being requested;
- b. Preliminary Site/Utility Plans; and

- c. Payment for Nonstandard Investigation Fee and Feasibility Study Fee.

Feasibility study shall be completed by District engineer and returned to Developer within 30 days of submitting all the above.

#### **5. *Nonstandard Service Application***

The applicant shall meet the following requirements prior to the initiation of nonstandard service or the execution of nonstandard service contract by District:

- a. The applicant shall provide the District a completed Nonstandard Service Application. The applicant shall specify any additional special service needs that were not provided in the Feasibility Study, such as large meter size, size of subdivision or multi-use facility, or the required level of fire protection requested, including the flow and pressure requirements by Kaufman County Fire Marshall. The specific infrastructure needs such as line size and system capacity needs will be provided in the Feasibility Study.
- b. The applicant must be authorized to enter into a contract with the District setting forth terms and conditions pursuant to which nonstandard service will be furnished to a property, subdivision, RV park, community mobile home park, multi-family housing, campgrounds, or commercial business. The specific terms and conditions pursuant to which the District will provide nonstandard service in response to any request will depend upon the nature of such request and may be set forth in a legally enforceable, contractual agreement to be entered into by the District and the service applicant. A nonstandard service contract may not contain any terms or conditions that conflict with this section.
- c. A plat acceptable to the District must accompany the application showing the applicants' requested service area. (see [Section C. Definition of Final Plat](#)). The plat must be approved by all governmental authorities exercising jurisdiction over lot sizes, sewage control, drainage, right-of-way, and other service facilities. Plans, specifications, and special requirements of such governmental authorities shall be submitted with the plat. Applicants for single taps involving extension or upsizing of facilities shall be required to submit maps or plans detailing the location of the requested extension and details of demand requirements.
- d. A nonstandard service Investigation Fee shall be paid to the District in accordance with the requirements of [Section G](#) for purposes of paying initial administrative, legal, and engineering fees. The District shall refund any balance that remains after it has completed its service investigation and has completed all legal and engineering services associated with processing a request. In the event such fee is not sufficient to pay all reasonable expenses incurred by the District, the applicant shall pay to the District all remaining expenses that have been or will be incurred by the District and District shall have no obligation to complete processing of the request until all remaining expenses have been paid.
- e. If after the service investigation has been completed, the District determines that the applicants' service request is for property located, in whole or in part, outside the area described in the Districts' defined service area, service may be extended provided that:

- i. The service location is not in an area receiving similar service from, or within the Certificate of Convenience and Necessity (CCN) of another retail public utility, unless applicant has filed with the TCEQ the applicable documentation to remove the property from the other retail public utility's service area, and expedited decertification has been granted ([Texas Water Code Section 13.254](#))
- ii. The Districts' defined service area shall be amended to include the entirety of applicants' property for which service is requested. Applicant shall pay all reasonable costs incurred by District for amending its CCN, including but not limited to engineering and professional fees. The District may extend service prior to completing the amendment to fully support such amendment (including but not limited to payment of all professional fees, including administrative, legal, surveying, and engineering fees incurred by District in securing the amendment).

## **6. *Design***

Upon receipt of a complete nonstandard service application and Investigation Fee, the District shall study the design requirements of the applicants' required facilities prior to initiation of nonstandard service contract by adopting the following schedule:

- a. The District engineer shall design, or review and approve plans for all on-site and off-site service facilities for the applicants' requested level and manner of service within the Districts' specifications, incorporating any applicable municipal or other governmental codes and specifications.
- b. The engineers' fees shall be paid out of the Nonstandard Service Investigation Fee under [Section 4](#) above.
- c. The engineer shall submit to the District a set of detailed plans, specifications, and cost estimates for the project.
- d. The Districts' Engineer shall ensure all facilities for any applicant are of proper size and type to meet the level and manner of service specified in the nonstandard service application. The District reserves the right to upgrade design of service facilities to meet future demands provided however, that the District shall pay the expense of such upgrading in excess of what is reasonably and directly allocable to the applicants' facility requirements.
- e. The Districts' engineer will determine the fire flow design for any nonstandard service request, including new subdivisions, based on Kaufman County Fire Marshall existing policies.

## **7. *Nonstandard Service Contract***

Applicants requiring nonstandard service may be required to execute a nonstandard service contract, drawn up by the Districts' attorney, in addition to submitting the Districts' Nonstandard Service Application. Service to any subdivision shall require a nonstandard service contract. Said contract shall define the terms, including the level and manner of service and the date for commencing service, prior to construction of any facilities. The nonstandard service contract may include, but is not limited to:

- a. Specifying the costs for contract administration, the design, construction, and inspection of facilities, securing additional water supply/contracting for additional sewer treatment capacity, and terms by which these costs are to be paid.
- b. Procedures by which the applicant shall accept or deny a contractors' bid, thereby committing to continue or discontinue the project.
- c. Terms by which service capacity adequate to the level and manner of service requested shall be reserved for the applicant following construction of facilities and duration of reserved service taking into consideration the impact the applicants' service demand will have upon the Districts' overall system capability to meet other service requests, as well as assessment of any base rate following the construction of facilities (if applicable).
- d. Terms by which the District shall administer the applicants' project with respect to:
  - i. Design of the on-site and off-site facilities;
  - ii. Securing and qualifying bids;
  - iii. Requirements for executing the nonstandard service contract;
  - iv. Selection of a qualified bidder for construction;
  - v. Dispensing funds advanced prior to initiation of construction;
  - vi. Inspecting facilities and closing the project.
- e. Terms by which the applicant shall indemnify the District from all third-party claims or lawsuits in connection with the project.
- f. Terms by which the applicant shall convey 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 applicants' project.
- g. Terms by which the applicant shall grant title or easements for use of property during construction and for ongoing service thereafter.
- h. Terms by which the General Manager shall review and approve the nonstandard service contract pursuant to current rules, regulations, and District Rate Order.
- i. Agreement to enforceable remedies in the event applicant fails to comply with all contract obligations, including specific performance.

In the event that the applicant undertakes any construction of any such facilities prior to execution of a nonstandard contract with the District, the District may refuse to provide service to the applicant or to any portion of the applicants' property (or require payment of all costs for replacing/repairing any facilities constructed without prior execution of a contract from any person requesting service within the applicants' service area, such as a person buying a lot or home within the subdivision), require that all facilities be uncovered by the applicant for inspection by the District, require that any facilities not approved by the District be replaced, or take any lawful action determined appropriate by the Board of Directors of the District.

**8. To receive meter installations, Developer must submit:**

**a. (for RV Parks, Campgrounds, Apartments, and Commercial Projects)**

- i. Full payment for connection fees per meter installation estimate; and
- ii. Completed Service Application, and Contract specific to type of facility.

**b. (for Subdivisions and projects requiring acceptance of CMSUD infrastructure)**

- i. 2-year maintenance bond for 20% of cost of the infrastructure being accepted by CMSUD;
- ii. Affidavit of bills paid;
- iii. PDF of as-builts for development (after PDF is received, CMSUD must issue an acceptance letter for this phase of the development prior to any meter sets); and
- iv. Full payment of connection fee per the Nonstandard Contract.

**9. Service to Commercial Businesses**

Commercial Service is defined as anything non-single family residential, including but not limited to churches, retail facilities of any type, mechanical shops, dealerships, venues, mud bogs, multi-family housing, medical/dental facilities, hospitals or short/long term care facilities, car washes, service stations, manufacturing facilities, schools, sports facilities, restaurants, and RV/Mobile Home Parks.

**10. Service to RV Parks, Community Mobile Home Parks, and Campgrounds**

In determining the water meter size required to supply service to an RV Park, Community Mobile Home Park, or Campground, District will use the AWWA maximum continuous flow specifications equivalents. ([Section G\(13\)\(a\) Base Rate of this District Rate Order](#)). All existing RV Parks, Community Mobile Home Parks, and Campgrounds will be grandfathered by their existing Agreement; however, any additions to the park or campground will fall under the guidelines as set forth below adopted by the Board of Directors on February 23, 2021. (*see* District Ordinance 2021-01) (*Revised May 30, 2023 – [District Ordinance 2023-02](#)*)

- a. In compliance with the [Texas Administrative Code \(TAC\) Title 290.38](#), District shall require eight single-family home equivalents per space/lot for RV Parks and Campgrounds. (Example: 100 RV/ Campground spaces/lots will require a meter(s) sized to equal 13 single-family homes.) District reserves the right to determine the combination of compound meters necessary to provide water service to the RV Park or Campground. (Example: 100 RV/ Campground spaces/lots will require a 3” compound water meter.)
- b. In compliance with the [Texas Administrative Code \(30 TAC\) Title 290.38\(16\)](#), Tiny Homes/Park Model Homes will be treated as long-term residents and will require one meter equivalence per Tiny Home/Park Model Home.
- c. Each building inside a Park or Campground will require an additional single-family home equivalent. (Example: each restroom, laundry facility, store, office, etc...)

**d. *Mobile Homes inside or outside Community Mobile Home Parks***

Mobile homes, inside or outside of a community mobile home park shall be treated as a single-family home. Additionally, Districts' Engineer shall determine if a larger size meter or system improvements will be required based on Kaufman County Fire Marshalls' flow requirement for RV Park or Campground and TCEQ and/or PUC requirements.

**11. *Service to Multi-Family Housing***

Each unit contained in a multi-family housing complex, (apartments, two-plex, four-plex, and condo style housing), shall have one meter per unit, or one-meter equivalent per unit. ((TAC) Title 290, Subchapters D and F)

All existing Multi-Family Housing complexes will be grandfathered by their existing Agreement; however, any additions or new complexes will fall under the guidelines as set forth below adopted by the Board of Directors on February 23, 2021.

**12. *Service to a Dedicated Fire Line and hydrants within a private property***

Installation, replacement, and/or maintenance of a "dedicated fire line" and/or any fire hydrants on the line will be the responsibility of the property owner; however, any connection to District main waterlines must be made by District or Districts' authorized agent. (See District Rate Order Section C and Section G(13)(f)(g)).

**13. *Property and Right-of-Way Acquisition***

With regard to construction and subsequent maintenance and operation of facilities, the District shall require exclusive easements or title to property as appropriate.

- a. If the District determines that easements or facility sites outside the applicants' property are required, the applicant shall secure such easements or title to facility sites exclusively for the District. All easements and property titles shall be researched, validated, and filed by the District at the expense of the applicant. No facilities shall be constructed in the public right-of-way without prior written consent of the District in its sole discretion.
- b. In the event the applicant is unable to secure any easements or title to any sites required by the district, and the District determines in its sole discretion to acquire such easements or title by eminent domain, all reasonable costs incurred by the District shall be paid by the applicant, including administrative, legal fees, appraisal fees, court costs, and the condemnation award.
- c. The District shall require exclusive dedicated easements on the applicants' property as appropriate for the level and manner of service required by the applicant and system-wide service by the District. All such easements shall be adequate to authorize the District to construct, install, maintain, replace, upgrade, inspect, or test any facility necessary for service to the applicant as well as system-wide service within the District generally. Easements for subdivisions also must be sufficient for service throughout the subdivision when the subdivision is fully occupied. Title to any portion of applicants' property required for on-site facilities will be provided and exclusive to the District.
- d. Easements and facilities sites shall be prepared for the construction of all District facilities in accordance with the Districts' requirements at the expense of the applicant.

#### ***14. Dedication of Water System Extension/Improvement to District***

- a. Upon proper completion of construction of all on-site and off-site service facilities (the “Facilities”) to meet the level and manner of service requested by the applicant, the facilities shall become the property of the District. The facilities shall thereafter be owned and maintained by District subject to the warranties required of applicant under Subsection (b). Any connection of individual customers to the Facilities shall be made by the District.
- b. Upon transfer of ownership of the facilities, applicant shall warrant materials and performance of the Facilities constructed by applicant or applicants’ designated contractor for twenty-four (24) months following the date of the transfer.

#### ***15. Bids for Construction***

The Districts’ consulting engineer shall solicit or shall advertise for bids for the construction of the applicants’ proposed facilities in accordance with law and generally accepted practices or the District at its discretion choose to install the waterline at the expense of applicant. Plans and specifications shall be made available, with or without charge, to prospective bidders should bids be solicited or advertised. Although the District reserves the right to reject any bid or contractor, the District shall generally award the contract to the lowest and best bidder in accordance with the following criteria:

- a. The applicant shall execute the nonstandard service contract evidencing willingness to proceed with the project and shall pay all costs in advance of construction associated with the project;
- b. The contractor shall provide an adequate bid bond under terms acceptable to the District;
- c. The contractor shall secure adequate performance and payment bonding for the project under terms acceptable to the District;
- d. The contractor shall supply favorable references acceptable to the District;
- e. The contractor shall provide adequate certificates of insurance as required by the District.

#### ***16. Pre-Payment for Construction and Other Costs***

As a general rule, applicant shall be required to pay all anticipated costs of construction, easement and title acquisition, legal and engineering fees, and other costs associated with extending nonstandard service prior to these costs being incurred by District. District shall promptly remit and all unexpended prepaid funds, without interest, upon completion of the nonstandard service extension and commencement of service. While the District will make every reasonable effort to work with applicant, prepayment of costs shall be provided in a manner acceptable to District.

#### ***17. Construction***

- a. All roadwork pursuant to state, county and/or municipal standards (as applicable) shall be completed prior to facility construction to avoid future problems resulting from road right-of-way completion and excavation. Subject to approval of the requisite authority, road sleeves may be installed prior to road construction to avoid road damage or applicants’ facilities during construction.

- b. The District shall, at the expense of the applicant, inspect the facilities to ensure compliance with District standards.
- c. Construction plans and specifications shall be strictly adhered to, but the District reserves the right to change-order any specifications, due to unforeseen circumstances during the design phase, to better facilitate construction or operation of the applicants' facility. All change-order amounts shall be charged to the applicant.

## **Part II. Request for Service to Subdivided Property**

This section contains additional requirements for applicants that are developers as defined in [Section C Definitions](#).

**1. *Sufficient Information*** – Applicants shall provide the District sufficient information describing the level and manner of service requested and the timeline for initiation of this service. The following is the minimum information needed for an engineering evaluation of the requested service to the property described in the application.

- a. Completion of requirements described in [Section F. Part I](#), including *Nonstandard Service Application*.
- b. Applicant shall provide the District with details concerning access to the property during evaluation of application.
- c. Applicant shall be notified in writing by the District or designated representative the timeframe within which the requested service can be provided and the costs for which the Applicant will be responsible, in accordance with the details described on the Applicants' request for service.

**2. *Service within Subdivisions***

The Districts' obligation to provide service to any customer located within a subdivision governed by this section is strictly limited to the level and manner of the service specified by the applicant developer for that subdivision. The applicant developer is responsible for paying for all costs necessary for nonstandard service to a subdivision as determined by the District under the provisions of this Rate Order and specifically the provisions of this section. If the applicant developer fails to pay these costs, the District has the right to require payment of these costs by any one or more of the persons purchasing lots or homes within such subdivision before the District is obligated to provide retail utility service to any customer service applicant within the subdivision. In addition, District may elect to pursue any remedies provided by the nonstandard service contract if one has been executed. Applicant developer is advised that purchasers of lots also may have legal recourse to the applicant developer under Texas law, including but not limited to [Section 13.257, Texas Water Code](#), and the [Texas Deceptive Trade Practices-Consumer Protection Act Chapter 17, Subchapter E, Business and Commerce Code](#).

- a. The applicant developer must provide all information otherwise required under this section and must ensure that the District has been provided complete information sufficient to determine whether the level and manner of service requested by the applicant developer can be provided within the timeframe specified by the applicant



developer and to determine what capital improvements, including expansion of capacity of the Districts' water, treatment and/or storage facilities and/or general transmission facilities properly and directly allocable to the requested level and manner of service, will be needed. At a minimum, and in addition to information otherwise required under this section, the applicant developer must provide:

- i. Map and legal description of the area to be service complying with the map requirements of [PUC Rules, Chapter 24, Subchapter G. Section 24.257\(a\)\(1-4\)](#).
- ii. Timeframe for:
  - a. Initiation of service; and
  - b. Service to each additional or projected phase following the initial service.
- iii. Detailed description of the nature and scope of the project/development for:
  - a. Initial service; and
  - b. Phased and final needs, including map showing each phase, and the projected land uses that support the requested level of service for each phase.
- iv. Flow and pressure for anticipated level of fire protection requested, including line size and capacity as required by [Kaufman County Fire Marshal](#);
- v. Copies of all required approvals, reports and studies done by or for the applicant developer to support the viability of the proposed subdivision;
- vi. The proposed improvements to be constructed by the applicant developer including timelines for the construction of these improvements;
- vii. A map or plat of the subdivision depicting each phase and signed and sealed by a licensed surveyor or registered professional engineer;
- viii. Intended land use of the development, including detailed information concerning types of land use proposed;
- ix. The projected water and/or sewer demand of the development when fully built out and occupied, the anticipated water/sewer demands for each type of land use, and a projected schedule of build-out;
- x. A scheduled of events leading up to the anticipated date upon which service from the District will first be needed;
- xi. A proposed calendar of event, including design, plat approval, construction phasing and initial occupancy; and
- xii. Any additional information requested by the District necessary to determine the capacity and the costs for providing the requested service.

- b. Applicant developer must establish that current and projected service demands justify the level and manner of service being requested.
- c. The applicant developer must advise the District that he/she may request expedited decertification from the PUC.
- d. The application will be processed on a timeframe that should ensure final decision by the District within ninety (90) days from the date of the nonstandard service application and the payment of all fees required by this section.
  - i. Upon payment of all required fees, the District shall review applicant developers' service request. If no additional information is required from applicant developer, the District will prepare a written report on applicant developers' service request, subject to any final approval by the Districts' General Manager or governing body (if applicable) which must be completed within the ninety (90) days from the date of application and payment of the required fees. The Districts' written report will state whether the requested service will be provided, whether the requested service can be provided within the timeframe specified by the applicant developer, and the costs for which the applicant developer will be responsible (including capital improvements, acquisition of any additional water supply/sewer treatment capacity, easements and land acquisition costs, and professional fees).
  - ii. In the event the Districts' initial review of the applicant developers' service application shows that additional information is needed, the District will notify applicant developer of the need for such additional information. Notice of the need for additional information will be made in writing within thirty (30) days of the date the District receives the applicant developers' payment of the required fees and completed application for nonstandard service. Applicant developer should respond to the Districts' request for additional information within fifteen (15) days of receipt of the Districts' written request. In any case, the District will provide the written report, including any final approval by the Districts' Board (if applicable) within ninety (90) days from the date of the initial written application and payment of all required fees.
  - iii. By written mutual agreement, the District and the applicant developer may extend the time for review beyond the ninety (90) days provided for expedited petitions to the PUC. The applicant developer is advised that failure to timely provide the information required by this section, including this Subsection, may cause the PUC to reject any subsequent petition for decertification of applicant developers' property. The applicant developer is further advised that if the applicant developer makes any change in level or manner of service requested, the timeframe for initiation of service or the level or manner or timeframe for any phase of service, the applicant developers' original application for nonstandard service will be deemed withdrawn, and the change may be considered a new application for nonstandard service for all purposes, including the times specified herein for processing.
- iv. Following ninety (90) days and final approval by the District and acceptance of the Districts' terms for service by the applicant, a nonstandard service contract will be executed, and the District shall provide service according to the conditions contained in the nonstandard service contract.