

**RESOLUTION #105-5-1-18-1 OF THE FORT WAYNE BOARD OF PUBLIC WORKS
APPROVING A NEW POLICY REGARDING PUBLIC AND PRIVATE WATER SYSTEM INFRASTRUCTURE AND
EXTENSION OF WATER MAINS AND AMENDING THE FORT WAYNE WATER UTILITY GENERAL RULES
AND REGULATIONS ACCORDINGLY**

WHEREAS, Fort Wayne City Utilities owns, operates and maintains infrastructure systems that produce, regulate and distribute potable water to its customers; and

WHEREAS, The Board of Public Works of the City of Fort Wayne, Indiana (Board) has promulgated general rules, regulations, and policies that govern the ownership, operation and maintenance of the water utility infrastructure system; and

WHEREAS, from time to time extensions and additions are made to utility infrastructure systems with such extensions and additions typically being funded by private entities; and

WHEREAS, the Board desires to document and clarify conditions under which utility system extensions and additions will be accepted as part of the publicly-owned potable water distribution will become part of the utility systems that are owned, operated, maintained, repaired and replaced as needed by City Utilities for the benefit of its customers and the community at-large.

NOW, THEREFORE, BE IT RESOLVED BY THE FORT WAYNE BOARD OF PUBLIC WORKS:

SECTION 1. That the "Policy of the Fort Wayne Board of Public Works Regarding Public and Private Water System Infrastructure and Extension of Water Mains" attached hereto as Exhibit A is hereby ratified, confirmed, and approved in all respects.

SECTION 2. That the "Water Main Extension Policy" as prepared and approved in 2001 is hereby repealed. The Water Main Extension Policy shall be detached from the Fort Wayne Water Utility General Rules and Regulations and substituted with the "Policy of the Fort Wayne Board of Public Works Regarding Public and Private Water System Infrastructure and Extension of Mains" approved under Section 1 of this Resolution.

SECTION 3. That the Introductory Statement to the Fort Wayne Water Utility General Rules and Regulations is deleted and replaced with the following:

GENERAL RULES AND REGULATIONS

The General Rules and Regulations of the Utility, as amended and supplemented from time to time, shall govern all water service rendered or to be rendered by the Utility, shall be binding upon every customer, and shall constitute a part of the terms and conditions of every contract for water service, whether expressly incorporated therein or not or whether or not a signed application for water service is on file. It

is understood that such rules are necessary to provide the maximum benefit to public health and well-being as the public uses the services of the Utility. It is further understood that such rules and regulations are adopted for the safe, economical and efficient construction, management and operation of the Utility in accordance with Indiana Code 8-1.5-3-4.

The following policies are by reference made part of these General Rules and Regulations and copies are attached hereto:

Policy of the Fort Wayne Board of Public Works Regarding Public and Private Water System Infrastructure and Extension of Water Mains

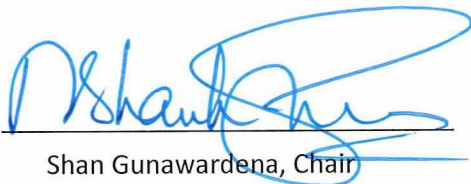
Developer Installed Water Taps Policy

Policy and Procedures for Water Service Disconnections – Building Demolitions

Gender Statement For simplification purposes, the masculine gender pronoun is used throughout these General Rules and Regulations, but represents both the masculine and feminine pronoun.

APPROVED THIS 1 DAY OF May, 2018.

BOARD OF PUBLIC WORKS

BY: 
Shan Gunawardena, Chair

BY: 
Mike Avila, Member

BY: 
Kumar Menon, Member

ATTEST: 
Michelle Fulk, Clerk

POLICY OF THE FORT WAYNE BOARD OF PUBLIC WORKS REGARDING PUBLIC AND PRIVATE WATER SYSTEM INFRASTRUCTURE AND EXTENSION OF WATER MAINS

This document establishes the policy of the Fort Wayne Board of Public Works regarding public and private water system infrastructure and extensions of water mains.

Extensions to the water mains of the public distribution system are completed by capital improvement programs of the utility, through the petition process where property owners initiate and provide funding for the extension, or through contracts with private developers.

1. DEFINITIONS

Assessment – an amount of money levied against a parcel of real estate as a pro rata share of the total cost of a water main extension.

Assessable Frontage – That frontage of a property, in lineal feet or fractions thereof, for which an assessment may be collected.

Benefited Property - A lot that is adjacent to an existing or proposed public main.

Board – The Board of Public Works of the City of Fort Wayne, Indiana.

City – City of Fort Wayne, Indiana.

Contract, Oversizing – a contract between the Board of Public Works and a developer whereby the Board agrees to bear the costs associated with oversizing the main extension beyond the required size of the base main to serve water needs of the real estate to be developed.

Contract, Private Developer – a contract between the Board of Public Works and a developer whereby costs associated with the installation of a water main extension are borne by the developer.

Contract, Reimbursement – a contract between the Board of Public Works and a developer whereby owners of property not sharing in the original cost of the water main extension and desiring to tap into the main extension for the purpose of obtaining water within a period of fifteen (15) years from the date of the acceptance of such extension shall be required to pay a fair and proportionate share of the original cost of the extension according to the method set out in the contract.

Developer – A person, corporation, or similar entity that enters into a Water Main Extension contract with the Board of Public Works and constructs a water main.

Distribution System – A network of water mains and appurtenances that deliver potable water from the Three Rivers Water Filtration Plant to the user.

Frontage – That portion of a lot that is parallel to or curvilinear to and immediately adjacent to a public water main in a public street, thoroughfare or easement.

Lot – A parcel, tract or area of land described in a deed or plat that is recorded in the office of the Allen County Recorder.

Lot, Corner – A parcel of real estate abutted on more than one side by a public right of way or public water main.

Lot, Through – A lot having frontage on two parallel or approximately parallel streets.

Main, Local – A water main which, from its size and character, is designed and intended to supply water needs, with adequate volumes and pressures, only for properties abutting the street, alley, easement or other public land or subdivision in which the main is placed but which is not designed and intended to feed collateral mains necessary to supply non-abutting properties or to transmit water to other areas.

Main, Transmission/Feeder – Water mains designed and intended to feed into collateral mains necessary to supply non-abutting properties or to transmit water to other areas.

Notice of Main Extension (NOME) – A notice given to record owners of real estate that a newly constructed public water main, financed all or in part by the Utility, is available to provide water service to the property upon payment of an assessment to the Utility.

Petition Project – A water main extension project developed based on the Board of Public Works' receipt of a petition signed by a majority of the affected property owners in the project area requesting such extension.

Private Main – A privately owned pipe connected to the Utility's distribution system and used to deliver water:

- a) For private fire service purposes; and/or
- b) For general service purposes, service rendered through such private main shall be billed directly by the Utility in accordance with established rates unless otherwise provided by written contract.

Private Water System – A water distribution system, serving a specific area, constructed, operated and maintained by an entity other than Fort Wayne City Utilities.

Property, Partially Developed – Any lot that has an existing water tap and is proposed to be further divided or developed.

Property, Undeveloped – Any lot that does not have a water tap.

Thoroughfare – Collector and arterial streets as defined in the Code of Ordinances of the City of Fort Wayne.

Utility – The Division of City Utilities of the City of Fort Wayne, Indiana.

2. PUBLIC UTILITY INFRASTRUCTURE

Water

Water main extensions should typically be constructed as “public” with the intention that the water mains and other appurtenances will become part of the public water distribution system upon completion and acceptance by the Board of Public Works. Water system extensions should be made part of the public utility for future operation, maintenance, and repair when any one or a combination of the following conditions exists:

- The main extension may provide a future opportunity for overall system improvement to the Utility, i.e. looping, system expansion, etc.
- The main extension is proposed to be located within a public right of way or an approved, dedicated or platted easement of sufficient width to permit maintenance functions.
- The main extension will provide water service to unserved real estate and/or upon a further extension thereto, could provide service to additional areas in the future.
- The main extension could provide economic development opportunities.
- The property or properties proposed to be served by the water main extension will have multiple ownerships, or there is a distinct possibility the served property will be subdivided or multiple ownerships may exist in the future.
- The main is being constructed or paid for (fully or partially) with Utility or other public funds.

All public water main extensions shall comply with:

- General Rules and Regulations of the Fort Wayne Water Utility
- The Utility’s Development Services and Engineering plan review and approval processes, and all appropriate fees must be paid.
- Fort Wayne City Utilities Design Standards Manual
- Indiana Department of Environmental Management (IDEM) rules & regulations

Public water main or water system extension processes include:

- Plans will be prepared according to the standards and specifications of City Utilities and submitted to Development Services for review.
- The water main extension plans must be prepared by a registered professional engineer employed by the developer.
- Construction of a water main extension shall not commence until all plans have been reviewed and approved by the Utility through its Development Services department. Once plans are approved, the water main extension shall be constructed in accordance with the approved plans.
- A contract shall be executed between the Utility and the developer who is funding the main extension project and shall include provisions under which the water main extension will be accepted by City Utilities for future ownership, operation, maintenance, repair and replacement.
- Construction shall be inspected and overseen by City Utilities Engineering representatives.

- All testing and quality control processes are completed and overseen by City Utilities Engineering.
- Upon completion of construction and inspection by the Utility, the developer shall provide a completion affidavit and maintenance bond.
- Upon finding the project to be acceptable and in full compliance with the standards and specifications of the Utility, the Board of Works will issue a Letter of Acceptance to the developer and all rights, title, and interest in the water system shall be transferred to and remain in the City of Fort Wayne.

3. PRIVATE UTILITY INFRASTRUCTURE

Water

The Utility may, at its sole discretion, determine that a **PRIVATE MAIN EXTENSION** should be constructed rather than a public main when any one or a combination of the following conditions exists:

- The main extension will provide service to only the real estate served by the extension and there is no physical possibility or anticipated need for the main to be extended to serve adjacent property.
- The configuration of the proposed extension within a development is such that (i) there is insufficient space provided for required easements or for the usual and customary maintenance activities associated with public mains, or (ii) if the main is to be located within a street, the street is not being constructed to City standards and is not intended to become part of the City's transportation system.
- The main extension would not provide the opportunity for overall public system improvement.
- The land to be served by the water main extension will use a master meter at the point of connection to the public main.
- The mains will not be located within public rights of way.

Plans for private water main extensions are prepared and submitted to Development Services as part of a site plan or development plan review and approval process.

- Development Services will review the main extension plans and calculations to determine if the proposed sizing will provide adequate flow and pressure for fire-fighting.
- The Utility will work with the developer to determine the appropriate size master water meter.
- Private water mains must comply with any applicable backflow prevention installation and annual testing requirements.

4. PLACEMENT OF PUBLIC WATER MAIN EXTENSIONS

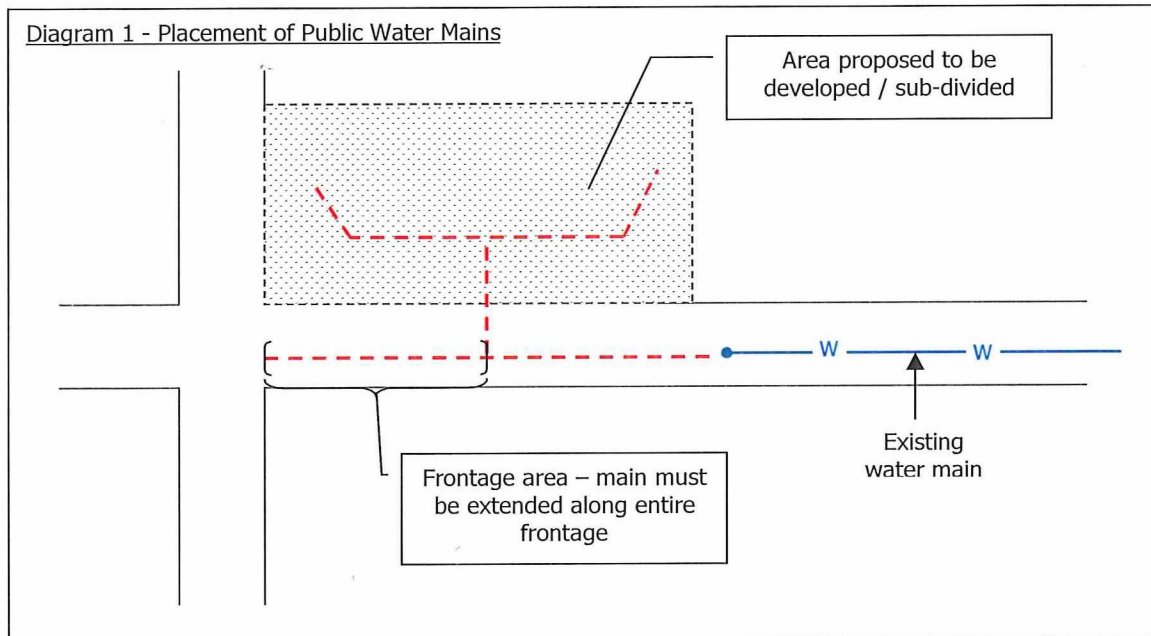
The Utility shall not have an obligation to approve the location of a water main extension in any location other than in a public street right of way.

- In its sole discretion and if unusual circumstances so warrant, the Utility may approve the installation of a local or feeder main within an easement or right of way granted to the Utility where installation of the main in a public street right of way is impracticable and installation of

the main in an easement will, in the Utility's engineering judgement, benefit the distribution system.

- In reaching such a determination to allow the location of a main in a location other than a public street right of way, the Utility shall consider the potential isolation of property from water service and fire protection, the existing and proposed land use and geographic features of isolated properties.

A public main extension shall be extended within the right of way or approved easement across the entire frontage of the parcel to be served. See Diagram 1.

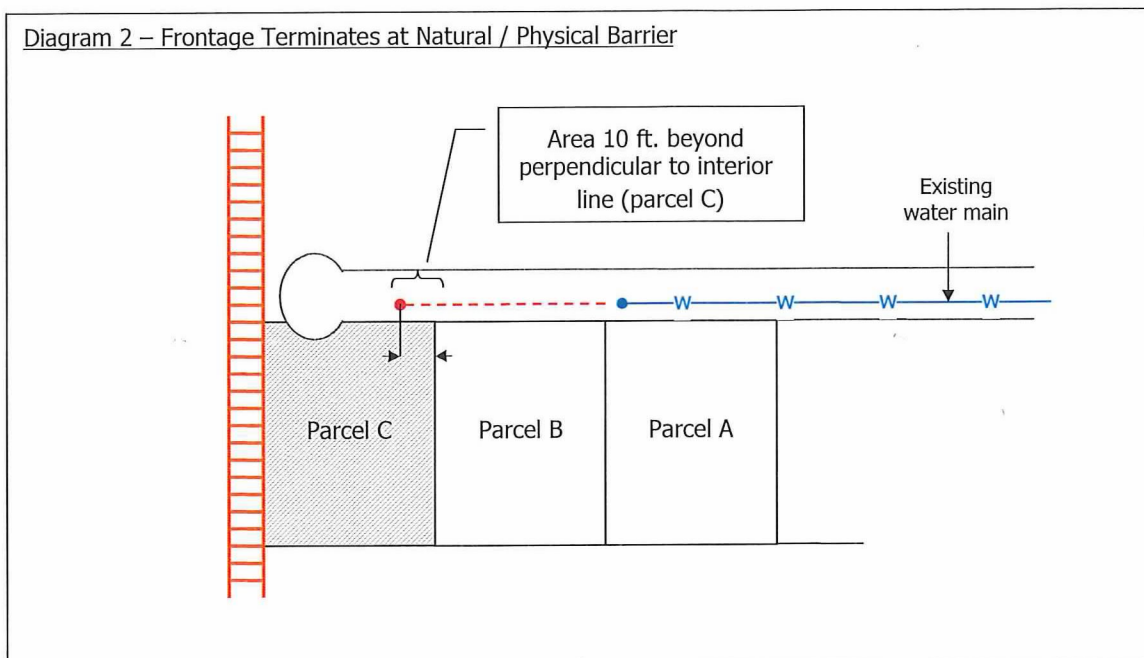


When the frontage terminates at a railroad, water course, or other physical barrier which would preclude the further extension of the main, the following guidelines shall apply:

- In those instances where further extension of a main is limited by a physical barrier, the extension may terminate at the point where the most remote service connection would be made, or to a point ten (10) feet beyond and perpendicular to the lot line across which the extension was made. See Diagram 2.

- The Board shall have the authority to waive the aforementioned requirements in instances where the objective of the requirement is met by an alternate extension of the public main.

Diagram 2 – Frontage Terminates at Natural / Physical Barrier



If the frontage abuts an intersecting street, the terminal point of the extension shall be located so that the main to be installed connects to the existing main at the intersecting street.

- If there is no existing main at the intersecting street, the extension shall be extended to the right of way of the intersecting street at a point where a future main could be connected without difficulty.

All main extensions shall be a minimum of six (6) inches or larger in diameter and shall be installed immediately adjacent to all property to be served by the main unless the Utility determines there is no reasonable possibility that such installation will be required to eliminate a dead end main or materially improve the flow characteristics of the system.

Cost Responsibility for Water Main Extension

All costs associated with a water main extension shall routinely be paid by the proponent of the main extension, by the developer or, in the case of petitioned main extensions, by the property owners adjacent to the extension.

Allocation of Water Main Extension Costs

Petition Projects – The cost of a main extension is allocated among the owners of the benefited property as herein defined.

- Individual property assessments are based on an assessable unit. The assessable unit and related cost, as determined by the Board of Public Works, may be a dimension of front footage, a defined area, or other identifiable element used to determine the allocation of costs among the benefited properties.
- Property assessment for projects which are funded through the provisions of the Barrett Law are based on an assessable unit and payments are determined by the City Barrett Law office. For those projects not qualified for Barrett Law funding, the property assessment is calculated and payable prior to beginning the project.

City Utilities' Water Main Extension Projects – A portion of the cost of a City Utility Water Main Extension Project may be allocated among the owners of the benefited property as herein defined.

- Individual property assessments are based on an assessable unit. The assessable unit, as determined by the Utility, may be a dimension of front footage, a defined area, or other identifiable element used to determine the allocation of costs among the benefited properties.
- The property assessment is payable at the time an application is made for a permit to tap into the main.
- Any property owner not sharing in the original cost of the extension and who wishes to tap into a main extension within a period of fifteen (15) years from the date of the recordation of the Notice of Main Extension shall be required to pay a fair and proportionate share of the original cost of the extension, according to the method set out in the Notice of Main Extension.

Private Developer Contracts – All costs associated with the construction of a private developer are borne by the private developer unless the contract is an oversizing or reimbursement contract as herein defined.

Private Developer Reimbursement Contracts – Any property owner not sharing in the original cost of the extension and who wishes to tap into a main extension for which there was a reimbursement clause within a period of fifteen (15) years from the date of the acceptance of such extension shall be required to pay a fair and proportionate share of the original cost of the extension according to the method set out in the contract.

- The funds will be collected by the Utility and refunded equitably to the party(s) previously sharing in the cost of the extension according to the method set out in the contract.

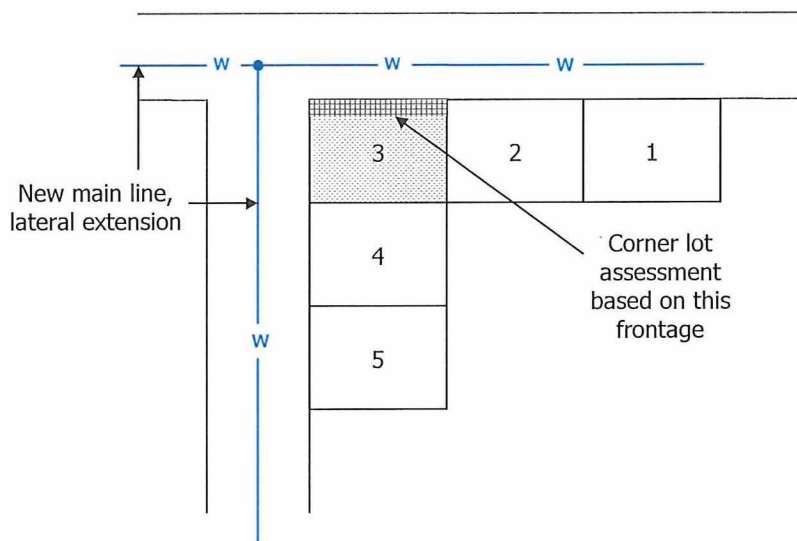
Private Developer Oversizing Contracts – The Utility, upon acceptance of the main extension by the Board of Public Works, will reimburse the developer according to the terms of the contract an amount of money to pay for oversizing the main beyond its base size.

Corner Lots, Determination of Assessment and Reimbursement – Where water mains exist on at least two sides of a corner lot, the assessment calculation will be based on the length of frontage of the property abutting the first main installed

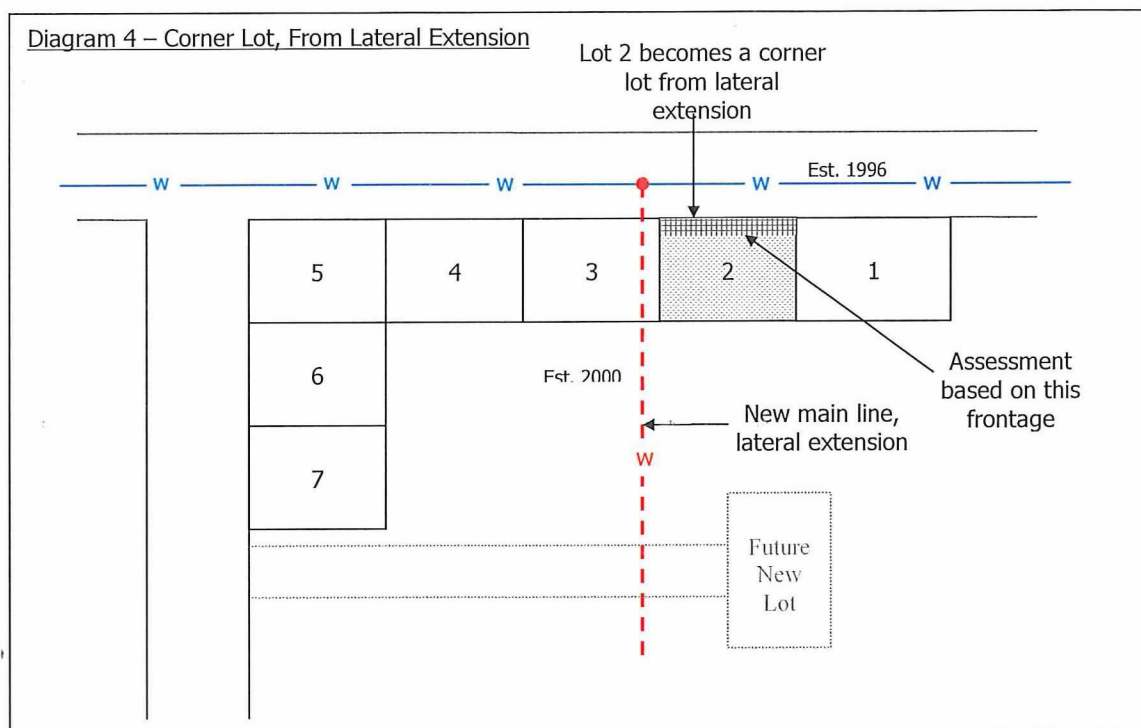
- The assessment will reimburse the party who installed the aforementioned first main line provided there is a valid reimbursement contract in effect at the time the tap is requested.

- Where mains were installed on both frontages of a corner lot simultaneously or as a part of a single project, the assessment shall be calculated according to the longer side of the lot.

Diagram 3 – New dual lateral water main installation, corner lot assessment



- On corner lots where a public main existed on one frontage prior to the installation of a main on the second frontage, there shall be no reimbursement payable on the second frontage.
- In the event a corner lot, as defined herein, is created by a lateral extension from an existing main, the Utility will not permit a new service for the corner lot unless the reimbursement provisions for corner lots are followed.



Extensions of Mains – The Utility may add or allow additional extensions to an existing water main without incurring any financial obligations to the developer of the existing main that is being extended.

5. ACCEPTANCE OF PRIVATE INFRASTRUCTURE INTO THE FORT WAYNE DISTRIBUTION SYSTEM

The Utility may, at its sole discretion, recommend acceptance of a private water main or private water system into its public distribution system when all of the following conditions exist:

- A public purpose will be served by the acceptance of the private mains.
- The affected property owners have petitioned the City to accept the existing private system as part of the public distribution system. The percentage of owners who must agree and the mechanism by which they make a decision to petition shall be as set forth in the subdivision plat and covenants, neighborhood association by-laws or other document governing how decisions are to be made by the petitioners. Where such document does not exist, at least 51% of the affected property owners must agree and provide documented evidence of their desire to have City Utilities accept the private infrastructure for public ownership and future operation, maintenance, repair and replacement.
- The private mains are located within a public right of way or an easement of a width acceptable to the Utility, making the mains easily accessible for maintenance. If the mains are not located within public right-of-way or dedicated easements acceptable to City Utilities, the following conditions must be met:

- Right-of-way plats are developed by a Professional Surveyor with the cost of such plat preparation to be paid by the petitioners and the plats are reviewed and approved by City Engineering and accepted by Board of Works; or
- Easement plats are developed by a Professional Surveyor with the cost of such plat preparation to be paid by the petitioners and the plats are reviewed and approved by City Utilities Engineering, accepted by Board of Works, and recorded.
- Documentation exists, and is available for review by the Utility, showing that the water mains and appurtenances were constructed in accordance with the Utility's specifications and materials standards in effect at the time of the private water system construction. This documentation could include:
 - Record Drawings of the private water system within the affected area based on inspection done at the time of installation and certified by a Professional Engineer
 - If the private water system was not inspected by City Utilities during installation, the petitioner must provide documentation from a Professional Engineer who has inspected the system certifying that, based on his/her inspection, the private water system meets the Utility's specifications and materials standards. Documents provided to the Utility must accomplish the following:
 - Confirm the location of the private mains and other appurtenances that are the subject of the petition, which includes, at a minimum, GPS mapping of all infrastructure
 - Confirm the materials used in constructing the private water system, confirm condition of the asset and perform testing as necessary to provide such confirmation. City Utilities Engineering should be on-site to observe these activities which may include:
 - Digging up private mains (minimum of one location per run/branch of pipe)
 - Providing water sample data confirming water quality
 - Inspection reports of appurtenances, structures and equipment to document compliance with the Utility's standards and local codes, if these exist
- Petitioners have provided any existing maintenance and repair records for the private infrastructure in question.

The process for acceptance will generally include:

- Review and approval by Development Services of all submitted information
- Correction of any deficiencies noted in materials/installation by petitioner
 - All work should be inspected by City Utilities Engineering
- Recommendation to Board of Works from City Utilities that some, all or none of infrastructure being petitioned be accepted as part of the public system.
- Acceptance of the infrastructure by the Board of Public Works.

6. FEES

Development Services will assess and collect fees for plan review and inspection services based on the amount of staff time required to investigate petitions for acceptance of private utility

infrastructure. All fees are non-refundable and must be paid prior to any investigation by the Utility.

7. TEMPORARY SERVICE CONNECTIONS

In order to provide a temporary water service to a property that is not served by a water main, the Utility may enter into a TEMPORARY SERVICE AGREEMENT with the property owner.

- Prior to providing temporary water service, the owner must execute a document provided by the Utility which specifies that the owner or assigns will participate in the installation costs if a public water main is extended to the property, assume all expenses associated with installing the temporary service and/or tapping into the new main, and waive the right to remonstrate against a petition project that proposes to extend water service along the frontage of the affected property.

In approving a Temporary Service Agreement, the Utility shall weigh the following factors:

- There are fewer than two temporary services beyond the terminus of the public main.
- Easements are provided for the temporary service across property not owned by the party to receive the benefit of temporary service or the service is permitted to be located in a public right of way.
- The maximum length of the service line does not exceed 250 feet.
- An extension of a public main to serve the property is unreasonable due to the unavailability of a public right-of-way or easement.
- The Director of the Utility has determined a documented financial hardship or other extenuating circumstances exist that precludes the property owner from extending the public main.

8. APPEAL PROCESS

Any party aggrieved by an order or determination of Development Services or the Board of Public Works under this policy may, within fifteen (15) days after notice of the order or determination is provided, appeal such order or determination to the Board of Public Works by filing a petition seeking such appeal with the Clerk of the Board of Public Works. The petition should state the basis of such appeal, including the alleged error in the order or determination. After receipt of such petition, the Board of Public Works or its designated hearing officer, after due and proper notice to all parties, shall hold a hearing on said petition and at the conclusion thereof or within thirty (30) days thereafter, enter a decision either affirming, denying, revising, amending, altering, or modifying such order or determination as the Board of Public Works, by majority vote, shall so rule. A party or person aggrieved by the outcome of the appeal shall have the right to judicial review of such determination in accordance with and pursuant to the same provision of the Indiana Administrative Adjudication Act (4-21.5-5 *et seq.*) as are applicable to appeals and review of decisions of agencies of the State of Indiana.