

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING THE CITY OF KYLE, TX CODE OF ORDINANCES; AMENDING ARTICLE II. WATER AND WASTE WATER SYSTEM GENERALLY SECTION 50-29, TO ADD AN EXCEPTION TO RECOVER CONSTRUCTION COSTS OF UTILITY LINES.**

**Whereas**, Development in the City of Kyle often requires new utility infrastructure; and,

**Whereas**, Developers and the City often partner on costs of utility infrastructure, or the City builds new infrastructure so that the City can provide connection points and capacity for future projects; and,

**Whereas**, as future projects come online, they currently enjoy the benefit of the City's participation in utility infrastructure and are not required to cost participate; and,

**Whereas**, this puts market leader developers at a cost disadvantage to latter projects that may be near them and come after utility improvements have occurred not having to cost participate; and,

**Whereas**, Section 212.904 of the Local Government Code allows for the City to require a developer to bear a portion of the cost for utility infrastructure in an amount that is roughly proportionate to the proposed development; and

**Whereas**, the City finds it equitable that all new development should pay its proportionate share of infrastructure costs required to serve such new development;

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

**Section 1. Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

**Section 2. Amendment of Article II. Water and Waste Water System Generally Section 50-29.** City of Kyle, Texas, Code of Ordinances is hereby amended insofar, and insofar only, as is herein set forth, and in no other respect whatsoever.

**Adding Section 50-29. Cost Participation of Utility Extensions.**

- a. The City requires new development that is connecting to existing utility infrastructure to cost participate in utility infrastructure of capital improvements that have been, or will be built to provide service to the development. This includes the following circumstances:

- 1) The City engages in a capital improvement project to deliver new or expanded utility capacity to a previously unserved, or underserved area, and new development utilizes capacity in the improvement to serve the needs of its development; or,
  - 2) A Developer is required to extend utility infrastructure or to improve existing utility infrastructure to serve the requirements of their development, and the City exercises its right to request that the infrastructure be right-sized or oversized to meet additional demand beyond the scope of the original development's needs; or,
  - 3) Other situations or circumstances that would qualify as determined by the City Engineer.
- b. The City may recover from new development that connects to any infrastructure improvement to gain utility service from the improvement for their project, a pro rata share of the cost of the project, as determined by actual cost, or by City Engineer estimates when actual cost is not available.
- c. A Developer who disputes the determination of the pro rata share, may appeal to the City Manager. If Developer is not satisfied at the determination of the City Manager, Developer may appeal in accordance with Section 212.904 of the Texas Local Government Code.

**Section 3. Amendment of Ordinances.** The City of Kyle, Texas Code of Ordinances is hereby amended to the extent of any conflict or inconsistency herewith only and all ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the city, the terms and provisions of this Ordinance shall govern.

**Section 4. Effective Date.** This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code*.

**Section 5. Open Meetings.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

**PASSED AND APPROVED** on First Reading this \_\_\_\_ day of \_\_\_\_\_, 2016.

**FINALLY PASSED AND APPROVED** on this \_\_\_\_ day of \_\_\_\_\_, 2016.

**ATTEST:**

**THE CITY OF KYLE, TEXAS**

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Jennifer Vetrano, City Secretary

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Todd Webster, Mayor