

Ordinances Governing  
**GENERAL PROVISIONS**  
in the  
CITY OF ARLINGTON  
TEXAS

Amended by Ordinance No. 17-003  
(February 14, 2017)

(Chapter Designator: GENERAL PROVISIONS)

**ORDINANCE HISTORY**

<b><u>Number</u></b>	<b><u>Date of Adoption</u></b>	<b><u>Comments</u></b>
1750	12/07/65	
09-073	11/03/09	Add <b>Article VI</b> , <u>Apportionment of Municipal Infrastructure Costs</u> , to incorporate state law provisions related to rough proportionality in developers' payment of municipal infrastructure improvement costs.
10-013	01/12/10	Amend <b>Article I</b> , <u>Designation and Composition of Code, Section 1.05, General Penalties; Continuing Violations</u> , relative to clarifying and updating the maximum fine amounts allowed as penalties by law; through the addition of <b>Article VII</b> , <u>Electronic Submittal of Final Plans and Other Documents</u> , relative to a requirement that final plans or other documents that will be archived must be submitted in electronic format.
17-003	02/14/17	Amend <b>Article VI</b> , <u>Apportionment of Municipal Infrastructure Costs</u> , related to the apportionment of municipal infrastructure costs.

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**ARTICLE I****DESIGNATION AND COMPOSITION OF CODE****Section 1.01 How Code Designated and Cited**

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of the City of Arlington, Texas, 1987" and may be so cited. Such Code may also be cited as "Arlington City Code of 1987".

**Section 1.02 Provisions Considered As Continuation of Existing Ordinances**

The provisions appearing in this and the following chapters and sections, so far as they are the same as those of ordinances existing at the time of the adoption of The Code of the City of Arlington, 1987, shall be considered as a continuation thereof and not as new enactments.

**Section 1.03 Catchlines of Sections**

The catchlines of the several section of this Code printed in boldface type (underlined in this edition of the Code) are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections nor as any part of the section nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

**Section 1.04 Severability of Parts of Code**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable; and if any phrase, clause, sentence, paragraph or section of this Code 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 Code, since the same would have been enacted by the City Council without the incorporation in this Code of any such

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unconstitutional phrase, clause, sentence, paragraph or section.

**Section 1.05 General Penalties; Continuing Violations.**

In this Code or in any ordinance of the City:

- A. Where no specific penalty is provided for an offense or a misdemeanor, the violation shall be punishable by a fine not exceeding the maximum amount allowed by law, in particular,
  - 1. not exceeding Five Hundred Dollars and No Cents (\$500.00) for offenses where no culpable mental state is required, including offenses governing fire safety, zoning, or public health and sanitation, including dumping of refuse, and
  - 2. not exceeding Two Thousand Dollars and No Cents (\$2,000.00) for offenses which include a culpable mental state and which govern fire safety, zoning, or public health and sanitation, including dumping of refuse.
- B. If the maximum penalty provided for any offense is greater than the maximum penalty provided for the same or a similar offense under the laws of the State of Texas, then the maximum penalty for the violation as provided by State statute shall be the maximum penalty under this Code.
- C. If the definition of an offense does not prescribe a culpable mental state, then a culpable mental state is not required. Although not required, if a culpable mental state is in fact alleged in the charge of the offense, such offense may be punishable by the maximum penalty allowed by law.
- D. Each day that a violation continues shall constitute a separate offense. (Amend Ord 10-013, 1/12/10)

**ARTICLE II**

**RULES OF CONSTRUCTION**

**Section 2.01 Intent**

In the construction of this Code, and of all ordinances and resolutions passed by the City Council, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Council:

**Section 2.02 City**

The words "the City" or "this City" shall mean the City of Arlington, in the County of Tarrant and State of Texas.

**Section 2.03 City Secretary, Chief of Police or Other Officers**

The words "City Secretary", "Chief of Police" or other City officers or departments shall be construed to mean the City Secretary, Chief of Police or such other municipal officers or departments, respectively, of the City of Arlington, Texas.

**Section 2.04 Computation of Time**

Whenever a notice is required to be given or an act to be done, a certain length of time before any proceedings shall be had, the day on which such notice is given or such act is done, shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

**Section 2.05 Council**

Whenever the words "Council" or "this Council" or "the Council" are used, they shall be construed to mean the City Council of the City of Arlington, Texas.

**Section 2.06 Gender**

A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

**Section 2.07 Highway**

The term "highway", when used herein, shall include any street, alley, highway, avenue or public place or square, bridges, viaducts, tunnels and causeways, in the City, dedicated or devoted to public use.

**Section 2.08 Joint Authority**

Words purporting to give authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

**Section 2.09 Month**

The word "month" shall mean a calendar month.

**Section 2.10 Number**

Any word importing the singular number shall include the plural, and any word importing the plural number shall include the singular.

**Section 2.11 Oath**

The word "oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases, the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

**Section 2.12 Or; And**

"Or" may be read "and", and "and" may be read "or", if the sense requires it.

**Section 2.13 Owner**

The word "owner", applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the



entirety, of the whole or of a part of such building or land.

**Section 2.14 Person**

The word "person" shall extend and be applied to associations, corporations, firms, partnerships and bodies politic, and corporate as well as to individuals.

**Section 2.15 Preceding, Following**

The words "preceding" and "following" mean "next before" and "next after" respectively.

**Section 2.16 Roadway**

The word "roadway" shall mean that portion of a street improved, designed or ordinarily used for vehicular traffic.

**Section 2.17 Sidewalk**

The word "sidewalk" shall mean any portion of the street between the curb or the lateral line of the roadway and the adjacent property line intended for the use of pedestrians.

**Section 2.18 Signature or Subscription**

The words "signature" or "subscription" shall include a mark when a person cannot write.

**Section 2.19 Street**

The term "street", when used herein, shall include any highway, alley, street, avenue or public place or square, bridge, viaduct, tunnel and causeway in the City, dedicated or devoted to public use.

**Section 2.20 Time**

Words used in the past or present tense include the future as well as the past and present.

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**Section 2.21    Written or in Writing**

The words "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

**Section 2.22    Year**

The word "year" shall mean a calendar year.

**ARTICLE III**

**ORDINANCES**

**Section 3.01 Amendments or Additions to Code**

All ordinances of a general and permanent nature, and amendments to such ordinances, hereinafter enacted or presented to the City Council for enactment, shall be drafted, so far as possible, as specific amendments of, or additions to, the Code of the City of Arlington, 1987. Amendments to this Code shall be made by reference to the chapter and section of the Code which is to be amended, and additions shall bear an appropriate designation of chapter and section.

**Section 3.02 Recording of Ordinances; Ordinance Books as Evidence**

All ordinances adopted or passed by the City Council shall be inscribed at large by the City Secretary, not only in the minutes of the Council, but also in a special book to be kept for that purpose by the Secretary, wherein at the foot of each ordinance so inscribed, the Secretary shall make a note stating the time of the adoption of such ordinance. Such book of ordinances and all copies and extracts therefrom, shall be evidence of the tenor and contents of the ordinances therein inscribed, as well of such as have been heretofore or as may be hereafter therein so inscribed.

**ARTICLE IV**

**CORPORATE BOUNDARIES**

NOTE: ARTICLE 4 - CORPORATE BOUNDARIES was in the process of revision at the time of this printing and will be included in the Code when adopted by ordinance.

**ARTICLE V****EXTRATERRITORIAL APPLICABILITY****Section 5.01 Extraterritorial Applicability**

All ordinances of the City of Arlington now in force or hereafter enacted in the lawful exercise of the police powers of the City for the preservation and protection of the health, safety, morals and general welfare of the public are hereby made applicable and shall be in full force and effect with regard to any and all property owned, leased or otherwise held by the City of Arlington outside its corporate limits for the purposes stated in V.T.C.A., Local Government Code (formerly Section 1 of Article 969b, Vernon's Civil Statutes of the State of Texas).

**Section 5.02 Enforceability**

Said ordinances shall be enforceable in the Municipal Court of the City of Arlington; and any and all violations of said ordinances occurring on such property shall be prosecuted in the same manner as if such violations had occurred within the corporate limits of the City of Arlington.

**Section 5.03 Penalty**

The penalties prescribed in said ordinances shall be and are hereby made applicable to violations of said ordinances occurring on the properties hereinabove described. (Amended by Ordinance No. 1750, November 16, 1965)

**ARTICLE VI****APPORTIONMENT OF MUNICIPAL INFRASTRUCTURE COSTS****Section 6.01 Rough Proportionality**

- A. If the City requires as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs pursuant to the City Code, the developer's portion may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer retained by the City. Municipal infrastructure improvements have the meaning set forth in the Texas Local Government Code Section 212.904, as that term is interpreted by the Texas Attorney General and Texas courts.
- B. The dedication or construction of an infrastructure improvement imposed by the City as a condition of plat or site plan approval in accordance with the City's adopted subdivision and development regulations shall be deemed to be the City's determination, upon the advice of a professional engineer duly licensed in this state and retained by the City, that such requirements, together with any impact fees due for the development, are roughly proportionate to the impacts created by the development on the City's municipal infrastructure.
- C. A developer who disputes the determination made under Section 6.01(B) may appeal to the City Council. Prior to filing the appeal, the developer shall notify the Community Development and Planning Department ("the Department") in writing of the pending dispute. The Department shall send the developer its written response, reviewed and approved by the Engineering Division or other professional engineer on behalf of the City, to the proportionality issues raised by the developer and in so doing may revise the dedication or construction requirement(s) at issue. If the developer is not satisfied with the Engineering Division's response, he may file an appeal to the City Council with the City Secretary. At the appeal, the developer may present evidence and testimony under procedures adopted by the City Council.
- D. The City may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.

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- E. For municipal infrastructure improvements for which the City has enacted impact fees, the measure of rough proportionality shall be the maximum impact fee per service unit then in effect for that category of infrastructure improvements, as may be amended from time to time, unless an alternative measure is approved by the Engineering Division of the Department or its designee. To the extent that the impact fee charged against a new development, as may be amended from time to time, is less than the maximum impact fee per service unit, such difference is hereby declared to be founded on policies unrelated to measurement of the impacts of the new development on the City's infrastructure systems. The maximum impact fee per service unit may be used in evaluating any claim by a property owner that the dedication of land for right-of-way or construction of an infrastructure improvement within an impact fee service area, which is imposed as a condition of development approval pursuant to the City's subdivision or development regulations, together with the imposition of an impact fee, is disproportionate to the impacts created by the development on the City's infrastructure system for that category of infrastructure improvements.
- F. After hearing any testimony and reviewing the evidence, the City Council shall make its determination within 30 days following the final submission of any testimony or evidence by the developer. The Council shall decide whether requirements imposed by the Unified Development Code Chapter, or under the Impact Fees Chapter, or the combination of requirements, is roughly proportional to the nature and extent of the development proposed. In reaching such determination, the Council shall take into account the information in the evidence supplied by the appellant, the measure of proportionality in Subsection (E) or any alternative measure proposed by the Engineering Division of the Department or its designee, the total costs to the City for supplying infrastructure capacity to the proposed development and all developments associated with the original plat of which the proposed development is a part, and the extent to which requirements imposed by the City benefit the proposed development.
- G. If the City Council finds that the requirement(s) is not roughly proportional to the nature and extent of the development being proposed, it may take any of the following actions:
1. waive in whole or in part a dedication or construction requirement imposed by the City's development regulations and/or reduce the amount of impact fees due; or

2. direct that the City participate in the costs of acquiring or constructing such a municipal infrastructure improvement pursuant to standard participation policies; or
  3. require some combination of such measures.
- H. In the event of a conflict between the provisions of this section and any other provision in the City Code, this section controls.

(Amend Ord 17-003, 2/14/17)



ARTICLE VII

ELECTRONIC SUBMITTAL OF FINAL PLANS AND OTHER DOCUMENTS

Section 7.01 Electronic Submittal of Final Plans and Other Documents

Final plans or other documents required to be submitted pursuant to any provision in the Code of the City of Arlington, Texas, 1987, and that will be archived by the Community Development and Planning must be submitted in an electronic format specified by the Director of Community Development and Planning ("CDP Director") as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The City may provide an electronic conversion service for a fee in the amount set forth by City Council resolution. The CDP Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary to implement an electronic archiving program.

(Amend Ord 10-013, 1/12/10)

**Ordinance No. 09-073**

An ordinance amending the "General Provisions" Chapter of the Code of the City of Arlington, Texas, 1987, through the addition of **Article VI, Apportionment of Municipal Infrastructure Costs**, to incorporate state law provisions related to rough proportionality in developers' payment of municipal infrastructure improvement costs; providing this ordinance be cumulative; providing for severability; governmental immunity; publication and an effective date

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the "General Provisions" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the addition of **Article VI, Apportionment of Municipal Infrastructure Costs**, which shall be and read as follows:

**ARTICLE VI**

**APPORTIONMENT OF MUNICIPAL INFRASTRUCTURE COSTS**

**Section 6.01 Rough Proportionality**

- A. If the City requires as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs pursuant to the City Code, the developer's portion may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer retained by the City. Municipal infrastructure improvements have the meaning set forth in the Texas Local Government Code Section 212.904, as that term is interpreted by the Texas Attorney General and Texas courts.
- B. A developer who disputes the determination made under Section 6.01(A) may appeal to the City Council. At the appeal, the developer may present evidence and testimony under procedures adopted by the City Council. After hearing any testimony and reviewing the evidence, the City Council shall make the applicable determination within 30 days following the final submission of any testimony or evidence by the developer.

- C. A developer may appeal the determination of the City Council to a county or district court of the county in which the development project is located within 30 days of the final determination by the City Council.
- D. The City may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.
- E. A developer who prevails in an appeal under this section is entitled to applicable costs and to reasonable attorney's fees, including expert witness fees, to the extent permitted or required by state law.
- F. This section does not diminish the authority or modify the procedures specified by Chapter 395 of the Texas Local Government Code regarding impact fees.
- G. In the event of a conflict between the provisions of this section and any other provision in the City Code, this section controls.

2.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, 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 repealed.

3.

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.

4.

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 Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she 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/her said duties.

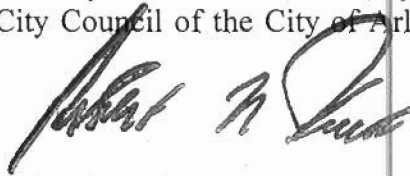
5.

The caption clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

6.

This ordinance shall become effective upon second publication as described above.

PRESENTED AND GIVEN FIRST READING on the 27th day of October, 2009, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 3rd day of November, 2009, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



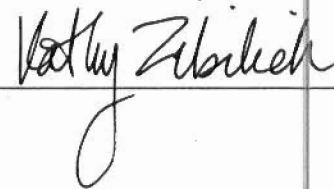
ROBERT N. CLUCK, Mayor

ATTEST



APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY



**Ordinance No. 10-013**

**An ordinance amending the “General Provisions” Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article I, Designation and Composition of Code, by the amendment of Section 1.05, General Penalties; Continuing Violations, relative to clarifying and updating the maximum fine amounts allowed as penalties by law; through the addition of Article VII, Electronic Submittal of Final Plans and Other Documents, relative to a requirement that final plans or other documents that will be archived must be submitted in electronic format; providing for a fine of up to \$2,000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; governmental immunity; injunctions; publication and an effective date**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the “General Provisions” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article I, Designation and Composition of Code**, by the amendment of **Section 1.05, General Penalties; Continuing Violations**, so that said section shall be and read as follows:

**Section 1.05 General Penalties; Continuing Violations.**

In this Code or in any ordinance of the City:

- A. Where no specific penalty is provided for an offense or a misdemeanor, the violation shall be punishable by a fine not exceeding the maximum amount allowed by law, in particular,
  - 1. not exceeding Five Hundred Dollars and No Cents (\$500.00) for offenses where no culpable mental state is required, including offenses governing fire safety, zoning, or public health and sanitation, including dumping of refuse, and
  - 2. not exceeding Two Thousand Dollars and No Cents (\$2,000.00) for offenses which include a culpable mental state and which govern fire safety, zoning, or public health and sanitation, including dumping of refuse.
- B. If the maximum penalty provided for any offense is greater than the maximum penalty provided for the same or a similar offense under the laws of the State of

Texas, then the maximum penalty for the violation as provided by State statute shall be the maximum penalty under this Code.

- C. If the definition of an offense does not prescribe a culpable mental state, then a culpable mental state is not required. Although not required, if a culpable mental state is in fact alleged in the charge of the offense, such offense may be punishable by the maximum penalty allowed by law.
- D. Each day that a violation continues shall constitute a separate offense.

Further, the “**General Provisions**” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the addition of **Article VII, Electronic Submittal of Final Plans and Other Documents**, which shall be and read as follows:

## **ARTICLE VII**

### **ELECTRONIC SUBMITTAL OF FINAL PLANS AND OTHER DOCUMENTS**

#### **Section 7.01 Electronic Submittal of Final Plans and Other Documents**

Final plans or other documents required to be submitted pursuant to any provision in the Code of the City of Arlington, Texas, 1987, and that will be archived by the Community Development and Planning must be submitted in an electronic format specified by the Director of Community Development and Planning (“CDP Director”) as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The City may provide an electronic conversion service for a fee in the amount set forth by City Council resolution. The CDP Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary to implement an electronic archiving program.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, 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 repealed.

4.

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.

5.

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 Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she 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/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington 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 Arlington.

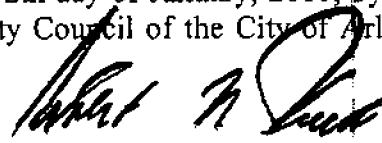
7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective upon second publication as described above.

PRESENTED AND GIVEN FIRST READING on the 15th day of December, 2009, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 12th day of January, 2010, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



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ROBERT N. CLUCK, Mayor



APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY Kathy Zeblich



**Ordinance No. 17-003**

**An ordinance amending the “General Provisions” Chapter of the Code of the City of Arlington, Texas, 1987, by amending Article VI, Apportionment of Municipal Infrastructure Costs, related to the apportionment of municipal infrastructure costs; providing this ordinance be cumulative; providing for severability, governmental immunity, injunctions, publication, and an effective date**

- WHEREAS, the City of Arlington, Texas, has enacted procedures for determining “rough proportionality” of a development exaction for municipal infrastructure improvements required as a condition of plat approval; and
- WHEREAS, such procedures conform to constitutional and statutory requirements that mandate that development exactions be roughly proportional to the nature and extent of the impacts of a development on the City’s infrastructure systems; and
- WHEREAS, in order to assure that new developments are adequately served by municipal infrastructure improvements, the City has adopted standards through its subdivision regulations in its Unified Development Code that require the development to contribute right-of-way and/or construct municipal infrastructure improvements in accordance with the City’s adopted Water and Wastewater Master Plans and the Thoroughfare Plan; and
- WHEREAS, in addition to construction of local improvements that serve a new subdivision or development, the subdivision regulations require the additional rights-of-way be dedicated for water and wastewater mains and collector or arterial roadways that abut the property to be developed, and the construction to City specifications of municipal infrastructure improvements that are internal to the property to be developed and that are part and parcel of the City’s infrastructure systems; and
- WHEREAS, the City does not require the construction of abutting collector or arterial roadways or arterial roadways for a new development; and
- WHEREAS, the City has also adopted impact fees for water, wastewater and roadway facilities in accordance with Texas Local Government Code, Chapter 395. Pursuant to Chapter 395, the City must adopt a capital improvements program that identifies, inter alia, the capital improvements by service district that will be necessary to serve only new development over a period of ten years. The amount of development projected to occur over such ten

year period also must be converted to service units and incorporated in land use assumptions that are adopted by the City Council; and

WHEREAS, the City has followed the statutory procedures and computed the maximum impact fee per service unit in the most recent update of its impact fee program for each service district within the City; and

WHEREAS, the City relies both upon the dedication and construction requirements in its subdivision regulations and its impact fee program to supply the municipal infrastructure improvements that serve all new development with the City; and

WHEREAS, in order to assure compliance with the doctrine of rough proportionality, the City must necessarily quantify the cost impacts of a new development and compare such costs against the costs imposed on a new development in the combined form of right-of-way dedication, construction costs and payment of roadway impact fees; and

WHEREAS, the City does not charge new developments the maximum impact fee per service unit that it has calculated in adopting the impact fee program. The City has adopted a fee structure that has been urged by the homebuilding and development communities in order to keep local builders and developers competitive with developments in similar and proximate markets. In other instances, the City has reduced impact fees in order to promote and encourage achievement of other important public goals. The level of impact fees actually charged against new developments does not represent the City's determination that the public as a whole should bear the costs of municipal infrastructure improvements that exceed the amount of impact fees actually charged; and

WHEREAS, this policy decision of the City Council is not meant to relieve developers and builders of the obligation to dedicate rights-of-way and construct facilities that are integral to provision of adequate municipal infrastructure systems throughout the City, because such requirements are essential in lieu of imposing the maximum assessable impact fee against new developments; and

WHEREAS, the maximum assessable impact fee per service unit is a statutorily sanctioned measure of the impacts of new developments on the City's municipal infrastructure systems and is the proper starting point for a rough proportionality determination; and

WHEREAS, there are appeals procedures in effect that allow the owner of a new development to undertake an independent study to compute a different maximum impact fee for the development than that which would be



computed under the formulas in the impact fee ordinance; NOW  
THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON,  
TEXAS:

1.

That the “**General Provisions**” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended so that **Article VI, Apportionment of Municipal Infrastructure Costs**, shall be and read as follows:

## ARTICLE VI

### APPORTIONMENT OF MUNICIPAL INFRASTRUCTURE COSTS

#### Section 6.01 Rough Proportionality

- A. If the City requires as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs pursuant to the City Code, the developer's portion may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer retained by the City. Municipal infrastructure improvements have the meaning set forth in the Texas Local Government Code Section 212.904, as that term is interpreted by the Texas Attorney General and Texas courts.
- B. The dedication or construction of an infrastructure improvement imposed by the City as a condition of plat or site plan approval in accordance with the City's adopted subdivision and development regulations shall be deemed to be the City's determination, upon the advice of a professional engineer duly licensed in this state and retained by the City, that such requirements, together with any impact fees due for the development, are roughly proportionate to the impacts created by the development on the City's municipal infrastructure.
- C. A developer who disputes the determination made under Section 6.01(B) may appeal to the City Council. Prior to filing the appeal, the developer shall notify the Community Development and Planning Department (“the Department”) in writing of the pending dispute. The Department shall send the developer its written response, reviewed and approved by the Engineering Division or other professional engineer on behalf of the City, to the proportionality issues raised by the developer and in so doing may revise the dedication or construction requirement(s) at issue. If the developer is not satisfied with the Engineering Division's response, he may file an appeal to the City Council with the City



Secretary. At the appeal, the developer may present evidence and testimony under procedures adopted by the City Council.

- D. The City may not require a developer to waive the right of appeal authorized by this section as a condition of approval for a development project.
- E. For municipal infrastructure improvements for which the City has enacted impact fees, the measure of rough proportionality shall be the maximum impact fee per service unit then in effect for that category of infrastructure improvements, as may be amended from time to time, unless an alternative measure is approved by the Engineering Division of the Department or its designee. To the extent that the impact fee charged against a new development, as may be amended from time to time, is less than the maximum impact fee per service unit, such difference is hereby declared to be founded on policies unrelated to measurement of the impacts of the new development on the City's infrastructure systems. The maximum impact fee per service unit may be used in evaluating any claim by a property owner that the dedication of land for right-of-way or construction of an infrastructure improvement within an impact fee service area, which is imposed as a condition of development approval pursuant to the City's subdivision or development regulations, together with the imposition of an impact fee, is disproportionate to the impacts created by the development on the City's infrastructure system for that category of infrastructure improvements.
- F. After hearing any testimony and reviewing the evidence, the City Council shall make its determination within 30 days following the final submission of any testimony or evidence by the developer. The Council shall decide whether requirements imposed by the Unified Development Code Chapter, or under the Impact Fees Chapter, or the combination of requirements, is roughly proportional to the nature and extent of the development proposed. In reaching such determination, the Council shall take into account the information in the evidence supplied by the appellant, the measure of proportionality in Subsection (E) or any alternative measure proposed by the Engineering Division of the Department or its designee, the total costs to the City for supplying infrastructure capacity to the proposed development and all developments associated with the original plat of which the proposed development is a part, and the extent to which requirements imposed by the City benefit the proposed development.
- G. If the City Council finds that the requirement(s) is not roughly proportional to the nature and extent of the development being proposed, it may take any of the following actions:
  - 1. waive in whole or in part a dedication or construction requirement imposed by the City's development regulations and/or reduce the amount of impact fees due; or

2. direct that the City participate in the costs of acquiring or constructing such a municipal infrastructure improvement pursuant to standard participation policies; or
  3. require some combination of such measures.
- H. In the event of a conflict between the provisions of this section and any other provision in the City Code, this section controls.

2.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; 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 repealed.

3.

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.

4.

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 Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she 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/her said duties.

5.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington 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 Arlington.

6.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.




7.

This ordinance shall become effective ten days after first publication.

PRESENTED AND GIVEN FIRST READING on the 24th day of January, 2017, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 14th day of February, 2017, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

  
W. JEFF WILLIAMS, Mayor

ATTEST:

  
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:  
TERIS SOLIS, City Attorney

BY 