

CITY OF BASTROP, TX
ORDINANCE NO. 2023-14

PRO RATA REIMBURSEMENTS & COST SHARING FOR UTILITY LINES

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS AMENDING THE BASTROP CODE OF ORDINANCES CHAPTER 13, ARTICLE 13.02, ADMINISTRATION, PROVING FOR PRO RATE REIMBURSEMENTS AND COST SHARING AGREEMENTS FOR THE EXTENSION OF CERTAIN WATER AND/OR WASTEWATER LINES; AND PROVIDING FOR FINDINGS OF FACT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, PROPER NOTICE AND MEETING.

WHEREAS, pursuant to Texas Local Government Code Sections 214.013, 552.001, and 552.017, the City Council of the City of Bastrop (City Council) has general authority to construct and operate water and wastewater systems; and

WHEREAS, pursuant to Texas Local Government Code Section 51.072, as a Home Rule City the City of Bastrop has the full power of local self-government; and

WHEREAS, pursuant to Section 2.01 of the Bastrop Home Rule Charter, the City has the power to enter into contracts; and

WHEREAS, the City Council finds that the ability to enter into certain agreements is in the best interest of the City; and

WHEREAS, the City Council finds the attached ordinance provisions to be reasonable and necessary.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bastrop, TX:

Section 1. Findings of Fact: The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

Section 2. Amendment: Chapter 13, Article 13.02, Section 13.02.012 of the Bastrop Code of Ordinances is hereby created, and shall read in accordance with *Attachment "A"*, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

Section 3. Repealer: To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby

repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated.

Section 4. Severability: Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

Section 5. Codification: The City Secretary is hereby directed to record and publish the attached rules, regulations, and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

Section 6. Effective Date: This ordinance shall take effect upon the date of final passage noted below, or when all applicable publication requirements, if any, are satisfied in accordance with the City's Charter, Code of Ordinances, and the laws of the State of Texas.

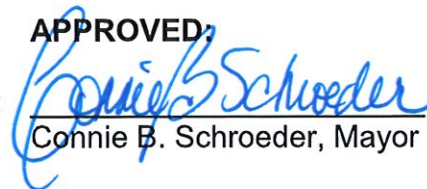
Section 7. Proper Notice & Meeting: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED on *First Reading* by the City Council of the City of Bastrop, on this, the 25th day of April 2023.

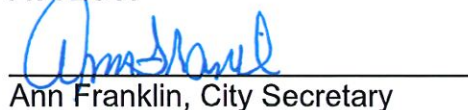
PASSED & APPROVED on *Second Reading* by the City Council of the City of Bastrop, on this, the 9th day of May 2023.

APPROVED:

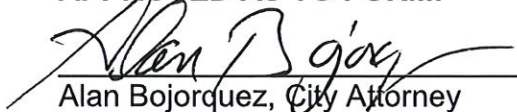
by:


Connie B. Schroeder, Mayor

ATTEST:


Ann Franklin, City Secretary

APPROVED AS TO FORM:


Alan Bojorquez, City Attorney

City of Bastrop

Code of Ordinances

Chapter 13: Utilities

ARTICLE 13.02 Water and Wastewater Rates and Charges

The Code of Ordinances is amended by creating Section 13.02.012 and inserting the following language:

Section 13.02.012

Pro Rata Cost Sharing Agreement for extension of water and wastewater mains.

- (a) The city may enter into pro rata cost sharing agreements with owners and/or developers of property (developers) for the construction and/or extension of water and/or wastewater mains, and for any oversize mains developers are required to construct, both within and outside the city limits as set forth herein.
- (b) A developer shall make application for proposed water or wastewater line extension (line extension) and/or construction of oversize mains to the director of public works and shall supply all necessary information (e.g., maps, diagrams, engineering reports,.) concerning the site of the extension or of the construction of oversize mains, as may be required. The developer shall pay to the city an application fee as established in the City's Fee Schedule.
- (c) Upon compiling all necessary and required information, the director of public works shall submit to the city manager a preliminary plan and cost estimate for the line extension or construction of oversize main. The developer's proposed line extension or construction of oversize main may be approved or disapproved by the city council. If approved, the city manager is authorized to execute a written contract with the property owner pursuant to terms and conditions agreed to by the city council and by this section.
- (d) The city will participate in the cost of any oversize main developers are required to construct, by purchasing the excess capacity in the main at the oversize cost of the main. The determination of the director of public works of the size of main necessary to adequately serve the subdivision, and the necessary degree of oversizing, shall be final. Oversize cost will be based upon the evaluated cost estimates provided by the city's engineers and will be paid after acceptance of the oversize main by the city.

(e) A contract for Pro Rata Cost Sharing (which may include an agreement for water or wastewater main extension, the construction of oversize main, or city's purchase of excess capacity in the main at the oversize cost of the main shall be approved as to form by the city attorney and shall be made subject to all city policies and conditions, which may include but not be limited to the following:

(1) All necessary mains, lines, fire hydrants, gate valves manholes, lift stations and other fittings or ancillary components needed to provide the developer with service to water or wastewater (line extension improvements), and city's determination of the size of main necessary to serve the subdivision adequately, shall be furnished and installed at the cost of the developer. All work shall be under the direction of the city engineer and the director of public works, or as otherwise agreed;

(2) The pipe diameter of any main to be extended shall be determined by the city engineer and the director of public works;

(3) No extension of any main or service line shall be laid except in a dedicated street, public road or approved easement. Each line extension improvement of a water main line shall terminate with a fireplug and each extension of a sewer main shall terminate at a manhole unless otherwise approved by the director of public works or city engineer.

(4) Such line extension improvements shall become the property of the city immediately upon their installations, and the city shall have full control, management and jurisdiction of such line extension improvements; and

(5) The city shall receive all revenues for water or wastewater service provided through such line extension.

(f) The developer making such extension may be entitled to reimbursement of up to but not to exceed the costs of materials and installation of such extension main, from the point of connection to an existing main to the developer's property, but not including any portion of such extension main across, along, or adjacent to the developer's property. Any such reimbursement shall be paid only out of funds received for such reimbursement as herein provided.

(1) Upon completion of any such line extension, the developer shall furnish to the director of public works satisfactory evidence as to the actual cost of such extension. The amount of such costs as finally determined by the director of public works shall be conclusive for the purpose of reimbursement under this section. The costs may include administration, engineering and legal costs directly associated with the developer's application and contract.

(2) For each service connection made to any such line extension by an individual water or wastewater user for a single-unit family dwelling or for each single-unit business (as distinguished from a connection by an owner or developer of an addition or subdivision, an apartment project, multi-unit dwelling project or

commercial user of any type), the individual user so connecting shall, upon application and in addition to the usual service connection charge, pay to the city the sum prescribed from time to time by separate ordinance, allowing for the developer's reimbursement.

- (3) For each service connection made to such extension by an owner or developer of an addition or subdivision, an apartment project, multi-unit dwelling project or a commercial user of any type, the party making such connection shall, upon application and in addition to the usual service charge, pay to the city a connection fee based on one-half of the cost per foot of such extension multiplied by the number of feet of such owner's or developer's property fronting on such extended main, or one-half of the cost per foot of such extension multiplied by the length of one side of a square equal in area to such owner's or developer's property, whichever is greater.
- (4) When any such taps as are provided for in subsections (2) and (3) above are completed during the reimbursement period, the payments therein provided for (exclusive of the regular service-connection charges) shall be refunded to the developer making such extension as a partial reimbursement of such party's costs as set out in the section. Such reimbursements shall be made annually and shall be limited to payments received by the city within ten years from the date such water extension main is completed ("reimbursement period"), The completion date shall be determined by the director of public works, which date as so established shall be conclusive.
- (5) Any developer making a line extension that is a lateral extension to another extension made as hereinabove set out (but not a tap on the extension), and which lateral extension is made to serve property not fronting or adjacent to the main to which such owner is connecting, shall be entitled to reimbursement on the same basis as the owner making such original extension, provided such owner shall also be obligated to pay to the city the reimbursement charges on the extended main to which such owner is connecting, on the same basis as is provided in subsections (b) and (c) above, whichever is applicable.
- (6) Before any reimbursement is made, there shall be a written contract between the city and developer pursuant to and in accordance with this section.
- (g) Any resolution approving a developer's agreement that allows a pro rata reimbursement provision with a developer who has paid for installation of either a water or wastewater extension line, pursuant to this section, shall set forth the legal property description of each lot or tract affected by such agreement and the amount of costs to be reimbursed upon connection to the line by each property owner affected, and shall be recorded in the Official Public Records of Bastrop County, Texas. The ordinance shall, by its own terms, expire and be of no further effect upon the expiration of the seven-year contractual reimbursement period.
- (h) This section shall not prohibit the city council from assessing benefiting property owners a portion of the cost of any water or wastewater extension pursuant to state

law or ordinances passed pursuant to the power granted to a home rule city, in lieu of a developer's agreement.

- (i) A developer who disputes the determination of the pro rata share, may appeal to the city manager. If developer is not satisfied at the determination of the city manager, developer may appeal that determination to the city council in accordance with Texas Local Government Code § 212.904.