

ORDINANCE NO. 3372

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 16, ARTICLE II OF THE CODE OF THE CITY OF MESQUITE BY DELETING THE CURRENT ARTICLE II IN ITS ENTIRETY AND ADDING A NEW ARTICLE II THEREBY ESTABLISHING PRO RATA FEES FOR WATER AND WASTEWATER FACILITIES AND PROCEDURES FOR THE EXTENSION OF WATER AND WASTEWATER FACILITIES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; DECLARING AN EMERGENCY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Mesquite has adopted Water and Wastewater Impact Fees in accordance with Chapter 395 of Vernon's Texas Codes Annotated Local Government Code; and

WHEREAS, the City of Mesquite has adopted a Subdivision Ordinance governing the development of land within the City of Mesquite; and

WHEREAS, the City Council has reviewed and approved the procedure for Pro Rata Fees and extension of water and wastewater facilities.

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

SECTION 1. That Chapter 16 of the Code of the City of Mesquite is hereby amended by deleting Chapter 16, Article II in its entirety and adding a new Article II to read as follows; in all other respects said Code and Chapter to remain in full force and effect:

ARTICLE II. PRO RATA FEES, EXTENSION OF FACILITIES AND WATER AND SEWER CONNECTION FEES

DIVISION 1. GENERAL PROVISIONS

Sec. 16-31. Definitions.

For the purposes of this article the following words, terms and phrases shall have the meaning given herein.

City means the City of Mesquite, Texas.

Consumer means the residents and/or businesses utilizing and paying the City for water and wastewater services.

Developer means the person, business, partnership, corporation or association responsible for the development of a subdivision or lot and includes the property owner or subdivider.

Development means any man made change to improved or unimproved real estate, including but not limited to construction of buildings or other structures, which results in demand for water or wastewater facilities and which requires connection to the City's water or wastewater system.

General Design Standards means the design specifications designated by the City of Mesquite as standards for construction on all public infrastructure constructed in the City including the General Design Standards Book, City Standard Construction Details, City Standard Specification for Public Works Construction and the City of Mesquite Special Provisions.

Lot means a tract, plot or portion of a subdivision, addition or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or possession, or for development.

Oversize main means a water or wastewater main required to interconnect property being developed with the existing water or wastewater system which exceeds 12 inches in diameter.

Pro rata means a charge made against an existing lot abutting a water or wastewater main that is the average per foot cost of the line, multiplied by the front footage of the land, and that is imposed to reimburse the original developer his cost of installing or paying for the main.

Property owner means the record titleholder of a premises connected to the City's water or wastewater system.

Subdivider has the meaning given that term in the City's subdivision regulations.

Subdivision has the meaning given that term in the City's subdivision regulations.

Sec. 16-32. Enforcing payment of pro rata costs.

The City shall have the authority to enforce payment of costs by all legal means available including the disconnection of water and sanitary sewer service to a development or lot. Nothing in this article shall be deemed in any way to be an exclusive method of enforcing the payment of the pro rata cost against the consumers and property owners, and this article shall not be deemed in any manner to be a waiver of the City's right to assess the property owners and/or consumers

concerned for cost of the installation of water and wastewater mains and to fix and enforce liens against such property, all of which may be done as provided by ordinance in the manner prescribed by law.

DIVISION 2. WATER AND WASTEWATER MAIN EXTENSIONS

Sec. 16-33. Basic policy.

- (a) *Connection to water and wastewater systems.* All subdivisions and each lot to be developed within the City of Mesquite shall be served by an approved water supply and distribution system and by an approved sewage collection and disposal system. No development shall be approved unless adequate assurances are provided that such development will be connected with the City's water supply and distribution system and with the City's wastewater system. No building permits shall be issued until satisfactory evidence of such connection has been provided.
- (b) *Responsibility for installation and extensions.* The developer shall install all water and wastewater facilities needed to serve the development and shall extend all water and wastewater mains and appurtenances necessary to connect the development with the City's water supply and distribution system and with the City's wastewater system. All initial costs of installation shall be borne by the developer subject to City participation in oversize costs pursuant to Section 16-35 and subject to reimbursement from proceeds of pro rata fees pursuant to Section 16-38. Requests for City extension of water and wastewater mains shall be as provided for in Section 16-36.
- (c) *Condition of granting main extension.* Authority to extend water and wastewater mains to serve a proposed development shall be granted by the City only upon a determination by the City Engineer that all facilities necessary to adequately serve the development are in place or will be in place prior to the issuance of building permits for structures developed on such land.
- (d) *Location of facilities.* The location of all water and wastewater mains necessary to serve a proposed development shall be in accordance with the City's Master Plan(s) for Water and Wastewater Facilities and in accordance with the City's subdivision regulations and General Design Standards.
- (e) *Construction standards.* All water and wastewater facilities required by these regulations shall be designed and constructed in accordance with the requirements and specifications contained in the City of Mesquite General Design Standards.

- (f) *Permanent lift stations.* Should a lift station be required by the City Engineer to provide wastewater service to a subdivision or development that by reason of topography cannot be served by a gravity sanitary sewer system to the City of Mesquite Wastewater Treatment Plant, the developer shall design and construct a permanent lift station and all appurtenances thereto at the developer's expense subject to reimbursement of pro rata fees pursuant to Division 3. The lift station shall be designed and constructed for the entire drainage area as approved by the City Engineer. Once the permanent lift station is constructed and operational and accepted by the City of Mesquite Engineering Division, the City shall take ownership and operation as described in the City subdivision ordinance.
- (g) *Pro rata fees for adjacent mains.* When an existing water or wastewater main lies in a street, alley or easement in or adjacent to an area or tract of land to be subdivided, the developer shall pay all applicable pro rata fees pursuant to Division 3 for the water main or wastewater main prior to release of the engineering plans for the subdivision. When the proposed development is to be served by a lift station required under subsection (f), the developer shall pay all applicable pro rata fees for the station pursuant to Division 3 prior to release of the engineering plans.

Sec. 16-34. Extension of water and wastewater mains for development.

Developers shall extend water and wastewater mains to and through the property that is to be subdivided or developed in accordance with the following procedures and minimum standards:

- (a) *Size of mains.* Water and wastewater mains shall be sized and designed in accordance with the City's Water Distribution Master Plan and Sanitary Sewer Master Plan.
- (b) *Extensions with property to be developed.* All water and wastewater mains shall be extended through and/or across the frontage of the property to be developed in streets, alleys, or in easements to the tract or addition in order to provide service to adjacent property where applicable.
- (c) *Acquisition of easements.* The developer must obtain all offsite easements which are necessary for extending water and wastewater mains to the property being developed. A metes and bounds description of the easements and a drawing of the easements must be submitted to the City Engineer along with the proper legal documentation creating the easement. After approval of the metes and bounds description by the City Engineer, the document will be returned to the developer

for acquisition of the required signatures. The executed document and filing fees will be returned to the City Engineer for filing with the County Clerk.

- (d) *Agreement required.* Prior to extension of any facility for which there will be a City reimbursement, the developer shall execute an improvement agreement with the City that clearly defines the scope and details of the proposed extension and which 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 proposed improvements prior to the time of acceptance by the City. The agreement shall provide for security in a form of a payment bond by the developer or his contractor for proposed work and will require a release of liens prior to final acceptance by the City.

Sec. 16-35. Participation and reimbursement by City in the cost of oversize water and wastewater mains.

- (a) *City participation policy.* The City may participate in the reasonable construction costs of oversize water or wastewater mains and appurtenances thereto that exceed 12-inches in diameter. The developer initially shall be responsible for the entire cost of the oversize main.
- (b) *No funds available.* In no event will the City be required to participate in the costs of oversize mains pursuant to this section if there are no funds available for such purposes.
- (c) *Participation and reimbursement requests.* A request for City participation authorized by subsection (a) and (b) hereof shall be initiated through the submission of an application for participation by the developer prior to the initiation of construction. The application shall be accompanied by engineering drawings approved by the City Engineering Division showing the reimbursable items, a copy of estimated costs for construction, final quantities, oversize calculations for all reimbursable items, performance bond and a project location map.
- (d) *City reimbursement.* If the request for City participation is approved by the City Council following dedication and acceptance of a facility or appurtenances in which it has agreed to participate, the City shall refund the costs of oversizing such facility in accordance with the following procedures and standards.
 - (1) *Oversizing standards.* The following standards apply to the determination of the costs of oversizing water and/or wastewater mains:

- a. Where the size of the water or wastewater main needed exceeds that of a 12-inch diameter water or wastewater main, the size of the main to be installed shall be determined by the City Engineer whose decision shall be final.
 - b. The amount of the City's participation shall be determined by the City Council and shall not exceed the difference in cost between a 12-inch diameter main with appurtenances and the oversized main with appurtenances as required by the City Engineer.
- (2) *Oversize cost determination.* The extent of the City's participation in the costs of oversized mains shall be determined by comparing costs computed by the following two methods:
- a. *Method 1.* The developer shall take at least three bids on installation of a system using a 12-inch diameter main and the larger size that will actually be installed. Copies of the bids, tabulations and figures shall be submitted to the City Engineer. Calculations shall delineate the total cost for installation of the oversize mains with appurtenances, along with the cost for installing 12-inch diameter mains with appurtenances, with the differences noted as participation by the City.
 - b. *Method 2.* The City Engineer shall establish unit prices for similar types of construction done in the previous 12 months. These unit prices shall establish costs based upon estimates obtained on similar projects within the last 12 months or base unit costs used to determine the maximum difference in cost between the 12-inch diameter main size and the cost of oversize mains to be installed. The unit prices shall be incorporated into this section as if fully set forth herein and shall be used to determine the City's participation.
 - c. *City Engineer's option.* The City Engineer shall have the option to establish the method in subsection (b) whenever he considers the results of the method in subsection (a) to be unreasonable or whenever the developer fails to submit the proper information as required.
 - d. *Engineering costs.* The City shall pay a maximum of six percent of the City's cost for engineering fees that includes surveying, construction staking and supervision.

- e. *Street rights-of-way.* A development shall be responsible for the full cost of utilities which cross street right-of-way up to a maximum width of 160 feet. If required street right-of-way exceeds 160 feet, the City will assume the cost of the excess length of the utility line as oversize participation.
- (3) *Exception to City participation.* The City will not participate in the cost of an oversized main if the development requires a main equal to the line constructed to serve the development.

Sec. 16-36. Extension of mains by City.

- (a) *Extension to serve development.* The City may, but shall not be required to, extend a water or wastewater main to serve a development in lieu of installation by the developer subject to the following standards and procedures:
 - (1) *Request by developer.* The developer may petition the City to extend a water or wastewater main to serve the development in lieu of the developer constructing the facilities.
 - (2) *Criteria.* If the City agrees to extend the water or wastewater main, the City's procedures for competitive bidding and award of contract must be followed. The developer shall execute an improvement agreement with the City prior to the initiation of construction.
 - (3) *Condition of extension.* As a condition of granting the developer's request to extend a water or wastewater main, the developer shall deposit cash in an amount equal to 100% of the projected costs of the extension, less the cost of the City's oversize participation if applicable, together with easements required by Section 16-34(c). Such deposit shall not constitute a waiver of, or otherwise affect the obligation of the developer to pay, impact fees for water or wastewater facilities; provided, however, that the City may credit deposits by the developer under this section which exceed the cost of a 12-inch diameter main against impact fees due for water or wastewater facilities in the manner prescribed in City Code Section 7.5-22.
 - (4) *Reimbursement from pro rata fees.* The developer shall be entitled to reimbursement from the proceeds of pro rata fees established for the main or mains serving the development pursuant to Division 3.

Sec. 16-37. Health and safety extensions to serve individual lots.

For paramount purposes of health and safety, the City may extend a water or wastewater main to individual residential lots. In such cases, each individual lot owner shall be responsible for a pro rata share of the cost of such main abutting the lot, as determined by the City Council.

DIVISION 3. PRO RATA FEES

Sec. 16-38. Pro rata fees to be established.

- (a) *Nature of fee.* A charge known as a "pro rata fee" shall be imposed against all undeveloped property abutting an existing water or wastewater main or for undeveloped property within the drainage area of a permanent lift station or sanitary sewer trunk main for which such fee has been established pursuant to this Division, as a condition of connection to such main or lift station, for the purpose of reimbursing the developer who previously installed or paid for the main or lift station.
- (b) *Amount of fee.* The pro rata fee shall be established for each side of the main to which connections are to be made. The fee for each side shall be equivalent to one-half the average cost of a 12-inch diameter main, together with all appurtenances, based upon the verified costs pursuant to Section 16-39 for that length of the main abutting the property being charged. In the case of mains for which connections can be made from one side only, the fee shall be equivalent to the total average cost of a 12-inch diameter main, together with all appurtenances, for that length of the main abutting the property being charged.

Sec. 16-39. Procedure for establishing pro rata fees.

- (a) *Request for pro rata fees.* Prior to final acceptance of water or wastewater main improvements by a developer, the developer shall submit a written request to the City Engineer stating whether a pro rata fee will or will not be requested to be established for the main that the developer installed.
- (b) *Submittal requirements.* The request to establish a pro rata fee shall be on a Pro Rata Contract form provided by the City. The request shall include a copy of the actual contract with unit prices. The request must identify the cost of the main including fire hydrants, valves, fittings, manholes and other appurtenances which are determined necessary for the construction of the line.

- (c) *Verification of costs by City Engineer.* The City Engineer shall verify the developer's calculations for the pro rata reimbursement. In the event of a discrepancy, the City Engineer shall establish the cost per foot for the pro rata fee based upon verifiable costs.
- (d) *Reimbursement amount.* The maximum amount for which a developer may be reimbursed from the proceeds of pro rata fees for the main installed shall not exceed the costs determined by the City Engineer under subsection (c) plus engineering fees, calculated at the rate of six percent of the verified construction cost.
- (e) *Pro rata for permanent lift station or sanitary sewer trunk main.* In the event a permanent lift station or sanitary sewer trunk main that exceeds the area necessary to serve a development is required pursuant to Section 16-33 and Section 16-34, the developer must submit a written request for establishment of a pro rata fee for the permanent lift station or sanitary sewer trunk main which shall be on a cost per acre basis to be eligible for pro rata. The costs eligible for reimbursement shall include the lift station, force main and other appurtenances or sanitary sewer trunk main, and other items included in subsection (b). The City Engineer shall be responsible for approving the cost per acre submitted by the developer for the drainage area served by the facility, as provided in subsection (c).

Sec. 16-40. Payment of pro rata fees.

- (a) *Obligation to pay fee.* The pro rata fee shall become payable prior to the issuance of a building permit except that for a single family residential development the pro rata fee shall become payable prior to approval of engineering plans.
- (b) *Calculation of fee.* The amount of the pro rata fee shall be calculated by multiplying the unit cost determined in Section 16-39 by the number of linear feet of that portion of the property boundary of a lot which abuts a street, alley or easement containing a water or wastewater main for which pro rata fees have been established, or the per acre fee multiplied by the number of acres in the development.

Sec. 16-41. Pro rata fee account.

A pro rata fee account is hereby established. The City shall deposit all pro rata fees collected pursuant to Section 16-39 and Section 16-40 into such account. Expenditures from such

account shall be earmarked solely for reimbursement of developers for the reasonable costs of installing water mains or wastewater mains for which pro rata fees have been established pursuant to Section 16-39 and Section 16-40.

Sec. 16-42. Reimbursement for water and wastewater main extensions.

- (a) *Reimbursement time limit.* For a period of 10 years after dedication to and acceptance by the City of the completed facility, the developer shall be entitled to reimbursement from the proceeds of the pro rata fees established pursuant to Section 16-39 up to the total cost of the extensions. Payment shall be from the pro rata fee account. The City shall make reimbursements within 180 days after receipt of the pro rata fee.
- (b) *Unclaimed funds.* If the City is unable to reimburse the developer who installed the main following reasonable attempts to locate such developer, the City shall refund all fees which remain unclaimed 10 years following the date of acceptance of the water or wastewater main, together with interest accrued, to the depositor of the fee. If such depositor cannot be located, the pro rata fees shall be transferred to the City water and sewer fund for expenditure.

Sec. 16-43. City collection fee.

On all pro rata fees reimbursed to the developer, the City shall deduct two percent of the amount collected plus \$100.00 as a collection fee. The City shall deposit collection fees into the City water and sewer fund for expenditure.

DIVISION 4. SERVICE CONNECTION

Sec. 16-44. Water.

- (a) *Installation of service connections.* The developer shall be responsible for the installation of all water service connections in the streets, alleys and easements for new residential and all non-residential properties. The developer responsible for a structure on a lot shall be responsible for installation and final location of the water meter and box required to be purchased from the City. The City shall install water service connections in existing residential developments. For all such connections, the City shall charge a sum sufficient to cover the cost of the connection. Such sum shall be determined and collected by the Utilities Division based on the average actual cost thereof and shall be at the following rates:

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Size	Service	Price	Additional Charges
3/4"	Meter and box only	\$75	
3/4"	Tap, meter and box	\$580	Plus concrete @ \$5 s.f.
3/4"	Bore, tap, meter and box	\$620	Plus concrete, plus \$6.50 l.f.*
			*on site estimate required
1"	Meter and box only	\$175	
1"	Tap, meter and box	\$695	Plus concrete @ \$5 s.f.
1"	Bore, tap, meter and box	\$755	Plus concrete, plus \$6.50 l.f.*
			*on site estimate required
1 1/2"	Meter and box only	\$285	
1 1/2"	Tap, meter and box	\$840	Plus concrete @ \$5 s.f.
1 1/2"	Bore, tap, meter and box	\$900	Plus concrete, plus \$7.00 l.f.*
			*on site estimate required
2"	Meter and box only	\$330	
2"	Tap, meter and box	\$920	Plus concrete @ \$5 s.f.
2"	Bore, tap, meter and box	\$985	Plus concrete, plus \$8.75 l.f.*
			*on site estimate required
2" +	Meters larger than 2" quoted as needed		

Service lines that require boring will be subject to a charge of six dollars and fifty cents (\$6.50) for each linear foot of a three-quarter inch (3/4") and one inch (1") bore; seven dollars (\$7.00) for each linear foot of a one and one-half inch (1 1/2") bore; and eight dollars and seventy-five cents (\$8.75) for each linear foot of a two inch (2") bore. For a service that requires a utility cut, a charge of five dollars (\$5.00) per square foot of cut will be charged. There will be a minimum charge of fifty dollars (\$50.00) for any utility cut or bore. The decision of a bore or cut is to be made by the Utilities Division. An estimate of the cost of all connections will be provided by the Utilities Division of the Public Services Department and a deposit of the estimated amount will be required before work is started on the installation of such connection. Should the final cost of the work be less than the amount of deposit, a refund of overpayment will be made to the person from whom the deposit was received. Should the final cost of the work exceed the amount of deposit, billing will be immediately made to the person from whom the deposit was received.

- (b) *Rate reduction.* Where service lines have been installed by a developer, the water service connection rate shall be reduced by the amount of the tap charge as shown for related sizes.
- (c) *Metering.* All water services for construction purposes shall be metered and subject to the same regulations and billings as permanent water accounts.

- (d) *Changes outside City.* Water service connection charges for property outside the corporate limits of the City shall be determined and set forth in a specific agreement with the municipality or other governmental entity involved.

Sec. 16-45. Sanitary sewer.

- (a) *Installation of sanitary sewer taps.* The developer shall install all sanitary sewer taps in the streets, alleys and easements for new residential and all non-residential properties. Such taps shall be installed from the main to the property line when the sewer main is located in an alley or street right-of-way; if the sewer main is in an easement, the service connection shall be installed from the sewer main to the easement boundary line. The developer responsible for a structure on a lot shall make final connection from the yard line to the service line. The City shall be responsible for the installation of sanitary sewer service connections in all existing residential developments. In cases where the City makes the tap, the City shall charge for each sewer tap the following rates:

Size	Service	Price	Additional Charges
4"	Tap, cleanout and box	\$500	Plus concrete @ \$5 s.f.
4"	Bore, tap, cleanout and box	\$1,040	Plus concrete, plus \$8 l.f.*
			*estimate required on all sewer taps
6"	Tap, cleanout and box	\$625	Plus concrete @ \$5 s.f.
6"	Bore, tap, cleanout and box	\$1,200	Plus concrete, plus \$8 l.f.
8" or larger	Total job cost to be set by Utilities Divisions		

Service lines that require the cutting or boring of paved streets or alleys will be subject to a charge of eight dollars (\$8.00) for each linear foot of bore or five dollars (\$5.00) per square foot of street or alley pavement cut necessary for installation. There will be a minimum charge of fifty dollars (\$50.00) for any utility cut or bore. The decision of a bore or utility cut will be made by the Utilities Division of the Public Services Department.

- (b) *Service line.* The property owner shall install a service line at his expense to the City's lateral in accordance with regulations and subject to the inspection of the City and shall thereafter be responsible for normal maintenance of said service line from the house or building to the property line.
- (c) *Separate connections required.* Each house or building within the City shall be served by a separate and independent sanitary sewer connection. Where the

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service laterals have been installed by a developer to serve a lot or tract of land, said lot or tract of land shall be exempt from a connection charge.

- (d) *Charges outside the City.* Water service connection charges for property outside the corporate limits of the City shall be determined and set forth in a specific agreement with the municipality or other governmental entity involved.

Sec. 16-46. Refunding procedure.

All refunds provided for in this division shall be made within 180 days of determination. The City shall not be liable for payment of interest on any deposits or refunds provided for in this division.

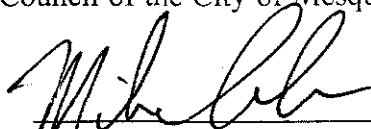
Secs. 16-47--16-55. Reserved.

SECTION 2. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 3. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.


SECTION 4. That the present ordinances of the City of Mesquite are inadequate in providing pro rata fees for water and wastewater facilities and procedures for the extension of water and wastewater facilities, creates an urgency and an emergency for the preservation of the public health, safety and welfare, and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 19th day of June, 2000.



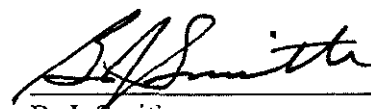
Mike Anderson
Mayor

ATTEST:



Ellen Williams
City Secretary

APPROVED:



B. J. Smith
City Attorney