

BERNALILLO COUNTY

BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2018-34

1 **AN ORDINANCE ADOPTING BERNAILLO COUNTY CODE, CHAPTER 47 PRO**
2 **RATA**

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4 **Chapter 47 – PRO RATA**

5 **Sec. 47-1. Intent and purpose.**

6 This chapter establishes general procedures by which a petitioner may be reimbursed for costs
7 incurred to design and construct infrastructure improvements. These improvements may be the
8 minimum required for a development and/or betterment in nature, and will necessarily serve off-
9 site parcels within a defined pro rata service area. In addition, the Bernalillo County Public
10 Works Division (BCPWD) may require a petitioner to construct initial and/or betterment
11 roadway improvements to correct existing deficiencies in the system. The petitioner may be
12 eligible for reimbursement when subsequent development within the pro rata service area utilizes
13 petitioner constructed infrastructure improvements in accordance with procedures established in
14 this chapter.

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16 The intent of these procedures is to promote the public health, safety, and general welfare by
17 establishing a pro rata program. This program will facilitate the construction of necessary
18 infrastructure and enable the apportionment of costs and fees associated with infrastructure
19 improvements among the stakeholders of properties that will benefit from the improvements,
20 thereby resulting in a lower cost for each parcel. Pro rata payments do not constitute a lien

1 against the property, but are due and must be paid in full at the time of application for access, or
2 prior to approval of any new development within the pro rata service area.

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4 **Sec. 47-2. Definitions.**

5 The following words, terms and phrases, when used in this chapter, shall have the meanings
6 ascribed to them in this section, except where the context clearly indicates a different meaning:

7 *BCPWD* is the Bernalillo County Public Works Division.

8 *Betterment improvements* are infrastructure improvements required to correct deficiencies,
9 provide additional capacity, and/or improve existing facilities beyond the petitioner's minimum
10 improvements. Any betterment improvements shall be related to the minimum improvements
11 required to be constructed by the petitioner.

12 *County* means Bernalillo County.

13 *Development* means any action that increases the use of infrastructure improvements in the
14 public right-of-way, which may include: the division of land; construction, conversion,
15 relocation, or modification of any structure; or any change of use, or extension of the use of land.

16 *Improvements cost* is the amount of funds required to construct the infrastructure improvements
17 included in the pro rata agreement. Improvements costs may also include costs borne by the
18 petitioner for bonds, permits, County development, construction, and administrative fees, and
19 finance charges.

20 *Infrastructure improvements* are physical structures within a public right-of-way or legally
21 dedicated easement necessary for the beneficial use of a property. These include, but are not
22 limited to, roadways, sidewalks, signage, shoulders, ditches, culverts, curbs, gutters, landscaping,
23 and/or other improvements deemed appropriate by BCPWD.

CONTINUATION PAGE 3, ORDINANCE 2018-34.

1 *Minimum improvements* are infrastructure improvements that are necessary to serve the
2 petitioner's proposed development, as required by the latest design guidelines from the BCPWD.
3 These improvements may, or may not, accommodate the reasonable projected buildout of the pro
4 rata service area.

5 *Off-site parcels* are all parcels of land within the pro rata service area that are beyond the
6 boundaries of the petitioner's parcel(s) of land.

7 *Petitioner* is any person, corporation, organization, or other legal entity, including a government
8 department or agency, who is requesting reimbursement under a pro rata agreement for the
9 construction of minimum and/or betterment improvements.

10 *Pro rata* means proportional, and may refer to the pro rata share required by a subsequent
11 development.

12 *Pro rata agreement* is an agreement between the petitioner and the County as described in this
13 chapter.

14 *Pro rata improvements* are the minimum required and betterment infrastructure improvements
15 included in the pro rata agreement for construction by the petitioner.

16 *Pro rata percentage* is the proportionate demand each subsequent development will have upon
17 the infrastructure improvements constructed by the petitioner. Said proportionate demand is
18 expressed as the ratio of the demand of the individual subsequent development to that of the total
19 expected demand of all parcels within the pro rata service area, as specified in Section 47-12.

20 *Pro rata service area* is the geographic area designated by the County Engineer or designee that
21 establishes the parcels and/or portions of parcels of land to be served or intended to be served by
22 the infrastructure improvements installed by the petitioner.

CONTINUATION PAGE 4, ORDINANCE 2018-34.

1 *Pro rata share* is the cost of the pro rata infrastructure improvements that are apportioned to an
2 individual parcel. The pro rata share is to be determined by applying the pro rata percentage for a
3 parcel by the final improvements cost defined by the procedures in this chapter. A parcel may
4 have multiple pro rata share obligations.

5 *Subsequent developer* is any person, corporation, organization, or other legal entity, including a
6 government department or agency, constructing or creating a development within a pro rata
7 service area after infrastructure improvements are installed by the petitioner.

8 Words not defined herein but which are defined in the Zoning Code of Bernalillo County are to
9 be construed as defined therein.

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11 **Sec. 47-3. – Authority.**

12 N.M. Const. art. X, § 10 (as amended Nov. 4, 2014) Urban Counties; NMSA 1978, § 4-37-1
13 (1975) General Powers of Counties; Bernalillo County Charter, art. XII.

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15 **Sec. 47-4. – Jurisdiction.**

16 This chapter shall govern all development of land not within the boundaries of municipalities,
17 reservations, and federal lands, but within the County, as well as other lands directly assessing a
18 County right-of-way.

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