

ARTICLE 4. COMMUNITY FACILITIES POLICY (PUBLIC INFRASTRUCTURE)

Sec. 4.1 Basic policy.

This article provides general and miscellaneous policies for the construction of community facilities (public infrastructure) by a developer. Articles 5—8 provide requirements and policies for the construction of the specific types of community facilities. A community facilities contract shall be executed by the city and the developer, whenever a developer constructs community facilities within the city or the ETJ. All costs associated with the construction of the community facilities are the responsibility of the developer unless the city council agrees to participate in oversize facilities as specified in section 4.2, city participation and reimbursement. The following items are generally considered community facilities unless agreements are created to allow private infrastructure:

- (1) Local streets and thoroughfares.
- (2) Sidewalks.
- (3) Trails and other walkways within public parks.
- (4) Storm drain facilities.
- (5) Water facilities.
- (6) Sanitary sewer facilities.

Other items not included on the above list may be classified as community facilities by the public works director. The process for the execution of a community facilities contract is included in section 4.4, community facilities contract policy, and required fees.

(Ord. No. CSO#1215-12-2019 , § 1, 1-6-2020)

Sec. 4.2 City participation and reimbursement.

All costs associated with the design, right-of-way, and construction of community facilities shall be the responsibility of the developer. However, the city may participate in the oversizing of facilities when the size of the facility required by the city exceeds the developer's responsibility to provide adequate community facilities.

- (1) Participation in thoroughfare construction. The city may participate in the construction of roadways included on the master thoroughfare plan in the following instances:
 - a. Internal streets.
 1. When a street shown on the master thoroughfare plan is located within the boundary of a subdivision, the city may participate in the design and construction cost of the roadway when the required width exceeds 40 feet (major collector classification and above). The city council may agree to fund the design and construction of the width in excess of 40 feet. Right-of-way for the entire width must be dedicated by the developer.
 2. Should the city council deny the request for the participation, the developer shall be required to dedicate the right-of-way for the full width as required by the thoroughfare plan and the developer will coordinate with the public works director to determine the street section that will allow future widening that will be most convenient for the city.
 3. The city will not participate if the trip generation of the subdivision warrants the construction of the full width of the street with the subdivision.

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- b. Perimeter streets and offsite streets.
 - 1. When a street shown on the master thoroughfare plan is located along the perimeter of the subdivision and the street is required to provide access to the development, the city may participate in the design and construction cost of the roadway when the required width exceeds 40 feet (major collector classification and above); or
 - 2. The developer may construct one-half of the roadway (24-foot minimum).
 - 3. If the perimeter street is not required to provide access to the subdivision, the developer may place funds in escrow with the city in accordance with section 4.3, escrow.
 - 4. The city will not participate if the trip generation of the subdivision warrants the construction of the full width of the roadway with the subdivision.
 - (2) Participation in water improvements. The city may participate in the costs associated with construction of onsite or offsite water improvements when the improvements shown in the city's water and wastewater master plan exceed the size required by the subdivision or when an analysis of the specific area shows a larger required size than would be required by the subdivision if constructed alone. If the size of the required waterline is 12 inches or smaller, the full cost of the water improvements shall be paid by the developer. If the size of the waterline is greater than 12 inches, the city may pay the extra size cost above a 12-inch main.
 - (3) Sewer improvements. The city may participate in the costs associated with construction of onsite and offsite sanitary sewer improvements when the improvements shown in the city's water and wastewater master plan exceed the size required by the subdivision or when an analysis of the specific area shows a larger required size than would be required by the subdivision alone. If the size of the required sewer is 15 inches or smaller, the full cost of the sewer improvements shall be paid by the developer. If the size of the sanitary sewer line is greater than 15 inches, the city may pay the extra size cost above a 15-inch main.
 - (4) Participation procedure.
 - a. All participation approval is based on the availability of funds. If funds are not available, the Public Works Director will determine the size of the community facilities. The city may not require installation of thoroughfares wider than 40 feet, water lines larger than 12 inches and sewer lines larger than 15 inches unless the subdivision requires larger lines if constructed alone.
 - b. The city may participate with the developer in an amount up to 30 percent of the total cost of the project without using the competitive bidding process. If the amount of the participation exceeds 30 percent of the total cost of the project, the city must receive competitive, sealed bids in accordance with the bidding policies used for city capital improvement projects.
 - c. In order for the city to participate in the oversizing of community facilities, the following must occur:
 - 1. The developer must submit engineering construction plans for the subdivision.
 - 2. The developer must submit a letter requesting city participation and include the reason for the request. The request must include a proposal showing the difference in cost of the community facilities if constructed in accordance with the master thoroughfare plan and/or water and wastewater master plan and the cost of the facilities required by the subdivision if constructed alone. The letter shall be submitted prior to the start of construction of the community facilities for the subdivision.
 - 3. The Public Works Director will review the letter and proposal and negotiate the participation amount with the developer. The Public Works Director will determine if funds

are available for the participation. If funds are not available, the request will not be forwarded to the city council and the Public Works Director will determine the appropriate size of the community facilities.

4. The Public Works Director will present the request to the city council. The participation amount presented to the city council will be considered final. Staff will not resubmit a revised participation request to council unless there has been a change in scope. Errors in the participation request will not be considered by city council.
5. The city council will vote on the participation request and the Public Works Director will notify the developer of the decision in writing.
6. If the participation request is approved, the city will execute a community facilities contract with the developer. The developer shall initially defray the entire cost of the oversized facility, unless the city council determines otherwise. The city, following dedication and initial acceptance of the constructed facility, shall reimburse the developer the amount approved by the city council. The community facilities contract shall contain a performance bond, regardless of the cost of the improvements.

(Ord. No. CSO#1215-12-2019 , § 1, 1-6-2020)

Sec. 4.3 Escrow.

- (a) When land within the city is developed or subdivided adjacent to existing unimproved or substandard community facilities, or adjacent to community facilities proposed in the water and wastewater master plan or master thoroughfare plan (including associated drainage), the developer shall construct or improve the part of the community facilities necessary to serve the development or subdivision in conformance with the master plan unless the city determines that one of the following methods is more appropriate for the provision of the design and construction or improvement of the community facilities.
 - (1) The city elects to construct or improve the community facilities under the assessment policy; or
 - (2) The city determines that the improvements fall under the requirements of the community facilities improvement policy; or
 - (3) The city determines that the construction or improvement of the community facility is not feasible or prudent at the time of the development or subdivision of the land and the developer should be required to place funds in escrow as provided in subsection (b) below.
- (b) As provided in subsection (a)(3) above, the city may require the developer to place funds in escrow for the design and construction, or improvement of the part of the community facilities that is necessary to serve the development or subdivision. The developer's share of the cost of such part of the community facilities shall be roughly proportional to the burden the development or subdivision places on the public infrastructure system.
 - (1) Escrow shall be paid prior to filing the plat with the county.
 - (2) Should the owner construct or improve the community facility for which the owner paid escrow, the owner shall be refunded the escrow paid, plus interest accrued.
 - (3) Once the owner has paid escrow in full for any community facility, the owner is relieved of any further obligation for that community facility, unless its construction or improvement is necessary to provide adequate public facilities for a phase of the development or subdivision.

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- (4) Escrow requirements shall be based upon unit costs for comparable contracts awarded by the city over the previous year. If none exist, the escrow rate shall equal the current market value of construction and design at the time the escrow deposit is due.
 - (5) All escrow funds shall be paid in cash and shall be held in the name of the city and deposited into an escrow fund in the city's depository.
 - (6) All interest earned will accrue to the initial escrow deposit and will be used for the design and construction or improvement of the community facilities. Should the cost of the community facilities be less than the amount of escrow placed with the city, the difference shall not be refunded to the developer. Similarly, should the cost of the community facilities exceed the amount placed in escrow, the developer shall not be required to pay the difference.
 - (7) When developments are phased, the escrow requirement shall be established at the time the preliminary plat is approved through the establishment of an escrow contract. The escrow contract shall establish the developer's share of the design and construction for those community facilities the city determines are not feasible or prudent to construct or improve when the land is developed or subdivided. The developer's share required for each final plat shall be placed in escrow with the city and shall be based upon the land area contained within the final plat divided by the land area contained within the preliminary plat times the calculated developer's share. The escrow rate used to calculate the escrow requirement for any final plat shall be the escrow rate in effect at the time of the preliminary plat. Design, construction, or improvement of the community facility by persons other than the developer shall not relieve the developer of escrow requirements for phases final platted subsequent to the design, construction, or improvement of the community facility. The escrow contract shall be a covenant and restriction running with the land. The escrow contract shall be signed by the developer, the owner of the land, and the city. The escrow contract shall be recorded in the property records of the county where the land is located.
 - (8) All escrow funds deposited with the city prior to the effective date of this policy shall remain on deposit under the original escrow contract and addenda. The methodology used to calculate the amount of these funds shall not be superseded by the methodology contained herein.
 - (9) The city manager, or their designee, shall have the authority to sign the escrow agreement on behalf of the city.
- (c) When an individual property owner desires to obtain a building permit to construct a residence or building on a previously platted tract or lot that abuts an existing unimproved or substandard community facility, or where a community facility is planned, and where escrow has not been deposited for this section of community facility, the property owner shall place on deposit with the city the estimated cost of the public facilities adjacent to the tract or lot, to be determined at then current construction costs.

(Ord. No. CSO#1215-12-2019 , § 1, 1-6-2020)

Sec. 4.4 Community facilities contract policy.

Standard community facilities contracts, executed by the developer and the city, are required for all public infrastructure construction. The standard community facilities contract document is provided in section 9.1. Changes to the community facilities contract document will be made by city council resolution. The following is a summary of the process for the execution of a community facilities contract:

- (1) Engineering construction drawings shall be submitted when the proposed development requires the construction of public improvements. The applicant shall submit construction plans and any required engineering studies for review and acceptance by the city. The construction drawings shall conform to

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- the technical specifications contained in the design standards manual and shall be prepared and sealed by a licensed professional engineer, licensed to practice in the state.
- (2) A community facilities contract is required within the city and the ETJ for the following:
 - a. Public infrastructure
 - b. Private street and associated drainage improvements.
 - c. Drainage improvements beneath a fire lane.
 - (3) Engineering construction plans for community facilities are required as follows:
 - a. A developer will submit final engineering plans for the construction of community facilities to the public works director. The developer shall retain a civil engineer, licensed to practice in the state, for preparation of the engineering plans.
 - b. Acceptance of construction plans is not required prior to city council action on a final plat or replat. No plat shall be recorded with Johnson or Tarrant County until such time as necessary construction plans have been accepted and a community facilities contract executed in accordance with the applicable provisions of this appendix.
 - c. The public works director, or their designee, will review the plans and return them to the developer for any needed changes on or before the 30th business day from the time of submittal.
 - d. A fee may be assessed and collected for any review provided by staff in excess of two reviews.
 - (4) Waivers to the provisions of this appendix or the design standards manual shall be processed in accordance with section 1.5, waivers. All waiver requests shall be approved prior to construction of the community facilities.
 - (5) Upon acceptance of the engineering plans, the developer may enter into a contract with a utility contractor provided that the construction and installation of the facilities shall be viewed by inspectors of the city to see that the installation is made in accordance with the drawings and the city's specifications which, in every instance, shall be a part of said installation contract.
 - (6) Upon approval of the plat by the city council and submittal of required documents for the construction of the community facilities, three copies of the community facilities contract shall be prepared for execution by the city and the developer. If no changes are requested to the standard agreement, the city manager or their designee shall have the authority to sign the community facilities contract on behalf of the city. In the event the standard language is to be altered in any way, the community facilities contract shall be approved by the city council.
 - (7) Construction of community facilities may commence following the execution of the community facilities contract, posting of the applicable bonds within the community facilities contract, payment of fees and any other requirements of the community facilities contract.
 - (8) After the community facilities contract has been prepared, it must be executed by the developer and the city. The mayor will sign the contract on behalf of the city.
 - (9) Grading of the site may occur following preliminary plat approval of the subdivision upon approval of an early grading permit. All erosion protection measures must be installed prior to any grading activities.
 - (10) No community facilities construction may begin before a community facilities contract is approved by the city and a notice to proceed has been issued by the public works director.
 - (11) Community facilities contracts not completed within a two-year time period will require renewal of the contract with all updated documents being in compliance with the policies in effect at that time. Any

facilities or requirements included in the contract that are not completed by the developer within two years may be completed by the city at the developer's expense as provided through an acceptable means of financial security as provided in the community facilities contract.

- (12) After execution of the community facilities contract by the developer and the city, any significant changes in the contract, or the plans or specifications that alter the scope of the project will require an amendment to the community facilities contract which will include modifications of the bonds and may require additional payment of developer's contract fees.
- (13) After construction and initial (substantial) acceptance by the city, the developer's engineer shall furnish a set of drawings stamped "record drawings" to the city along with an electronic PDF file of the record drawings. The final construction of the community facilities shall be field verified to ensure they are within the dedicated right-of-way or easement. If the facility does not lie within a city right-of-way or easement, the developer shall have an instrument prepared for filing to coincide with the actual line location. The instrument will be recorded by the city in the county deed records. Any such installation, when made, shall become the property of the city, free and clear of all encumbrances, following expiration of the maintenance bond.
- (14) Construction must start within three years of the city's acceptance of the construction plans. Plans for projects which have not started construction within this time must be resubmitted for a new review and shall follow all current regulations in place at the time of resubmittal.

(Ord. No. CSO#1215-12-2019 , § 1, 1-6-2020)

Sec. 4.5 Fees.

Fees, as established the city council, are required for the construction of community facilities within subdivisions. Following is a summary of fees that are typically required for the construction of community facilities:

- (1) Plat application fee. The fees for specific plat types are found in the city's fee schedule. This fee shall be paid prior to the presentation of the plat to the planning and zoning commission or city council, if applicable. If the plat is approved administratively, the fee shall be paid prior to recording with the county.
- (2) Commercial plan review fee. This fee is for the review of commercial site plans by the DAC. This fee is paid with building permit application. If the commercial project does not require a building permit, then this fee shall be paid prior to DAC review.
- (3) Developer's contract fee. This fee is for the administration of the community facilities engineering plans and community facilities contract and the inspection of the construction of the community facilities. This fee is paid prior to issuance of a notice to proceed with construction of the community facilities.
- (4) Parkland dedication fee. This fee may be paid in lieu of the dedication of parkland. This fee is paid prior to recording the plat with the county. This fee may be offset by dedication of land in accordance with article 8.
- (5) Park development fee. This fee is for the installation of park infrastructure. This fee is paid prior to recording the plat with the county. This fee may be offset by construction of park infrastructure in accordance with article 8.
- (6) Emergency warning system fee. This fee is for the installation and maintenance of the city's emergency warning system. This fee is paid prior to filing the plat with the county.

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- (7) Public safety wireless access fee. This fee is for the installation and maintenance of facilities that will provide wireless access for public safety officers and access to a wireless internet system (for a fee) for residents of the area.
 - (8) Sign installation fee. This fee is for the installation of traffic control and street signs within or caused by the subdivision. This fee is paid prior to issuance of a notice to proceed with the construction of the community facilities.
 - (9) Easement filing fees. The city will file all offsite public easements required to be filed by separate instrument for the subdivision. The fee for the filing will be based on the actual cost charged by the county for the filing of the easement(s). This fee is paid when the easement documents are submitted to the city for filing.
 - (10) Escrow. Funds may be required to be placed into an escrow account with the city in accordance with section 4.3. The escrow funds are paid prior to recording the plat with the county.
 - (11) Pro-rata. Funds may be required to be paid to reimburse a developer for installation of community facilities installed with a prior subdivision. The pro-rata fee is paid prior to recording the plat with the county.
 - (12) Flood study review fee. The flood study review fee is paid to recoup the city's cost of review of flood studies. The flood study review fee is paid with the submission of the flood study for review.
 - (13) Traffic study review fee. The traffic study review fee is paid to recoup the city's cost of the review of traffic warrant studies and traffic impact analyses. The traffic study review fee is paid with the submission of the traffic study for review.
 - (14) Waiver fee. The waiver fee is paid for any waivers submitted to the planning and zoning commission or city council. The waiver fee is paid before the waiver is presented to the planning and zoning commission of city council. A single waiver fee is required for presentation to the planning and zoning commission and city council. If multiple waivers are requested, a waiver fee for each request may be required.
 - (15) Impact fees. Water and wastewater impact fees will be required with building permit application.
 - (16) Testing. Section 4.6, community facilities construction inspection, provides a list of cost responsibilities for laboratory testing. The developer or contractor must pay any outstanding testing fees prior to initial construction acceptance by the city.
 - (17) Inspector overtime. Section 4.6 community facilities construction inspection, provides a summary of the overtime inspection policy. The developer or contractor must pay any outstanding inspection overtime charges prior to initial construction acceptance by the city.

Additional fees may be identified during the review of the plans. The development services director or the public works director will notify the developer of any additional fees as soon as the fees are identified. Additional fees associated with building construction will be required during the building permit process. All fees will be charged in accordance with the current city fee schedule as adopted annually by the city council.

(Ord. No. CSO#1215-12-2019 , § 1, 1-6-2020)

Sec. 4.6 Community facilities construction inspection.

- (a) The developer's contractor shall give at least 48-hours' notice to the public works director of intent to commence actual construction of the facilities, so that inspection personnel can be made available. Any work initiated prior to notice to the city shall be removed if directed by the city.

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- (b) If the developer's contractor leaves the job site for five consecutive workdays (for reasons other than weather related causes), at least 24 hours' written notice of intent to commence construction shall again be required. Any work initiated prior to written notice to the city shall be removed if directed by the public works director.
 - (c) The developer will delay connection of buildings to service lines of sewer and water mains, until the sewer and water mains and service lines have been completed and accepted by the city.
 - (d) The developer may obtain from the public works director a statement that the contractor's work has been completed in accordance with the city requirements. However, the maintenance bond will not go into effect until after the entire development has been accepted for maintenance by the city. The developer shall notify all contractors and subcontractors working on the development that all of their work is subject to inspection by the city at any time.
 - (e) The city may require certification of materials being used.
 - (f) Laboratory testing will be required for quality control on all community facilities.

(1) The city will pay for initial testing for the following:

- a. Sanitary sewer trench backfill density.
- b. Water line trench backfill density.
- c. Storm drain trench backfill density.
- d. Lime or cement stabilized subgrade gradation and density.
- e. Portland cement concrete paving strength test/cylinders.
- f. Concrete thickness test/coring.
- g. Concrete structures strength test/cylinders.

The city pays for only the initial testing. Any retests based on failed tests are at the expense of the developer. The city will contract with an independent testing laboratory.

(2) The developer will pay for the following tests:

- a. Sanitary sewer line pressure test.
- b. Sanitary sewer manhole vacuum test.
- c. Video of sanitary sewer line.
- d. Water line pressure test.
- e. Water line sterilization.
- f. Pavement mix design/plant control.
- g. Concrete structure mix design/plant control.

The developer shall use an approved laboratory that is a member of the American Council of Independent Laboratories and which comply with standard recommended practice for inspection and testing agencies for concrete, steel and bituminous materials as used in construction, ASTM Designation E 329.

Additional laboratory tests may be required during construction. The developer will be responsible for the cost of any additional testing.

- (g) Should any point not covered in the plans, the community facilities contract, or the community facilities policy, the developer shall contact the public works director for a determination of the city's requirements.

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- (h) If the city determines that any work does not meet the city requirements or has not had proper city inspection, the public works director will notify the developer in writing, of the inadequacies which may require the developer to cease all operations until defects have been corrected, and property inspection has been made.
 - (i) A regular workday will be any Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m., except designated holidays. The developer's contractor may find it necessary to request inspection personnel to work overtime or on a non-regular workday. A minimum of four hours of overtime will be charged for any inspections requested on a non-regular workday. The developer will reimburse the city for costs incurred for overtime worked by city personnel. All overtime work requests shall be made by the developer a minimum of 24 hours in advance and approved, in writing, by the public works director. All city inspection overtime costs incurred by a developer's contractor shall be paid prior to the acceptance of the project by the city.

(Ord. No. CSO#1215-12-2019 , § 1, 1-6-2020)

Sec. 4.7 Easements.

- (a) Easements dedicated by plat. When possible, easements shall be dedicated on the plat. Easements shall be dedicated for the purposes indicated by their description including, but not limited to, the installation and maintenance of water, sanitary sewer, storm sewer, drainage, electricity, telephone, gas and cable television. When possible, easements shall be dedicated for the exclusive use of water, sanitary sewer or drainage rather than as blanket "utility easements." Owner shall have the right to use the easements, provided, however, that it does not unreasonably interfere with or impede the provision of the services to others. Ingress and egress is granted on, over and across all public easements for the benefit of the provider of services for which the easements are granted.
- (b) Easements by separate instrument. When easements have not been filed by plat for community facilities or when it is necessary to install community facilities offsite from a subdivision, easements must be filed by separate instrument. The developer is responsible for providing to the city a metes and bounds description and exhibit sealed by a licensed surveyor and an executed dedication statement on the city's standard form. The city will file the easement with the appropriate county upon receipt of the filing fees from the developer.
- (c) Easement maintenance. Routine maintenance (mowing, cleaning, etc.) of easement areas is the responsibility of the owner of the property on which the easement is contained. The city will only maintain the function of the easement.
- (d) When easements are requested on property owned and maintained by the city, the council shall consider the easement conveyance and the city manager, or their designee, shall execute the easement documents upon approval by the city council.

(Ord. No. CSO#1215-12-2019 , § 1, 1-6-2020)

Sec. 4.8 Ownership and maintenance.

All community facilities constructed within dedicated public rights-of-way or public easements shall be and shall remain the property of the city and, after expiration of the maintenance bonds, shall be maintained by the city, except as otherwise required by this appendix.

(Ord. No. CSO#1215-12-2019 , § 1, 1-6-2020)