

ORDINANCE NO. 2017-02-\_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS AMENDING CHAPTER 130, ENTITLED "LAND DEVELOPMENT REGULATIONS," OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS, THROUGH THE AMENDMENT OF EXISTING ARTICLE II ENTITLED "WATER AND WASTEWATER IMPACT FEES" BY AMENDING PORTIONS OF SECTION 130-28 AS SET FORTH HEREIN BELOW; BY THE ADOPTION OF A NEW EXHIBIT 2 REGARDING THE 2012-2013 WATER & WASTEWATER IMPACT FEE UPDATE ("WATER & WASTEWATER IMPROVEMENTS PLANS"); AND BY THE ADOPTION OF A NEW SCHEDULE 1 REGARDING THE ASSESSMENT AND COLLECTION OF WATER AND WASTEWATER IMPACT FEES; AND BY THE ADOPTION OF A NEW SCHEDULE 2 REGARDING THE ASSESSMENT AND COLLECTION OF WATER AND WASTEWATER IMPACT FEES; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of McKinney (the "City") is a home-rule city possessing the full power of local self-government pursuant to Article XI, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code and its home rule charter; and

**WHEREAS**, the City established utility impact fees to be imposed within its corporate limits and within its extraterritorial jurisdiction by Ordinance No. 1868, and as amended by Ordinance No. 1996-03-013; Ordinance No. 2001-08-092; Ordinance No. 2003-05-056; Ordinance No. 2008-11-103; and Ordinance No. 2013-11-109 as amended by Ordinance No. 2013-12-118; in compliance with Chapter 395 of the Texas Local Government Code (the "Utility Impact Fee Ordinances"); and

**WHEREAS**, the Utility Impact Fee Ordinances have been codified in Article II of Chapter 130 of the Code of Ordinances, City of McKinney, Texas; and

**WHEREAS**, Texas Local Government Code Section 395.052 requires a city imposing utility impact fees to update the land use assumptions and capital improvements plans at least once every five years; and

**WHEREAS**, the City held the public hearings required by Chapter 395 of the Texas Local Government Code to consider and approve Updated Land Use Assumptions for Utility Impact Fees and the 2012-2013 Water and Wastewater Impact Fee Update ("Water and Wastewater Improvements Plans") as part of the 2012-2013 Impact Fee Update; and

**WHEREAS**, the City Council finds that the provisions governing the administration of utility impact fees and the 2012-2013 Water and Wastewater Impact Fee Update ("Water and Wastewater Improvements Plans") referenced in the Utility Impact Fee Ordinance and codified in Article II of Chapter 130 of the Code of Ordinances, City of McKinney, Texas, should be amended to account for changes in water meters utilized by the City; and

**WHEREAS**, the City Council finds that the provisions governing the administration of utility impact fees and Schedules 1 and 2 setting forth the water and wastewater impact fees to be assessed and collected established in the Utility Impact Fee Ordinance and codified in Article II of Chapter 130 of the Code of Ordinances, City of McKinney, Texas, should be amended to account for changes in water meters utilized by the City; and

**WHEREAS**, the proposed amendments to Article II of Chapter 130 of the Code of Ordinances, City of McKinney, Texas, are in the best interest of the

citizens of McKinney to assure the availability of adequate water and wastewater facilities and services in order to serve new development consistent with the policies set forth in the City's Comprehensive Plan;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:**

- Section 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City of McKinney, Texas and they are hereby approved and incorporated into the body of this Ordinance as if restated herein in their entirety.
- Section 2. From and after the effective date of this Ordinance, the "Impact Fee Capital Improvements Plan" or "Capital Improvements Plans for Utility Impact Fees" ("Utility Improvements Plans") adopted by Resolution No. 2013-11-187 and attached to Ordinance No. 2013-11-109 referenced in Article II of Chapter 130 of the Code of Ordinances, City of McKinney, Texas is hereby amended and replaced in its entirety with a new Impact Fee Capital Improvements Plan to read as set forth in Exhibit "A" attached hereto and incorporated herein by reference for all purposes allowed by law. Said "Impact Fee Capital Improvements Plan" or "Capital Improvements Plans for Utility Impact Fees" may hereafter be amended from time to time by Ordinance. All references to the "Impact Fee Capital Improvements Plan" or "Capital Improvements Plans for Utility Impact Fees" ("Utility Improvements Plans") contained in this Ordinance, Ordinance No. 2013-11-109, and Article II of Chapter 130 of the Code of Ordinances, City of McKinney, Texas, is hereby declared to be references to the Impact Fee Capital Improvements Plan attached as Exhibit "A" hereto and incorporated by reference to this Ordinance.
- Section 3. From and after the effective date of this Ordinance, "Schedule 1" and "Schedule 2" attached to Ordinance No. 2013-11-109, and as amended by Ordinance No. 2013-12-118, referenced in Article II of Chapter 130 of the Code of Ordinances, City of McKinney, Texas are hereby amended and replaced in their entirety with a new "Schedule 1" and a new "Schedule 2" to read as set forth in Exhibit "B" attached hereto and incorporated herein by reference for all purposes allowed by law. Said "Schedule 1" and "Schedule 2" may hereafter be amended from time to time by Ordinance. All references to "Schedule 1" and "Schedule 2" contained in this Ordinance, Ordinance No. 2013-11-109, Ordinance No. 2013-12-118, and Article II of Chapter 130 of the Code of Ordinances, City of McKinney, Texas, are hereby declared to be references to "Schedule 1" and "Schedule 2" attached as Exhibit "B" hereto and incorporated by reference to this Ordinance.
- Section 4. From and after the effective date of this Ordinance, Section 130-28 entitled "Payment and Collection of Impact Fees" of the Code of Ordinances of the City of McKinney, Texas, is hereby amended in part by deleting paragraph (d) in its entirety and replacing said paragraph with a new paragraph (d) to read as follows:
- “(d) The amount of each Impact Fee (wastewater and water) for a New Development shall not exceed an amount computed by multiplying the maximum assessable fee per Service Unit for each category of utility pursuant to Section 130-26 by the number of Service Units generated by the development. According to the American Water Works Association the ratio of water flows for different sizes and types of Water Meters is as follows:

Meter Size	Meter Type	Ratio to ¾" meter
¾"	Multi-jet (simple)	1.0
1"	Multi-jet (simple)	1.7
2"	Ultrasonic	8.3
3"	Ultrasonic	16.7
4"	Ultrasonic	33.3
6"	Ultrasonic	53.3
8"	Ultrasonic	93.3
10" to 12"	Ultrasonic	183.3

Accordingly, the number of service units for each Meter Size and Meter Type follows the same ratio and is used to determine the proportional water and wastewater impact fee for each Meter Size and Meter Type compared to a simple ¾" Water Meter."

- Section 5. This Ordinance shall be and is hereby declared to be cumulative of all other Ordinances of the City of McKinney, and this Ordinance shall not operate to repeal or affect any of such other Ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other Ordinance or Ordinances are hereby superseded.
- Section 6. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this Ordinance.
- Section 7. All of the regulations provided in this Ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this Ordinance, acting for the City of McKinney in the discharge of his duties, shall not thereby render himself personally liable; and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties.
- Section 8. Any violation of this Ordinance can be enjoined by a suit filed in the name of the City of McKinney in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this Ordinance or in the Code of the City of McKinney.
- Section 9. The caption of this Ordinance shall be published one (1) time in a newspaper having general circulation in the City of McKinney, and this Ordinance shall become effective upon its publication.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 7TH DAY OF FEBRUARY, 2017.**

CITY OF MCKINNEY, TEXAS

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BRIAN LOUGHMILLER  
Mayor

CORRECTLY ENROLLED:

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SANDY HART, TRMC, MMC  
City Secretary  
DENISE VICE, TRMC  
Assistant City Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:

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MARK S. HOUSER  
City Attorney