

**ORDINANCE NO. 731 (12)**

**AN ORDINANCE AMENDING PART 12, CHAPTER 13, SECTIONS 12-1301 THROUGH 12-1311 OF THE MOORE LAND DEVELOPMENT CODE BY AMENDING TITLE OF CHAPTER, REVISING ADMINISTRATIVE PROCEDURES AND REQUIREMENTS FOR WATER MAIN EXTENSION RECOUPMENTS, AND DELETING SECTIONS 12-1309 THROUGH 12-1310; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR REPEALER.**

Be it ordained by the Mayor and the Council of the City of Moore, Oklahoma that Part 12, Chapter 13 shall be amended as follows:

Chapter 13

WATER MAIN RECOUPMENT AGREEMENTS

|                 |   |
|-----------------|---|
| Section 12-1301 | Purpose and Scope                                 |
| Section 12-1302 | Definitions                                       |
| Section 12-1303 | Water main recoupment agreement application       |
| Section 12-1304 | Determination of developer's cost of construction |
| Section 12-1305 | Developer's required contributions                |
| Section 12-1306 | Ownership of new water main extensions            |
| Section 12-1307 | Service after acceptance                          |
| Section 12-1308 | Conformance with city standards                   |
| Section 12-1309 | Reimbursement of costs                            |

**SECTION 12-1301 - PURPOSE AND SCOPE.**

A. It is the intent of this chapter to provide the equitable distribution of the costs of constructing public water main extension projects; to provide for the receipt and distribution of tap fees to recover certain expenses of water main extension projects; to coordinate this policy with the need for and availability of public services and facilities; and to protect the general health, safety and welfare of the citizens of this city and the customers of the city water system.

B. The city council may, by resolution, authorize Recoupment Agreements with developers extending water services to benefit other properties in situations where the other benefitting property owners would normally extend the water main but lack the funding to do so. Such agreements must provide that the water mains will be built in accordance with city plans and specifications and dedicated to the city for public use and maintenance. The city may agree to partially reimburse the developer extending a water main from project connection fees charged to benefitting property owners in the project area.

## **SECTION 12-1302 - DEFINITIONS.**

As used in this chapter, the following words, phrases and terms shall have the meanings set forth below:

1. "Benefitting Property" means the property which abuts or includes the easement or right-of-way within which a water main extension project is constructed;
2. "City" means the City of Moore;
3. "City Engineer" means the consulting engineer for the city or his designated representative(s);
4. "Connection" means any connection or tap of a water main extension project to directly or indirectly provide water service, less and except an "extension" as defined herein, shall not be considered a connection;
5. "Cost of Construction" means the final cost of construction of the entire water main extension project, including but not limited to, the bid amount and any additions, deletions, change orders, field changes, amendments or addenda, including a total of five percent (5%) of the actual direct cost for engineering fees. However, the "estimated cost of construction" shall mean the estimate of the final cost of construction project.
6. "Developer" means the applicant for an approved water main extension project who is financially responsible for constructing, or causing to be constructed, the water main extension project prior to project acceptance;
7. "Director" means the director of the community development department and his designated representative(s);
8. "Extension" means an attachment of a grid main to an existing water main extension project or facilities constructed by the city or the trust;
9. "Grid Main" shall mean water mains twelve (12) inches in diameter which run in the easement or right-of-way along a section line or section line road and/or as otherwise officially designated by the director in writing;
10. "Oversized Mains" means water mains in excess of twelve (12) inches in diameter which run in the easement or right-of-way along a section line or section line road and/or as otherwise officially designated by the director in writing;
11. "Policy" or "chapter" means this policy, the "water main recoupment agreement policy", and amendments and supplements thereto;
12. "Private Lines or Service Lines" means privately owned water lines for the provision of water service. An extension shall not be deemed a private line;
13. "Tap Fee" means the contribution from a property owner or party desiring water service connection who is not the city, the trust, or developer of the project;
14. "Trust" means the MPWA and any successor thereto;
15. "Water main extension project" or "project" shall mean an approved or authorized project for the construction of a grid main or oversized main, and all associated improvements, appurtenances and facilities, to be connected to the city water system.

**SECTION 12-1303 - WATER MAIN RECOUPMENT AGREEMENT APPLICATION.**

A. To commence a water main recoupment agreement, the developer desiring to install or construct the project shall make application to the director in writing.

B. The developer shall submit plans and specifications for the proposed project and a cost estimate to the director. The plans and specifications must be completed to the satisfaction of the director, and approved prior to commencing the project.

C. The director shall preliminarily determine the developer's required contribution for the cost of construction based upon the estimate of the developer's Engineer prior to approving any application or recommending approval of any application to the Trust. Upon acceptance by the developer of the director's determination of cost, the developer shall execute a Recoupment Agreement for MPWA consideration and approval.

D. Any application for installation of a water main recoupment agreement may be denied for any reasonable basis or may be conditionally approved for any reasonable basis.

E. Upon approval or conditional approval of a recoupment agreement, the applicant shall be designated the developer of that water main extension project and shall be financially responsible for any and all costs designated as costs to be paid by the developer in accordance with this policy.

**SECTION 12-1304 - DETERMINATION OF DEVELOPER'S COST OF CONSTRUCTION.**

After the application is approved, developer or his engineer will provide complete construction plans, engineering studies, and/or specifications as needed. Subsequently, the developer shall competitively solicit bids for the construction of the project.

1. The project shall be competitively bid and the developer shall document it to the satisfaction of the director;
2. The project shall be constructed by the developer to city standards;
3. Should the developer notify the director in writing that the developer desires to withdraw his application and not proceed with the project, then the developer shall be liable for all costs and expenses made or contracted to be paid up to the time of actual receipt of notice. Should the developer not commence the project within a reasonable time, then, upon notice to the developer, the MPWA may withdraw its proposed investment;

## **SECTION 12-1305 - DEVELOPER'S REQUIRED CONTRIBUTIONS.**

A. The developer shall pay its share of the cost of construction of a twelve (12) inch water main, or its equivalent, as set forth in this Chapter.

1. Grid Mains. The developer shall pay one hundred (100) percent of the cost of construction for grid main- water main extension projects;
2. Oversized Mains Required by the Construction Criteria. The developer and the trust shall share in the cost of construction of an oversized main-water extension project wherein the size, capacity and/or length of the proposed improvements are increased from the developers requirements. The developer shall pay the equivalent cost of a twelve (12) inch diameter water main project as the cost is determined by the director:

- a. The director shall review the plans and specifications submitted by the developer with the application;
- b. Director shall determine the cost of the water main designed for the size, flow, and location of his development and the cost of the oversized improvements. The cost difference between the two projects shall be the amount available for recoupment.
- c. Developer shall pay contractor for project construction, including any addition, deletion, change order, field change, amendment or addendum to the oversized main project.

## **SECTION 12-1306 - OWNERSHIP OF NEW WATER MAIN EXTENSIONS.**

A. The city owns the city water system. The city water system is leased to the trust.

B. All water main extension projects to be connected to the city water system shall be the property of the city upon acceptance of the construction contractor's work by the city. The developer shall be deemed to have dedicated its interest, if any, in the project to the city upon completion of the project in accordance with the construction criteria. Should the project meet the construction criteria, then the director shall recommend the acceptance of the project.

C. All water main extension projects shall be deemed dedicated by the developer to the city without any payment or contribution by the city or the trust to the developer. Provided, however, whenever the developer is the lowest and best responsible bidder on a competitive bid for construction of the project, the trust shall pay its share of an oversized main project, if any, as provided in this policy. However, the city and the trust shall not

contribute to the cost or pay the developer as successful bidder for the cost of mains, which are larger than that required or recommended by the construction criteria.

D. Should the director so request, the developer shall execute a formal conveyance memorializing the dedication of the project.

E. After acceptance of the completed project, the developer shall have no interest in the project.

#### **SECTION 12-1307 - SERVICE AFTER ACCEPTANCE.**

No connection shall be made to any water main extension project and no water service shall be provided until the project is determined to be complete by the director or his designee. The prohibition against connections and water services until the project is determined to be complete shall apply to the developer and all other persons and entities except the city and the trust.

#### **SECTION 12-1308 - CONFORMANCE WITH CITY STANDARDS.**

All water mains and lines and all associated improvements, facilities and appurtenances to water mains and lines, including, but not limited to, valves, fire hydrants, service connections and meters, to be connected to any project or to the city water system must meet the construction criteria.

#### **SECTION 12-1309 - REIMBURSEMENT OF COSTS.**

A. Developers may recover the share of the cost of construction paid by the developer on a water main extension project through tap fees from persons and entities desiring water service connections to the project. Provided, however, no tap fee shall be paid to any developer who has not paid its entire share of the cost of construction. Reimbursement for the cost of construction of a water main extension project shall only be pursuant to the receipt of tap fees as set forth herein.

1. No tap fees shall be collected or received on projects where the water main constructed is greater in size than that required by the construction criteria;
2. Developer shall receive such reimbursement through tap fees actually paid to the trust within a period of fifteen (15) years from the date the project was accepted by the city except as otherwise provided herein;
3. Developer may not recover more than the developer's share of the cost of construction;
4. All persons or entities who shall desire a water service connection shall pay a tap fee as set forth in this policy except the developer, the city, the trust. Except a benefitting property owner whose ownership pre-existed the project application

date and that is used for a residential purpose shall be permitted to make a connection for water service to each pre-existing residential structure of one inch (1") or less without paying a tap fee, pending MPWA approval . This provision is not intended and shall not be deemed to permit a water service connection by a developer to a project which has not been accepted or for which the developer has not paid developer's entire share of the cost of construction. The requirement to pay tap fees shall not be affected by whether the property to be served is zoned residential, commercial, industrial or any other designation;

5. Tap fees, as required herein, shall be paid to the trust prior to making any connection or obtaining any water service from the project;

6. No one, other than the city, the trust, or a benefitting property owner, may make a connection for water service from a water main extension project; provided however, the director may permit a connection by a non- benefitting property owner upon payment of a tap fee as determined by the director. The city and the trust may connect to any water main extension project without paying a tap fee regardless of whether the city or the trust is a benefitting property owner;

7. The city shall maintain records of all projects where tap fees are applicable. Tap fees shall be due prior to connection to a project, but neither the city nor the trust shall be liable for nonpayment by any party making a connection or non-reimbursement to the developer;

8. No tap fee shall be charged to or collected from the city or the trust;

9. No tap fee shall be charged for an extension;

10. The developer shall not receive tap fees in excess of its share of the cost of construction.

B. Benefitting property owners and others permitted to make a water connection by the director shall pay a tap fee for their share of cost of construction except as otherwise expressly exempted.

1. Director shall determine the cost of the water main designed for the size, flow, and location of his development and the cost of the oversized improvements. The cost difference between the two projects shall be the amount available for recoupment. A 5% engineering fee may be added to the amount available for recoupment.

2. The reimbursement agreement shall stipulate the pro rata unit cost of the water main extension project. The pro-rata unit cost shall be determined by dividing the total amount available for recoupment by the linear foot of the water main extension, which is the "per linear foot cost" of the project. For each benefitting property, the "per linear foot cost" of the water main extension shall be multiplied by the linear foot of property frontage along the water main extension project, which shall equal the tap fee.

**Severability**

If any of the provisions of this ordinance are determined to be unconstitutional or unlawful by any court of competent jurisdiction, the remainder shall be severable and unaffected.

**Repealer**

Any ordinance or parts thereof in conflict with this section are hereby repealed.

PASSED AND APPROVED THIS 17<sup>th</sup> DAY OF DECEMBER, 2012.



*Jason Blair*  
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~~GLENN LEWIS, Mayor~~ JASON BLAIR, VICE MAYOR

ATTEST:

*Jim Corbett, Jr.*  
\_\_\_\_\_  
JIM CORBETT, JR., City Clerk

APPROVED AS TO FORM AND LEGALITY:

*Randy C. Brink*  
\_\_\_\_\_  
RANDY C. BRINK, City Attorney