

**ORDINANCE NO. 2020-\_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 130, ARTICLE V, SECTION 130-257, CODE OF ORDINANCES OF THE CITY OF NEW BRAUNFELS, TEXAS ADJUSTING SEWER RATES AND CHARGES FOR FISCAL YEAR 2021; PROVIDING FOR UPWARD ADJUSTMENTS OF SEWER RATES AND CHARGES FOR FISCAL YEAR 2022 AND FISCAL YEAR 2023; REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; CONTAINING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

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**WHEREAS**, the City Council of New Braunfels, Texas (the “City”), owns and operates by and through New Braunfels Utilities its own sewer system in accordance with the laws of the State of Texas and the charter of said City; and

**WHEREAS**, the Council of the City of New Braunfels has heretofore established an ordinance providing for assessment and collection of sewer rates and which ordinance has been codified as Chapter 130, Article V, Code of Ordinances of the City; and

**WHEREAS**, Section 130-257 of the Code of Ordinances of the City requires an update when rates are changed; and

**WHEREAS**, the New Braunfels Utilities staff has recommended new sewer rates and charges for fiscal year 2021, fiscal year 2022, and fiscal year 2023; and

**WHEREAS**, the New Braunfels Utilities staff has presented the updated rates and rate design to City Council in a workshop held on October 5, 2020; and

**WHEREAS**, in order to change the sewer rates, it is now necessary and advisable that Section 130-257, Article V, Code of Ordinances, as heretofore established by ordinance, be amended; and

**WHEREAS**, the City Council of the City retains the power to consider an additional adjustment of NBU’s rates at any time.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:**

## SECTION 1.

**THAT**, the findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

## SECTION 2.

**THAT**, Section 130-257, Chapter 130, Article V, New Braunfels Code of Ordinances, as heretofore established by ordinance, be and hereby is amended to (i) adjust sewer rates and charges beginning November 1, 2020, and (ii) upwardly adjust the sewer rates and charges effective on the dates and in the amounts indicated below, excluding those covered by contract, with no further action by the City Council of New Braunfels, Texas or by New Braunfels Utilities:

Effective Date	Rate Adjustment
August 1, 2021	thirteen percent (13%) upward adjustment of the rates in effect on July 31, 2021
August 1, 2022	thirteen percent (13%) upward adjustment of the rates in effect on July 31, 2022

## SECTION 3.

**THAT**, Section 130-257, Chapter 130, Article V, New Braunfels Code of Ordinances, as heretofore established by ordinance, be and hereby is amended in the following section with deleted language signified by strikethrough font and new language signified by underlined font below:

ARTICLE V. - SEWER SERVICE

DIVISION 2. – SERVICE REQUESTS; RATES

Sec. 130-257. - Sewer rates.

(a) *Service rate classifications.* All sewage treatment services supplied shall be designated by the following classifications with descriptions, rates, and conditions of service as indicated further in this section:

Residential service 1 (with water service)

Residential service 2 (without water service)

General service 1 (with water service)

General service 2 (without water service)

Contractual service

Experimental service

- (b) *Rate schedule administration and assignment.* Upon request for sewer service from a prospective customer, NBU shall assign the appropriate rate classification for sewer service to the applicant requesting service. This assignment may be based upon information provided by the applicant, or other information available at the time the assignment is made.

If a customer receiving service changes the nature or character of sewer service requirements, then NBU shall, upon review of the information available pertaining to the revised sewer service requirement, reassign the customer to the appropriate rate schedule.

If a prospective or existing customer is eligible to receive sewer service under more than one of the NBU rate schedules, or if the rates charged are unduly burdensome as a result of the customer's technical qualification for a specific rate schedule, then NBU shall assign the most appropriate rate schedule for sewer service after consideration of the various service requirements, potential impact on NBU facilities, the potential relative costs of serving the customer, and other available pertinent information.

If a customer requests an adjustment to the billing units due to an unusual occurrence or due to unusual or special circumstances, then NBU may, upon review of the information available pertaining to the customer's request and after consideration of the potential impact on NBU, adjust the billing units.

- (c) *Residential service 1 rate, with water service provided by NBU.*

- (1) *Availability.* The residential service 1 rate is available in the sewer service area of NBU under the rules, regulations, policies, and at the rates set forth in this section.
- (2) *Applicability.* The residential service 1 rate is applicable to sewer service used solely for residential purposes and related activities consisting of service to single-family dwellings or permanent residential multifamily dwellings with not more than four separate and identifiable permanent residential dwelling areas, such as duplexes, triplexes, or quadruplexes, and where water service is provided by NBU to all units through one water meter.
- (3) *Excluded uses.* The residential service 1 rate shall not be applicable to service to a residence also used for commercial purposes, including, but not limited to, boardinghouses, motels, hotels, nursing homes, apartment complexes with more than four separate and identifiable residential dwelling areas, barbershops, beauty shops, general contractors storing equipment or building materials on the property, child care centers, retail businesses, restaurants, technical repair services, professional services offered to the public on the premises, and other similar commercial or nonresidential activities.
- (4) *Monthly rates.* The residential service 1 rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge plus the monthly volume charge plus the monthly unit charge, if applicable, as shown below:

*Monthly customer charge.* The monthly customer charge shall be \$21.55 effective November 1, 2020, subject to subsection (i).

*Monthly volume charge.* The monthly volume charge shall be \$5.07 effective November 1, 2020, subject to subsection (i), per 1,000 gallons, or any part thereof, of average water consumption calculated on a monthly basis as specified under determination of sewer volume billing units.

*Monthly unit charge.* The monthly unit charge shall be applicable when a customer with a master metered water service receives service at a duplex, triplex, quadruplex, or an individual

residence with separate apartment type unit, each such separate and identifiable permanent residential dwelling area shall be subject to a monthly unit charge for billing purposes. The monthly charge for each unit in excess of one unit shall be \$12.82 per month effective November 1, 2020, subject to subsection (i).

NBU will not undertake the apportionment of charges among the occupants residing in multi-unit residential structures. Charges for multi-unit service will be assessed against the customer of record for such location.

- (5) *Determination of sewer volume billing units.* Sewer volume billing units shall be calculated each month for each residential service 1 rate customer by averaging that customer's water consumption for the lowest three months during the preceding 12- month period. Only one month of metered water consumption of less than 100 gallons will be included in the calculation as long as the customer has two or more months of metered water consumption of more than 100 gallons. If the customer has less than two months of metered water consumption of 100 gallons or more, zero consumption months are not restricted from use in the calculation. This calculated three-month average water consumption will be billed each month using the rate specified under monthly volume charge in the preceding paragraph.

Residential service 1 rate customers who have a water usage history less than 12 months shall be billed at the lesser of the system calculated average consumption for similar residential service 1 rate customers or the current billing month's water consumption until the customer has established a water usage history of 12 months.

- (6) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:
- a. The monthly customer charge plus the monthly volume charge plus the monthly unit charge, if applicable; or
  - b. The amount specified in any contract between the customer and NBU.
- (7) *Maximum monthly charge.* The maximum charge for a single unit residential structure shall be \$115.85 per month effective November 1, 2020, subject to subsection (i). A maximum charge is not applicable to any multi-unit residential service 1 customer.
- (8) *Proration of bills.* Single unit residential service 1 rate customers who receive less than a full month of sewer service will have their total bill prorated based on the number of days for which service is received by the customer, divided by the number of days in the current calendar month. Days of service received will be calculated based on the date of initial service or cutoff of service by NBU and will not be prorated for partial days. Proration of bills will not be applicable to any multi-unit residential customer.
- (d) *Residential service 2 rate, with water service not provided by NBU.*
- (1) *Availability.* The residential service 2 rate is available in the sewer service area of NBU under the rules, regulations, policies, and at the rates set forth in this section.
  - (2) *Applicability.* The residential service 2 rate is applicable to sewer service used solely for residential purposes and related activities consisting of service to single-family dwellings or permanent residential multifamily dwellings with not more than four separate and identifiable permanent residential dwelling areas, such as duplexes, triplexes or quadruplexes, where water service is not provided by NBU.
  - (3) *Excluded uses.* The residential service 2 rate shall not be applicable to service to a residence also used for commercial purposes, including, but not limited to, boardinghouses, motels, hotels, nursing homes, apartment complexes with more than four separate and identifiable residential dwelling units, barbershops, beauty shops, general contractors storing equipment or building materials on the property, child care centers, retail businesses, restaurants, technical repair services, professional services offered to the public on the premises, and other similar commercial or nonresidential activities.

- (4) *Monthly rates.* The residential service 2 rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge plus the monthly unit charge, if applicable, as shown below:

*Monthly customer charge.* The monthly customer charge shall be \$61.35 effective November 1, 2020, subject to subsection (i), plus the monthly unit charge if applicable. Triplexes and quadruplexes will be billed for two monthly customer charges.

*Monthly unit charge.* When a customer with a master metered water service receives service at a duplex, triplex, quadruplex, or an individual residence with separate apartment type units, each such separate and identifiable permanent residential dwelling area shall be subject to a monthly unit charge for billing purposes. The monthly charge for each unit in excess of one unit shall be \$12.82 per month effective November 1, 2020, subject to subsection (i).

NBU will not undertake the apportionment of charges residing in multi-unit residential structures among the occupants. Charges for multi-unit service will be assessed against the customer of record for such location.

- (5) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:

- a. The monthly customer charge plus the monthly unit charge, if applicable; or
- b. The amount specified in any contract between the customer and NBU.

- (e) *General service 1 rate, with water service provided by NBU.*

- (1) *Availability.* The general service 1 rate is available in the sewer service area of NBU under the rules, regulations, policies, and at the rates set forth in this section.
- (2) *Applicability.* The general service 1 rate is applicable to sewer service for any customer which does not qualify for the residential service rate, and where water service is provided by NBU.
- (3) *Monthly rates.* The general service 1 rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge plus the monthly volume charge plus the monthly unit charge, if applicable, as shown below.

*Monthly customer charge.* The monthly customer charge shall be determined by the size of the water meter serving each customer, as follows:

Meter Size	Customer Charge Effective November 1, 2020 Subject to subsection (i)
5/8 -inch and smaller	\$30.64
1-inch	\$33.25
1½-inch	\$46.37
2-inch	\$58.98
3-inch	\$91.02
4-inch	\$131.10
6-inch	\$236.27
10 inch and greater	407.75

*Monthly volume charge.* The monthly volume charge shall be based upon actual water consumption measured in 1,000-gallon increments or any part thereof, as follows:

Gallons of Water Usage	\$ per 1,000 gallons Effective November 1, 2020 Subject to subsection (i)
0—7,000	\$6.41
7,001—25,000	\$6.41
25,001—300,000	\$6.41
Excess of 300,000	\$6.41

*Monthly unit charge.* When a customer with a master metered water service receives service at a multiple unit residential facility with five or more units, such as an apartment complex or mobile home park, each separate and identifiable permanent residential dwelling area and each public bathroom, laundry area, or other area where sewer service exists shall be subject to a monthly unit charge for billing purposes. When a customer receives service at a multi-unit nonresidential facility, each separate and identifiable office, retail, wholesale or other type of working space designed for occupancy by separate tenants or unrelated users shall be subject to a monthly unit charge for billing purposes. The monthly charge for each unit in excess of one unit shall be \$12.82 per month effective November 1, 2020, subject to subsection (i).

NBU will not undertake the apportionment of charges for such users of water among the occupants or tenants. Charges for multi-unit service will be assessed against the customer of record for such location.

- (4) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:
- The monthly customer charge plus the monthly volume charge plus the unit charge, if applicable; or
  - The amount specified in any contract between the customer and NBU.
- (f) *General service 2 rate, with water service not provided by NBU.*
- (1) *Availability.* The general service 2 rate is available in the sewer service area of NBU under the rules, regulations, policies, and at the rate set forth in this section.
  - (2) *Applicability.* The general service 2 rate is applicable to sewer service for any customer which does not qualify for the residential service rate, and where water service is not provided by NBU.
  - (3) *Monthly rates.* The general service 2 rate will be calculated monthly in accordance with this section and will be an amount equal to the sum of the monthly customer charge plus the monthly volume charge plus the monthly unit charge, if applicable, as shown below.

*Monthly customer charge.* The monthly customer charge shall be determined by NBU based on an engineering study or the size of the water meter serving each customer, using the general service 1 monthly customer charge rate schedule.

If the customer receives water service directly from a private well where the water service is not provided through a meter, then the monthly customer charge shall be determined based upon analysis of the water connection, but not less than \$28.05 per month effective November 1, 2020, subject to subsection (i).

*Monthly volume charge.* NBU shall have the right to require metered water usage data, to perform individual account analysis of water consumption, or to perform sewer flow analysis for any customer under this rate. If metered water usage data becomes available, or if NBU performs an individual water consumption analysis or sewer flow analysis, then the monthly volume charge shall be determined in accordance with the general service 1 monthly volume charge rate schedule.

If metered water data is not available, and if NBU does not require an individual water consumption analysis or sewer flow analysis, then the monthly volume charge shall be \$68.97 per month effective November 1, 2020, subject to subsection (i).

*Monthly unit charge.* When a customer receives service at a multiple unit residential facility with five or more units, such as an apartment complex or mobile home park, each separate and identifiable permanent residential dwelling area and each public bathroom, laundry area, or other area where sewer service exists shall be subject to a monthly unit charge for billing purposes. When a customer receives service at a multi-unit nonresidential facility, each separate and identifiable office, retail, wholesale or other type of working space designed for occupancy by separate tenants or unrelated users shall be subject to a monthly unit charge for billing purposes. The monthly charge for each unit in excess of one unit shall be \$12.82 per month effective November 1, 2020, subject to subsection (i).

NBU will not undertake the apportionment of charges for such customers among the occupants or tenants. Charges for multi-unit service will be assessed against the customer of record for such location.

- (4) *Minimum monthly charge.* The minimum monthly charge shall be the larger of the following:
  - a. The monthly customer charge plus the monthly volume charge plus the monthly unit charge, if applicable; or
  - b. The amount specified in any contract between the customer and NBU.
- (g) *Contractual sewage treatment.* NBU shall have the right to enter into contracts with customers for sewage treatment subject to prior approval of the city council. Such sewage treatment charges may be calculated on the basis of customer classification as set forth in this article or on cost of service, at the election of NBU; however, the sewage treatment charge shall never be less than cost of service.
- (h) *Experimental rate.*
  - (1) *Applicability.* The experimental rate shall be applicable to any and all customer rate classifications at times selected by NBU. The time period for which the experimental rate may apply shall not exceed one year. At any time, the number of customers affected by the experimental rate shall not exceed one percent of the total number of customers served by NBU.
  - (2) *Purpose.* The purpose of the experimental rate is to aid in the design of new rates. NBU shall have the authority to initiate or discontinue the experimental rate as it deems appropriate.
  - (3) *Selection.* The methods and criteria for selection of rate class groups to be used for the experimental rate shall be selected and defined by NBU. Participation in the experimental rate by customers shall be on a voluntary basis.
- (i) *Sewer rate escalation.* All rates and charges for sewer services, excluding those covered by contract, shall increase as follows:

Effective Date	Rate Adjustment

August 1, 2021	thirteen percent (13%) upward adjustment of the rates in effect on July 31, 2021
August 1, 2022	thirteen percent (13%) upward adjustment of the rates in effect on July 31, 2022

NBU is directed to provide updates to City Council and the NBU Board on NBU's financial status. City Council retains the power to consider a review of NBU's rates at any time.

#### **SECTION 4.**

**THAT**, this ordinance shall be and is hereby declared to be cumulative to all other ordinances of the City of New Braunfels relating to sewer rates, and same shall not operate to repeal or affect any such ordinance or ordinances except insofar as the provisions of such ordinance or ordinances are inconsistent or in conflict with the provisions of this ordinance, in which instance or instances those provisions shall be and they are hereby repealed.

#### **SECTION 5.**

**THAT**, if any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

#### **SECTION 6.**

**THAT**, this ordinance shall be effective on November 1, 2020.

#### **SECTION 7.**

**PASSED AND APPROVED:** First Reading this 12th day of October, 2020.

**PASSED AND APPROVED:** Second Reading this 26th day of October, 2020.

**CITY OF NEW BRAUNFELS**

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**RUSTY BROCKMAN, Mayor**

**ATTEST:**



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**ANDREW LYONS, Assistant City Secretary**

**APPROVED AS TO FORM:**

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**VALERIA ACEVEDO, City Attorney**