

Exhibit A

Chapter 14 Water and Wastewater Amendment

ARTICLE 14.12 IMPACT FEES

Sec. 14.12.01 General provisions

This article shall be known and cited as the city impact fees.

Sec. 14.12.02 Purpose

This article is intended to assure the provision of adequate public water and wastewater facilities to serve new development in the city by requiring each such development to pay its pro rata share of the costs of such improvements necessitated by and attributable to such new development.

Sec. 14.12.03 Authority

This article is adopted pursuant to the Local Government Code, chapter 395 (Vernon 1990 Supp.) (SB 336). The provisions of this article shall not be construed to limit the power of the city to utilize other methods authorized under state law or pursuant to other city powers to accomplish the purposes set forth herein, either in substitution for or in conjunction with this article.

Sec. 14.12.04 Definitions

Advisory committee. The city's planning and zoning commission,

Area-related facility. A capital improvement (to include water supply acquisitions) or facility expansion which is designated in the impact fee capital improvements plan and which is not a site-related facility. An area-related facility may include a capital improvement which is located off-site, or within or on the perimeter of the development site.

Assessment. The determination of the amount of the maximum impact fee per service unit which can be imposed on new development pursuant to this article.

Capital improvement. Either a water facility, water supply acquisitions or a wastewater facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the city.

City. The City of Leon Valley.

Credit. The amount of the reduction of an impact fee due, determined under this article or pursuant to administrative guidelines, that is equal to the value of area-related facilities provided by a property owner pursuant to the city's subdivision or zoning regulations or requirements.

Duplex-residential. Has the meaning given the term in the city's zoning regulations.

Facility expansion. Either a water facility expansion or a sewer facility expansion.

Final plat approval. The point at which the applicant has complied with all conditions of approval and the plat has been released for recording in the Bexar County deed and plat records.

Impact fee. Either a fee for water facilities, water supply acquisitions or a fee for wastewater facilities imposed on new development by the city pursuant to this article in order to generate revenue to fund or recoup the costs of capital improvements or facility development. Impact fees do not include a requirement for the dedication of rights-of-way or easements for such facilities, or a requirement for the construction of such improvements, imposed pursuant to the city's zoning or subdivision regulations. Impact fees also do not include payment of any fees imposed pursuant to article A11.000 or article A12.000 of this fee schedule, which were not repealed hereunder, or payment of pro rata charges imposed pursuant to Ordinances 1210, 1221, and 1230 adopted by the city on December 16, 1986, March 17, 1987, and May 5, 1987, respectively, nor shall it include any pro rata charges imposed by the city under any other ordinance, be it heretofore or hereafter imposed.

Impact fee capital improvements plan. Either a water capital improvements plan, a water supply plan or a wastewater capital improvements plan adopted or revised pursuant to this article.

Irrigation water meter. A water meter for the purpose of irrigation only, with no flows returning to the wastewater system.

Land use assumptions. The projections of population and growth and associated changes in land uses, densities and intensities adopted by the city, as may be amended from time to time, upon which the capital improvements plans are based.

Land use equivalency table. A table converting water meters required by various land uses to numbers of service units, as may be amended from time to time.

New development. A project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of the use of land, any of which has the effect of increasing the requirements for capital improvements (including water supply acquisitions) or facility expansions, measured by the number of service units to be generated by such activity, and which requires either the approval of a plat pursuant to the city's subdivision regulations, the issuance of a building permit, or connection to the city's water or wastewater system, and which has not been exempted from these regulations by provisions herein or attached hereto. Installation of a larger water meter will constitute new development.

Plat. Has the meaning given the term in the city's subdivision regulations. Plat includes replat.

Platting. Has the meaning given the term in the city's subdivision regulations. Platting includes replatting.

Property owner. Has the meaning given the term in the city's subdivision regulations. Property owner includes the developer for the new development.

Recoupment. The imposition of an impact fee to reimburse the city for capital improvements which the city has previously oversized to serve new development.

Service area. Either a water benefit area or wastewater benefit area within the city and the city's extraterritorial jurisdiction, within which impact fees for capital improvements or facility expansions will be collected for new development occurring within such area and within which fees so collected will be expended for those types of improvements or expansions identified in the type of capital improvements plan applicable to the service area.

Service unit. Either the average number of gallons of water consumed during an average day of the winter months by a new development, that is equal to that used by a single-family dwelling unit at such time, or one equivalent meter unit, which is the standardized measure of consumption of wastewater or water facilities equal to that consumed by a single-family dwelling unit utilizing a 5/8" or 3/4" water meter, as indicated in the land use equivalency table attached to Ordinance 08-002 as exhibit C and incorporated by reference herein, as may be amended from time to time, included in the impact fee capital improvements plan.

Single-family residential. Has the meaning given the term in the city's zoning regulations.

Site-related facility. An improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of water or wastewater facilities to serve the new development, and which is not included in the impact fees capital improvements plan and for which the property owner is solely responsible under subdivision or other applicable regulations. Site-related facility includes that portion of an off-site water or wastewater main, equivalent to a standard size water or wastewater main, which is necessary to connect any new development with the city's water or wastewater system, the cost of which has not been included in the city's impact fee capital improvements plan.

Utility connection. Authorization to install a water meter for connecting a new development to the city's water system or physical connection to the city's wastewater system.

Wastewater capital improvements plan. The adopted plan, as may be amended from time to time, which identifies the wastewater facilities or wastewater expansions and their associated costs which are necessitated by and which are attributable to new development, for a period not to exceed ten years, and which are to be financed in whole or in part through the imposition of wastewater facilities fees pursuant to this article.

Wastewater facility. A wastewater interceptor or main, lift station or other facility included within and comprising an integral component of the city's collection system for wastewater. Wastewater facility includes land, easements or structures associated with such facilities. Wastewater facility excludes that portion of wastewater line or main which is constructed by a developer, the costs of which are reimbursed from charges paid by subsequent users of the facilities. Wastewater facility excludes a site-related facility.

Wastewater facility expansion. The expansion of the capacity of any existing wastewater improvement for the purpose of serving new development, but does not include the repair, maintenance, modernization or expansion of an existing sewer facility to serve existing development.

Water demand. The amount of water required to service a development.

Water facility. A water interceptor or main, pump station, well, storage tank, or other facility included within and comprising an integral component of the city's water storage or distribution system. Water facility includes land, easements, or structures associated with such facilities. Water facility excludes that portion of a water line or main which is constructed by a developer, the costs of which are reimbursed from charges paid by subsequent users of the facilities. Water facility excludes on-site and approach main related facilities, except oversized components.

Water facility expansion. The expansion of the capacity of any existing water facility for the purpose of serving new development, but does not include the repair, maintenance, modernization, or expansion of an existing water improvement to serve existing development.

Water improvements plan. The adopted plan, as may be amended from time to time, which identifies the water facilities, water supply demands or water expansions and their associated costs which are necessitated by and which are attributable to new development, for a period not to exceed ten years, and which are to be financed in whole or in part through the imposition of water facilities impact fees pursuant to this article.

Water meter. A device owned by the city for measuring the flow of water to a development, whether for residential, commercial, industrial or irrigation purposes.

Water supply. The water acquired to provide service to a development.

Sec. 14.12.05 Applicability

The provisions of this article apply to all new developments within the corporate boundaries of the city and its extraterritorial jurisdiction which lies within the service area for each category of capital improvement. The provisions of this article apply uniformly within each service area.

Sec. 14.12.06 Impact fee as condition of development approval

No final plat for new development shall be approved within the service area without assessment of an impact fee pursuant to this article

Property owners may pay all impact fees in full prior to any site development or may request the payment of impact fees and connection be postponed to the building permit phase of development; however, no final building inspection nor Certificate of Occupancy shall be issued until such time as all impact fees have been paid in full.

Sec. 14.12.07 Impact fees per service unit

- (a) The maximum impact fee per service unit for each service area shall be computed by dividing the total costs of capital improvements in the service area identified in the impact fee capital improvements plan for that category of capital improvements by the total number of service units anticipated within the service area, based upon the land use assumptions for that service area. Maximum impact fees per service unit for each service area shall be established by category of capital improvements and shall be as set forth in Appendix A Schedule of Fees of the Leon Valley Code of Ordinances ~~schedule I, included in Ordinance 08-002~~.
- (b) The impact fee per service unit which is to be paid by each new development within a service area shall be that established in Appendix A16 of the Leon Valley Code of Ordinance as may be amended from time to time, and shall be an amount less than or equal to the maximum impact fee per service unit established in subsection (a),.
- © Impact fees may be amended from time to time utilizing the amendment procedure set forth in section 14.12.016.

Sec. 14.12.07.08 Service unit determination

- (a) In determining the number of service units, the following rules shall apply:
 - (1) Each new freestanding building requires a new water meter, except as provided in subsection (2).
 - (2) Where a site is redeveloped (clearance and reconstruction), no new service units will be attributed to such redevelopment, provided that the water meter is of the same size as the development previously occupying the site. If meter size is increased, the number of new service units will be based upon the increase in capacity of the meter.
 - (3) Existing buildings or land uses may be expanded using existing meter service. No service units will be attributed to such development if the water meter size remains the same. If the meter size is increased, the number of service units will be based upon the increase in capacity of the meter.
 - (4) In determining the number of service units for wastewater impact fees, no service units will be attributed to irrigation meters.
 - (5) If a new development does not require a water meter for water or wastewater service, no service units will be attributable to the development.
 - (6) If a new development does not require a water meter for water service, but does generate the need for wastewater service, the service units attributable to the new development will be determined on an individual basis, in accordance with preexisting wastewater treatment contracts.
 - (7) All newly platted areas will be provided with water and wastewater services in accordance with the requirements of the city's subdivision regulations.

Sec. 14.12.09 Assessment

- (a) Following initial assessment of the impact fee for a new development pursuant to subsection (a), the amount of the maximum impact fee per service unit for that development cannot be increased, unless the owner proposes to change the approved development by the submission of a new development application or application to increase meter size, in which case the impact fee will be reassessed at the rate then in effect.
- (b) Following the lapse or expiration of approval of a new development, a new assessment shall be performed at the time a new application for such development is filed.

Sec. 14.12.010 Computation and collection

- (a) The impact fees due shall be collected as a condition of final plat approval, unless an agreement between the developer and the city has been provided for a different time of payment.
 - (b) Impact fees due shall be collected at the time of application for a building permit or at the time of application for utility connection, whichever occurs first, unless an agreement between the developer and the city has been provided for a different time of payment. If the building permit for which an impact fee has been paid has expired, and a new application is thereafter filed, the impact fees due shall be computed using rates as stated in Appendix A16.01 then in effect, and previous payments of impact fees shall be credited against the new fees due.
 - (c) At the time of application for final plat approval, or at the time of application for a building permit or the utility connection, the city shall compute the impact fees due for the new development in the following manner:
 - (1) The amount of each impact fee due shall be determined by multiplying the number of service units generated by the new development by the impact fee due per service unit for the service area using the current impact fee rates as stated in Appendix A Fee Schedule. The number of service units shall be determined according to section 14.12.08.
 - (2) The amount of each impact fee due shall be reduced by any allowable credits for that category of capital improvements, in the manner provided in section 14.12.011.
 - (d) The amount of each impact fee due for a new development shall not exceed an amount computed by multiplying the maximum impact fee per service unit under the current rate by the number of service units generated by the development.
 - (e) Whenever the property owner proposes to increase the number of service units for a development, the additional impact fees collected for such new service units shall be determined by the fees then in effect and such additional fee shall be collected either
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prior to or at the time of issuance of a new building permit, or prior to or at the time of enlargement of the connection to the city's water or wastewater system.

Sec. 14.12.011 Credits

- (a) A property owner who constructs an area related facility or acquires water to serve the area and dedicates said water to the city pursuant to an improvements agreement approved by the city following the effective date of this article may reduce impact fees due for the property for that category of capital improvement by the value of such improvement, as determined in subsection (c). The credit shall be associated with the plat of the property that is to be served by the capital improvement constructed. Capital improvements include water supply acquisitions.
- (b) The improvements agreement required by subsection (a) may provide for participation by the city in the costs of the capital improvement to be constructed by the property owner, as provided in the city's subdivision regulations. The amount of any credit shall be reduced by the amount of the city's participation.
- (c) The city shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the account are utilized solely for the purposes authorized in section 14.12.012. Disbursement of funds shall be authorized by the city at such times as are reasonably necessary to carry out the purposes and intent of this article; provided, however, that funds shall be expended within a reasonable period of time, but not to exceed ten years from the date impact fees are deposited into the account.
- (d) The city shall maintain and keep financial records for impact fees, which shall show the source and disbursement of all fees collected in or expended within each service area. The records of the account into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours. The city may establish a fee for copying services.

Sec. 14.12012 Use of proceeds

- (a) The impact fees collected for each service area pursuant to this article may be used to finance or to recoup the costs of any capital improvements or facility expansion identified in the applicable capital improvements plan for the service area, including but not limited to the construction contract price, surveying and engineering fees, water rights, and land acquisition costs (including expert witness fees). Impact fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligation issued by or on behalf of the city to finance such capital improvements or facility expansion.
- (b) Impact fees collected pursuant to this article shall not be used to pay for any of the following expenses:
 - (1) Construction, acquisition or expansion of capital improvements or assets other than those identified in the applicable capital improvements plan;

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- (2) Repair, operation, or maintenance of existing or new capital improvements or facility expansion;
 - (3) Upgrade, expansion, or replacement of existing capital improvements to provide better service to existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
 - (4) Upgrade, expansion, or replacement of existing capital improvements to provide better service to existing development; provided, however, that impact fees may be used to pay the costs of upgrading, expanding, or replacing existing capital improvements to meet the need for new capital improvements generated by new development;
 - (5) Administrative and operating costs of the city; or
 - (6) Lease or purchase of water rights.

Sec. A16.013 Appeals

- (a) The property owner or applicant for new development may appeal the following administrative decisions to the planning and zoning commission, subject to right to appeal to the city council:
 - (1) The applicability of an impact fee to the development;
 - (2) The amount of the impact fee due;
 - (3) The denial of or the amount of a credit;
 - (4) The application of a credit against an impact fee due; or
 - (5) The amount of a refund due, if any.
- (b) The burden of proof shall be on the appellant to demonstrate that the amount of the fee or the amount of the credit was not calculated according to the applicable schedule of impact fees, or the guidelines established for determining credits.
- (c) The appellant must file a written notice of appeal with the city within 30 days following the decision. If the notice of appeal is accompanied by a payment or other security satisfactory to the city in an amount equal to the original determination of the impact fee due, the development application may be processed while the appeal is pending.

Sec. A16.014 Refunds

- (a) Upon application, any impact fee or portion thereof collected pursuant to this article which has not been expended within the service area within ten years from the date of payment shall be refunded to the record owner of the property for which the impact fee was paid or, if the impact fee was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of collection to the date of refund at the statutory rate as set forth in V.T.C.A., Finance Code, section 302.002, or its successor statute. An impact fee shall be considered expended on a first-in, first-out basis.

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- (b) An impact fee collected pursuant to this article shall also be considered expended if the total expenditures for capital improvements or facility expansion authorized in section 14.12.012 within the service area within ten years following the date of payment exceed the total fees collected within the service area for such improvements or expansions during such period.
 - (c) If a refund is due pursuant to subsections (a) and (b), the city shall divide the difference between the amount of expenditures and the amount of the fees collected by the total number of service units assumed within the service area for the period to determine the refund due per service unit. The refund to the record owner shall be calculated by multiplying the refund due per service unit by the number of service units for development for which the fee was paid, and interest due shall be calculated upon that amount.
 - (d) Upon completion of all the capital improvements or facility expansions identified in the capital improvements plan for the service area, the city shall recalculate the maximum impact fee per service unit using the actual costs for the improvements or expansions. If the maximum impact fee per service unit based on actual cost is less than the impact fee per service unit paid, the city shall refund the difference, if such difference exceeds the impact fee paid by more than ten percent. If the difference is less than ten percent, no refund shall be due. The refund to the record owner shall be calculated by multiplying such difference by the number of service units for the development for which the fee was paid, and interest due shall be calculated upon that amount.
 - (e) If a tract of land for which an impact fee has been paid is replatted, resulting in a reduction in the number of service units, and the new impact fee to be collected is less than that paid, the city shall refund the difference, provided that water meters to serve the development have not been installed.
 - (f) No refunds or credits against impact fees due shall be given for decreasing the number or size of water meters serving a development, except as provided in subsection (e).

Sec. 14.12.015 Rebates

If the building permit for a new development for which an impact fee has been paid has expired, no utility connection for that category of capital improvements has been made to the development, and a modified or new application has not been filed within six months of such expiration, the city shall, upon written application, rebate the amount of the impact fee to the record owner of the property for which the impact fee was paid. If no application for rebate pursuant to this section has been filed within this period, no rebate shall become due.

Sec. 14.12.016 Updates to capital improvements plan and revision of fees

- (a) The city shall update its land use assumptions and capital improvements plans at least every five years, commencing from the date of adoption of such plans, and shall

recalculate the impact fees based thereon in accordance with the procedures set forth in Texas Local Government Code, chapter 395, or in any successor statute.

- (b) The city may review its land use assumptions, impact fees, capital improvements plans and other factors such as market conditions more frequently than provided in subsection (a) to determine whether the land use assumptions and capital improvements plans should be updated and the impact fee recalculated accordingly, or whether the impact fees in Appendix A should be changed.
- (c) If, at the time an update is required pursuant to subsection (a), the city council determines that no change to the land use assumptions, capital improvements plan or impact fee is needed, it may dispense with such update by following the procedures in Texas Local Government Code, § 395.0575.

Sec. 14.12.017 Use of other financing mechanisms

- (a) The city may finance capital improvements or facility expansions designated in the capital improvements plan through the issuance of bonds, through the formation of public utility districts or other assessment districts, or through any other authorized mechanism, in such manner and subject to such limitations as may be provided by law, in addition to the use of impact fees.
- (b) Except as herein otherwise provided, the assessment and collection of an impact fee shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge or assessment which is lawfully imposed on and due against the property.
- (c) The city may pay all or a part of impact fees due for a new development pursuant to duly adopted criteria.

Sec. 14.12.018 Impact fees as additional and supplemental regulation

Impact fees established by this article are additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land or the issuance of building permits or certificates of occupancy. Such fee is intended to be consistent with and to further the policies of the city's comprehensive land use plan, the capital improvements plan, the zoning regulations, subdivision regulations and other city policies, ordinances and resolutions by which the city seeks to ensure the provision of adequate public facilities in conjunction with the development of land.

Sec. 14.12.019 Relief procedures

- (a) Any person who has paid an impact fee or an owner of land upon which an impact fee has been paid may petition the city council to determine whether any duty required by this article has not been performed within the time so prescribed. The petition shall be in writing and shall state the nature of the unperformed duty and request that the duty be performed within 60 days of the request. If the city council determines that the duty is required pursuant to this article and is late in being performed, it shall cause the duty to commence within 60 days of the date of the

request and to continue until completion. This subsection is not applicable to matters which may be appealed pursuant to section 14.12.013.

- (b) The city council may grant a variance from any requirement of this article, upon written request by a developer or owner of property subject to this article, following a public hearing, and only upon finding that a strict application of such requirement would, when regarded as a whole, result in confiscation of the property.
- (c) If the city council grants a variance to the amount of the impact fee due for a new development under this section, it shall cause to be appropriated from other city funds the amount of the reduction in the impact fee to the account for the service area in which the property is located.

Sec. 14.12.021 Water facilities impact fees

(a) *Water benefit area.*

- (1) There is hereby established a water benefit area, constituting portions of the city and its extraterritorial jurisdiction, as depicted on exhibit ~~B D attached to Ordinance 08-002~~ and incorporated herein by reference.
- (2) The boundaries of the water benefit area may be amended from time to time, or new water benefit areas may be delineated, pursuant to the procedures in section 14.12.016.

(b) *Water capital improvements plan.*

- (1) The water improvements plan, which includes water supply acquisitions for the city, is hereby adopted as exhibit B attached hereto and incorporated by reference herein.
- (2) The water improvements plan may be amended from time to time, pursuant to the procedures in section 14.12.016.

(c) *Water facilities impact fees.*

- (1) The maximum impact fees per service unit for water facilities are hereby adopted and incorporated in Appendix A Schedule of Fees.
- (2) The impact fees per service unit for water facilities, which are to be paid by each new development, are hereby adopted and incorporated in Appendix A Schedule of Fees.
- (3) The impact fees per service unit for water facilities may be amended from time to time, pursuant to the procedures in section 14.12.016.

(d) *Water supply impact fees.*

- (1) The maximum impact fees per service unit for water supply are hereby adopted and incorporated in Appendix A Schedule of Fees.
- (2) The impact fees per service unit for water supply, which are to be paid by each new development, are hereby adopted and incorporated in Appendix A Schedule of Fees.

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- (3) The impact fees per service unit for water supply may be amended from time to time, pursuant to the procedures in section 14.12.016.

Sec. A16.022 Wastewater facilities impact fees

(a) Wastewater benefit area.

- (1) There is hereby established a wastewater benefit area, constituting the city and its extraterritorial jurisdiction, as depicted on exhibit ~~B D~~ as ~~attached to Ordinance 08-002~~ and incorporated herein by reference.
- (2) The boundaries of the wastewater benefit area may be amended from time to time, or new wastewater benefit areas may be delineated, pursuant to the procedures in section 14.12.016.

(b) Wastewater capital improvements plan.

- (1) The wastewater capital improvements plan for the city is hereby adopted as exhibit B attached hereto and incorporated by reference herein.
- (2) The wastewater capital improvements plan may be amended from time to time, pursuant to the procedures in section 14.12.016.

(c) Wastewater facilities impact fees.

- (1) The maximum impact fees per service unit for wastewater facilities are hereby adopted and incorporated in Appendix A Schedule of Fees.
- (2) The impact fees per service unit for wastewater facilities, which are to be paid by each new development, are hereby adopted and incorporated in Appendix A Schedule of Fees.
- (3) The impact fees per service unit for wastewater facilities may be amended from time to time, pursuant to the procedures in section 14.12.016.

Sec. A16.023 Applicability to existing development

(a) Fees for existing development.

- (1) If any existing development within the benefit area presently utilizes a water well, a septic tank, or an individual waste disposal system and the property owner requests to be connected to the city's water or wastewater system, the customer shall pay the fee prescribed by section 14.12.010 prior to connection to such system.
- (2) If the property owner of any existing development within the benefit area requests enlargement of a water meter presently serving the development, and no new development is to occur on the property, the owner shall pay the fee prescribed by section 14.12.010 for the increase in size of the capacity of the meter prior to installation of the enlarged meter.