

## **ORDINANCE 19-459**

**AN ORDINANCE OF THE CITY OF RICHWOOD, ADOPTING, IMPOSING AND ESTABLISHING WATER AND WASTEWATER IMPACT FEES ON NEW DEVELOPMENT IN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION TO THE EXTENT ALLOWED BY LAW; ADOPTING ASSESSMENT AND COLLECTION RATES FOR WATER AND WASTEWATER IMPACT FEES; PROVIDING FOR A CUMULATIVE REPEALER; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Richwood, Texas, is a Home Rule Municipality located in Brazoria County, Texas ("City"), created in accordance with provisions of the Texas Local Government Code the Texas Constitution and operating pursuant to the enabling legislation of the State of Texas;

**WHEREAS**, the City is empowered by the City Charter, to adopt an ordinance or rule that is for the general welfare of the City;

**WHEREAS**, new development causes and imposes increased demand on City public water and wastewater facilities and services;

**WHEREAS**, to the extent new development places demands upon the public facility infrastructure, those demands should be satisfied by shifting the responsibility for financing the provision of such facilities from the public at large to the developments creating the demands for them;

**WHEREAS**, the City Council, after careful consideration, hereby finds and declares water and wastewater impact fees imposed upon development to finance specified water and wastewater facilities in the City, the demand for which is created by such development, are in the best interests of the general welfare of the City and its residents, are equitable, and do not impose an unfair burden on such development;

**WHEREAS**, the amount of the water and wastewater impact fees to be imposed shall be determined by the actual cost of the additional public facilities needed to support such development, which such public facilities shall be identified in a capital improvements plan;

**WHEREAS**, the Texas Local Government Code, Chapter 395, as amended, provides a procedure enabling municipalities to enact impact fees;

**WHEREAS**, the Capital Improvements Advisory Committee has filed its written comments regarding the proposed water and wastewater impact fees with the City;

**WHEREAS**, on May 28, 2019, the City Council conducted a public hearing, after compliance with all legal prerequisites, to consider such land use assumptions and water and wastewater capital improvements plans pursuant to which water and wastewater impact fees would be imposed;

**WHEREAS**, on May 28, 2019, after compliance with all legal prerequisites, the City Council approved and adopted the land use assumptions and water and wastewater capital improvements plans;

**WHEREAS**, on August 12, 2019, the City Council conducted a public hearing, after compliance with all legal prerequisites, to consider imposing water and wastewater impact fees within the designated service areas;

**WHEREAS**, the land use assumptions and water and wastewater capital improvements plans were developed by qualified professionals using generally accepted engineering and planning practices in accordance with Chapter 395 of the Texas Local Government Code;

**WHEREAS**, the imposition of water and wastewater impact fees ensures that development bears a proportionate share of the cost of water and wastewater facilities necessary to accommodate such development;

**WHEREAS**, the report dated February 2018, prepared by Freese and Nichols, Inc., entitled Water and Wastewater Impact Fee Analysis, set forth reasonable methodologies and analyses for the determination of the impact of development and the additional costs for water and wastewater facilities associated with development in the City and its extraterritorial jurisdiction, and are in accordance with Chapter 395 of the Texas Local Government Code; and

**WHEREAS**, the City Council finds that the City has complied with Chapter 395 in the notice, adoption, promulgation and methodology necessary to adopt impact fees.

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

**Section 1: INCORPORATION OF PREMISES.** That the above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**Section 2: FINDINGS.** After due deliberations the City Council has concluded the adoption of this Ordinance is in the best interest of the City, and the public health, safety and welfare thereof.

**Section 3: LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLANS APPROVED.** In accordance with Chapter 395 of the Texas Local Government Code, the City has employed qualified professionals to prepare land use assumptions and capital improvements plans for the imposition of water and wastewater impact fees within the respective service areas consisting of the City and its extraterritorial jurisdiction. Those land use assumptions and capital improvements plans were approved after a public hearing in accordance with Chapter 395 on May 28, 2019.

**Section 4: FINAL REPORT ADOPTED.** The Water and Wastewater Impact Fee Analysis report, which is attached to this Ordinance as Exhibit "A", is hereby incorporated into this ordinance and is hereby adopted. To the extent of any conflict between Exhibit "A" and prior versions of the report, Exhibit "A" shall control. To the extent of any conflict between Exhibit "A" and this Ordinance, Exhibit "A" shall control.

**Section 5: WATER IMPACT FEE.** A water impact fee shall be charged against new development in the City or its extraterritorial jurisdiction within the water service area defined in Exhibit “A”. The fee shall be assessed and collected at rates based upon meter size. In the table set forth below, the maximum allowable water impact fee is the maximum rate permitted by Chapter 395 and as calculated in Exhibit “A”, and the assessment and collection water impact fee is the rate to be charged against new development.

Water Meter Size	Service Unit Equivalent	Maximum Allowable Wastewater Impact Fee	Assessment and Collection Wastewater Impact Fee
3/4"	1.0	\$2,414	\$2,414
1"	1.7	\$4,023	\$4,023
1-1/2"	3.3	\$8,047	\$8,047
2"	5.3	\$12,875	\$12,875
3"	11.7	\$28,163	\$28,163
4"	20.0	\$48,280	\$48,280
6"	45.0	\$108,630	\$108,630
8"	53.3	\$128,747	\$128,747

The maximum allowable water impact fee rate and the assessment and collection water impact fee rate for meter sizes not shown in the table above shall be based upon proportional capacity for corresponding meter types and sizes as published in the American Water Works Association standards C700, C701, C702 and C703.

The assessment and collection water impact fee rates may be amended by City Council from time to time provided that they do not exceed maximum allowable water impact fees.

**Section 6: WASTEWATER IMPACT FEE.** A wastewater impact fee shall be charged against new development in the City or its extraterritorial jurisdiction within the wastewater service area defined in Exhibit “A”. The fee shall be assessed and collected at rates based upon water meter size. In the table set forth below, the maximum allowable wastewater impact fee is the maximum rate permitted by Chapter 395 and as calculated in Exhibit “A”, and the assessment and collection wastewater impact fee is the rate to be charged against new development.

Water Meter Size	Service Unit Equivalent	Maximum Allowable Wastewater Impact Fee	Assessment and Collection Wastewater Impact Fee
3/4"	1.0	\$2,937	\$2,937
1"	1.7	\$4,895	\$4,895
1-1/2"	3.3	\$9,790	\$9,790
2"	5.3	\$15,664	\$15,664
3"	11.7	\$34,265	\$34,265
4"	20.0	\$58,740	\$58,740
6"	45.0	\$132,165	\$132,165
8"	53.3	\$156,640	\$156,640

The maximum allowable wastewater impact fee rate and the assessment and collection wastewater impact fee rate for water meter sizes not shown in the table above shall be based upon proportional capacity for corresponding meter types and sizes as published in the American Water Works Association standards C700, C701, C702 and C703.

The assessment and collection wastewater impact fee rates may be amended by City Council from time to time provided that they do not exceed maximum allowable wastewater impact fees.

**Section 7: COPY OF FINAL REPORT AVAILABLE.** Copies of Exhibit “A”, Water and Wastewater Impact Fee Analysis report, shall be made available to the public in the Office of the City Secretary at Richwood City Hall on and after the date this Ordinance is passed and approved.

**Section 8: ADOPTION.** The water and wastewater impact fees set forth in this Ordinance are hereby adopted, imposed, approved, and established as of the date of this Ordinance is passed and approved as set forth below. Any suit to contest the water and wastewater impact fees must be filed within ninety (90) days after the date of this Ordinance.

**Section 9: ASSESSMENT.** Assessment of the water and wastewater impact fees for any development shall be made at the time of the recordation of a final plat in the Brazoria County land records and shall be the assessment and collection water and wastewater impact fee rates as per Section 5, Water Impact Fee, and as per Section 6, Wastewater Impact Fee; however, for phasing in the application of this Ordinance, with respect to final plats that have been approved or submitted for approval on or before August 12, 2019, pursuant to the City’s subdivision regulations, assessment for the new development to which the final plat applies shall be calculated and made in accordance with the applicable fees existing on August 12, 2019.

Following initial assessment of the impact fees for new development, the amounts of the applicable water and wastewater impact fees for that development cannot be increased unless the approved final plat expires or lapses under applicable ordinances or law, the owner proposes to change the approved development by the submission of a new development application or an application to increase the number of service units, or the final plat application is denied for cause, in which case the water and wastewater impact fees for any subsequent application will be reassessed at the impact fee rates then in effect.

Following the lapse or expiration of a final plat that has been approved pursuant to the City’s subdivision regulations, a new assessment shall be performed at the time of recordation of a new final plat in the Brazoria County land records in accordance with this Ordinance.

**Section 10: COLLECTION.** No building permit shall be issued or water or wastewater service connection allowed until all impact fees have been paid to the City. Impact fees shall be collected at the time of issuance of the building permit or, for property within the City’s extraterritorial jurisdiction, at the time an application for connection to the City’s water or wastewater system is filed.

**Section 11: CUMULATIVE REPEALER.** This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or

lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

**Section 12: SAVINGS.** All rights and remedies of the City of Richwood, Texas are expressly saved as to any and all violations of the provisions of any other ordinance affecting impact fee regulations within the City of Richwood, which have secured at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

**Section 13: SEVERABILITY.** The provisions of this Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decision or enactment.

**Section 14: PUBLICATION.** The City Secretary of the City of Richwood is hereby directed to publish in the Official newspaper of the City of Richwood, the Caption, Penalty and Effective Date Clause of this Ordinance as required by the Texas Local Government Code.

**Section 15: ENGROSSMENT AND ENROLLMENT.** The City Secretary is hereby directed to engross and enroll this Ordinance by copying the exact Caption, Publication Clause, Penalty and Effective Date clause in the minutes of the City Council and by filing this Ordinance in the Ordinance records of the City.

**Section 16: EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its date of passage and publication as required by law.

**PASSED AND APPROVED** by the City Council of the City of Richwood, Texas, this 12<sup>th</sup> day of August, 2019.

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Mayor Pro Tem

ATTEST:

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Giani Cantu, City Secretary

APPROVED AS TO FORM:

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City Attorney

EXHIBIT A  
WATER AND WASTEWATER IMPACT FEE ANALYSIS REPORT