

ORDINANCE NO. 09-74

AN ORDINANCE ADDING A NEW ARTICLE 13.1100, "WATER & SEWER PRO RATA" TO THE CODE OF ORDINANCES, ESTABLISHING A SYSTEM FOR SECURING THE CONSTRUCTION AND FINANCING OF WATER AND SEWER IMPROVEMENTS WITHIN THE CORPORATE LIMITS OF THE CITY OF BRIDGEPORT AND ITS EXTRATERRITORIAL JURISDICTION; PROVIDING FOR A PRO RATA AND OVERSIZING COST REIMBURSEMENT PROGRAM; DEFINING TERMS; ESTABLISHING PROCEDURES AND RESPONSIBILITIES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bridgeport is a type A general law municipality located in Wise County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City Council of the City of Bridgeport has determined that a system should be established regulating the procedure under which water and sewer mains and other improvements are extended into the various drainage basins located within the corporate limits of the City and its extraterritorial jurisdiction and establishing a procedure for the payment of costs associated with these extensions; and

WHEREAS, the City Council of the City of Bridgeport finds that this proposed ordinance will meet a legitimate public need, clarify responsibilities of property owners and developers, assist in implementing the City's Master Sewer and Water Plan and serve to protect the public health, safety and welfare as well as fulfill the purposes of Chapter 212 of the Local Government Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIDGEPORT, TEXAS:

SECTION 1

That Chapter 13 "Utilities" of the Bridgeport Code is hereby amended by adding a new Article 13.1100 to read as follows:

**"ARTICLE 13.1100
WATER AND SEWER PRO RATA**

Sec. 13.1101. Definitions.

As used in this article, the following terms shall have the respective meanings ascribed to them. Words and terms used in this article, but not defined in this article

shall have the meaning ascribed to them in the subdivision ordinance. Words and terms defined in both ordinances shall be read in harmony unless there exists an irreconcilable conflict in which case the definition contained in this article shall control.

City means the City of Bridgeport, Texas.

Developer means the owner of land proposed to be developed, or the person or entity filing an application for development of land, or their representatives.

Development means any activity that requires the submission of a subdivision plat (excluding a one-lot replat), development plan or the securing of a building permit.

Escrow means money placed in the possession of the City to accomplish the purposes set out in this article, including, but not limited to, the following: purchase of right-of-way and the design and construction of public utilities and streets.

Sec. 13.1102. Purpose.

The purpose of this article is to provide for the orderly, safe and healthy development of the area both within the City and within its extraterritorial jurisdiction and to promote the health, safety and general welfare of the community. It is also the purpose of this article to establish responsibilities for the extension of water and sewer mains and other public utility improvements into the various drainage basins located within the City limits of the City and its extraterritorial jurisdiction, to provide a procedure for acquiring necessary easements and rights-of-way, and to establish responsibilities for paying for the cost of constructing the water and sewer improvements, preparing the engineering and survey work necessary to design and install the water and sewer improvements and the cost of inspecting any and all construction undertaken pursuant to this article. This article is designed to be used in conjunction with the subdivision ordinance to ensure an orderly development plan for the growth of the community, and to ensure the creation and effective operation of a utility infrastructure appropriate in size and character to support reasonable levels of development within the community.

Sec. 13.1103. Basic policy.

(a) Subdivisions within the City and its extraterritorial jurisdiction within the City's CCN shall be provided with an approved water supply and distribution system and with an approved sewage collection and disposal system. Connection with the City's sanitary sewer system shall be required except where the City Administrator determines that such connection will require unreasonable expenditures when compared with other methods of sewage disposal.

(b) The developer shall pay all costs attributable to the installation of water and sewer facilities as are needed to fulfill the basic criteria requirements of the City for service within the subdivision.

(c) The construction of all water and sewer infrastructure for a subdivision shall be covered by a written agreement prepared or approved by the City attorney which clearly defines the scope and details of the proposed improvements and particularly contains the developer's agreement to abide by all regulations of the City and to deliver to the City clear and unencumbered title to all the proposed improvements at the time of acceptance by the City, which must be prior to commencing service.

(d) The City intends to extend public utility service to all areas within its corporate limits and its extraterritorial jurisdiction within the City's CCN at some point in the future. Public utility system extensions will be made in conformance with the City's adopted capital improvement program and are projected to occur over many years based upon the fiscal capability of the City and the growth characteristics of each area of the City.

Sec. 13.1104. Platting required.

It shall be unlawful for any person to provide water or sewer service to any lot or tract of land or any part thereof unless and until a plat of such lot or tract of land meeting the platting requirements of the City, has been approved by the Planning and Zoning Commission and has been filed for record with the County. Before consideration of a final plat by the Planning and Zoning Commission, the developer of the tract or subdivision shall submit to the Director of Infrastructure Services or the City Engineer for his approval a map or plat showing the location of water and sanitary sewer mains which will be required to ensure adequate service and fire protection for the lots specified in the proposed tract or subdivision.

Sec. 13.1105. Extension of utilities by developer.

(a) In the event that a development proposal is submitted which will require the use of a public water and/or sewer system, and no such public system has yet been extended into the area where the proposed development is located, it will be the responsibility of the developer to comply with the terms and conditions of this article in order to ensure the immediate availability of service.

(b) It is, and shall remain, the responsibility of each individual developer to undertake those construction activities necessary to tie his or her development project into the water or sewer main serving that specific drainage basin or service area. Should a lift station and/or force main be required in order to utilize a proposed off-site service location, such lift station and/or force main shall be installed at the developer's cost. In order to promote economic development, the City may participate in construction of water and sewer mains and infrastructure, provided that the City may share in pro rata reimbursement described in Section 13.1109.

Sec. 13.1106. Determination of system availability.

(a) When a developer plans to undertake a specific development project within the City or its extraterritorial jurisdiction and the development will require service through a public water and/or sewer system, it will be the responsibility of the developer to contact the City Engineer to determine system availability. The developer will advise the City Engineer in writing of the specific location of his development, the total size of the development in acreage, living units and/or square feet of commercial or industrial space, the type of development and land use to occur within the subdivision and the approximate time when public utilities will be required. The information may be incorporated into a preliminary plat or development plan application submitted to the City Engineer.

(b) The City Engineer shall review the City's current water and sanitary sewer system and determine whether service is currently available to the development. If service is available through an existing main, the City Engineer shall identify the point on that main where the development will be permitted to tie into the system and will advise the developer in writing of the location where a tie-in will be permitted. The City Engineer shall support such written notice with such map exhibits as are necessary to clearly delineate the point of tie-in.

(c) In the event that a connection to an existing utility main is possible, the City Administrator will determine if the utility main has been installed by the City as a portion of its capital improvement program or whether it was installed by a prior developer under the approach main extension policies of this article. In the event that the utility main was installed by the City as a portion of its capital improvement program, the developer will be advised that there will be no pro rata reimbursement charge to tie into the utility main. The developer will be responsible for the entire cost of the approach main or service line connecting his development to the utility main.

(d) If the utility main or a portion of the utility system serving the development was installed by a prior developer under the approach main extension policy outlined in this article, the City Engineer will advise the developer of his pro rata share of costs for connection to this line. The developer shall pay the pro rata charge into the pro rata escrow account of the City prior to making a tie-in to the system.

Sec. 13.1107. Construction of approach mains.

If the City Engineer should determine that utility service to a proposed development is not available at the present time, the developer will be so advised in writing. In this situation, the developer must select among the following alternatives:

(1) Discontinue his proposed development until such time as a utility system has been installed within the drainage basin or service area;

(2) Petition the City Council to expedite the construction of a utility system capable of serving the proposed development under its regular capital improvement program; or

(3) Install the necessary utilities to the point necessary to serve the development. The developer will be responsible for all costs associated with the installation of necessary utilities, including but not limited to engineering, attorneys fees, surveying, testing, easement preparation, easement acquisition, construction and inspection. The public utilities will be designed and constructed to city standards and specifications as the City Engineer determines to be applicable. The developer may install the public utilities himself or may contract with the City to secure construction of the utilities by the City. All financial arrangements, including any necessary bonding, shall be completed prior to the execution of a developer agreement. In the event that a developer elects to pursue this alternative, he will be eligible to receive a pro rata reimbursement, for a period of ten (10) years, from future developers who tie into these specific utilities.

Sec. 13.1108. Ownership and maintenance.

All water and sewer systems constructed within dedicated public right-of-way in connection with the development shall be and shall remain the property of the City and, after expiration of the maintenance bonds, shall be maintained by the City. Maintenance bonds shall be required for a period of two (2) years after acceptance of the water and sewer system.

Sec. 13.1109. Pro rata cost allocation where public utilities are financed by initial developer.

(a) If a public utility system is installed within a drainage basin or service area by a developer, each subsequent development within the drainage basin or service area which ties into the public utility system shall pay a pro rata share of the cost of the utility system installed by the initial developer. The pro rata fee shall be paid prior to connection to the utility system. The pro rata fee for each subsequent development seeking service shall be determined on a cost per acre basis by calculating the proportional area of the new development to the total area within the drainage basin or service area served by the public utility system, multiplied by the total cost of the public utility system installed by the initial developer. Total cost of the utilities shall include construction, engineering, attorneys fees, surveying, testing, easement preparation, easement acquisition, and inspection costs.

(b) — Provided the City collects the funds, each initial developer shall be entitled to a rebate of the pro rata charge against subsequent developers for a period of ten (10) years following completion and acceptance of the utilities, or until the initial developer has been paid all allowable reimbursable charges, whichever occurs first. At the expiration of the tenth year, the developer will no longer be entitled to receive any reimbursement.

Sec. 13.1110. Management of escrow account.

(a) The City shall establish an escrow account in the water/sewer fund for the deposit of all pro rata payments made by subsequent developers. A separate escrow account shall be established for each public utility system constructed by an initial developer. All pro rata fees received from subsequent developments or subdivisions in that drainage basin or service area shall be deposited into that specific escrow account.

(b) A minimum of twice each year, on January 30 and on July 31, the Director of Financial Services, or the person designated by the City Administrator, shall inventory each escrow account to determine what percentage of those monies is allocable to reimbursable oversizing costs owed by the City as determined under Section 13.1111, below. This allocation shall be determined in the same proportion that the cost of the oversized line bears to the cost of the line size that is necessary to serve the development. For other utility system improvements, the allocation shall be determined in the same proportion that the cost of the oversized improvements bears to the cost of the minimum improvements required by City ordinances to serve the development, as determined by the City Engineer. Upon completion of such inventory, the Director of Financial Services, or designated person, shall transmit all escrow funds due and owing to the initial developer. Upon payment of these funds, the City will receive a credit for the amount of money allocable toward its reimbursable oversizing requirements as set forth in Section 13.1111, below.

(c) The developer shall be responsible for providing to the City, and maintaining with the City, an accurate current address. When escrowed funds are available for disbursement, the City shall notify the developer at the address on file with the City. If the developer fails to withdraw the funds within six (6) months, the funds shall be forfeited to the City's water and sewer fund.

(d) At no time shall the developer be entitled to receive reimbursement for a sum greater than the initial cost of the public utilities less the pro rata share of capacity of that utility system that would have been attributable to the initial development for its proportionate share of capacity in the system.

Sec. 13.1111. Oversizing.

In order to provide appropriate capacity for reasonably anticipated development in a drainage basin or service area, the City Engineer, with the approval of the City Council, may require a developer to install a utility line or system improvement larger than necessary to support the developer's specific development. In the event that the City Engineer, with the approval of the City Council, requires the installation of a utility line or system improvement larger than required to serve the development, the developer installing the line will be reimbursed by the City for the difference in cost between the size of the line required by the City Engineer and the line size or system improvement required to serve the development. The size of the facilities required to

serve the development shall be determined by the City Engineer. The City may compensate the developer for the difference in cost mandated by oversizing through the process of allowing the developer credits of up to fifty (50) percent of all development fees charged against any portion or phase of the development. Upon written request of the developer, credit for development fees may be transferred from the current development project to subsequent development projects, subdivisions or phases undertaken by the developer.”

SECTION 2

This Ordinance shall be cumulative of all provisions of ordinances and of the Bridgeport Code of Ordinances, as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4

This ordinance shall be in full force and effect from and after its passage, and it is so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF BRIDGEPORT, TEXAS, BY A VOTE OF 5 TO 0, ON THIS 15th DAY OF December, 2009.

APPROVED:



Donald C. Majka, Mayor

ATTEST:



Rachel L. Huitt, City Secretary

