

ORDINANCE NO. 2022-00068

AN ORDINANCE AMENDING CHAPTER 41, IMPACT FEES; ADOPTING AN UPDATED IMPACT FEE STUDY; UPDATING ROADWAY IMPACT FEE COLLECTION RATES; ADDING A SECTION FOR ANNEXED AREAS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, Chapter 395, Texas Local Government Code (the Statute) provides the requirements and procedures for the adoption of land use assumptions, a capital improvements plan, and Impact Fees; and

WHEREAS, on October 27, 2020 the City Council of the City of Lubbock (the "City Council") adopted an Impact Fee Ordinance No. 2020-00136; and

WHEREAS, since ordinance adoption, the City of Lubbock (the "City") has accepted large areas of land as voluntary petition annexations from various landowners, thereby changing the size and boundaries of the City; and

WHEREAS, said increase necessitated an update to the capital improvements plan and the service areas for Roadway Impact Fees as well as an Impact Fee Ordinance amendment to address any future annexations of property; and

WHEREAS, after notice of a public hearing was given, as required by the Statute, the City Council held a public hearing on March 22, 2022, to discuss an update to the capital improvements plan, Service Area map, and Impact Fee Ordinance amendments; and

WHEREAS, the City Council finds it to be in the best interest of the citizens of the City of Lubbock to adopt and approve the amendments to the Impact Fees Ordinance herein; **NOW, THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT Section 41.02.001 of the Code of Ordinances, City of Lubbock, Texas is hereby amended as follows:

Sec. 41.02.001 Study adopted

The updated impact fee study dated December 2021 (which includes an updated Roadway Service Area map) is hereby approved, adopted, and incorporated herein for all purposes consistent with this chapter.

SECTION 2. THAT Section 41.02.003(c) of the Code of Ordinances, City of Lubbock, Texas is hereby amended as follows:

41.02.003. Impact Fees Adopted.

(c) A Roadway Impact Fee shall be assessed and charged against New Development in the Service areas as set forth below. The number of service units applicable are identified in the LUVMET table contained within the adopted study.

Roadway Service Area	Max Roadway Impact Fee Per Service Unit	Collection Rate Effective before 10/01/2022*	Collection Rate (Updated Study) Effective on or after 10/1/2022*
A	\$855	\$439	\$427.50
B	\$655	\$327.50	\$327.50
C	\$825	\$412.50	\$412.50
D	\$623	\$319.50	\$311.50
E	\$1,011	\$497.50	\$505.50
F	\$1,188	\$589.00	\$594
G	\$22	\$0	\$0
H	\$77	\$0	\$0

***** Impact Fee Reductions for Collection Rates.**

Roadway Impact Fees: Service Areas G & H shall receive a one hundred percent (100%) discount from the Maximum Impact Fee rate shown above in **Sec. 41.02.003(c)** for all land uses.

Roadway Impact Fees: All other Service Areas shall receive a fifty percent (50%) discount from the Maximum Impact Fee rate shown above in **Sec. 41.02.003(c)** for all land uses.

SECTION 3. THAT Section 41.03.003 of the Code of Ordinances, City of Lubbock, Texas is hereby amended by adding a section, to be numbered 41.03.003(g), which said section reads as follows:

41.03.003. Assessment of Impact Fees

(g) **Newly Annexed Territories:** Upon annexation, a newly annexed area shall be immediately added into the nearest, adjacent Roadway Service Area so long as in doing so the Roadway Service Area still complies with the distance requirements in Chapter 395 of the Texas Local Government Code. The collection rate shall be assessed at the rate of the existing Roadway Service Area and may be adjusted upon a future study update.

In the event that said addition to the nearest, adjacent Roadway Service Area brings that Roadway Service Area out of compliance with the distance requirements in Chapter 395 of the Texas Local Government Code, a new impact fee study shall be commenced as soon as possible, and upon adoption of an updated study, the Roadway Service Areas shall be adjusted to incorporate the newly annexed area.

SECTION 4. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by a fine not to exceed applicable fines in accordance with Section 1.01.004 of the City Code of Ordinances.

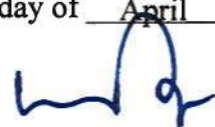
SECTION 5. THAT should any paragraph, sentence, clause, phrase or work of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 6. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading this 12th day of April, 2022.

Passed by the City Council on second reading this 26th day of April, 2022.



DANIEL M. POPE, MAYOR

ATTEST:



Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

A handwritten signature in blue ink, appearing to read 'J McEachern', written over a horizontal line.

Jessica McEachern, Assistant City Manager

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read 'Kelli Leisure', written over a horizontal line.

Kelli Leisure, Assistant City Attorney

AmendOrd.ImpactFees_2022
3.29.22

ORDINANCE NO. 2020-00136

AN ORDINANCE AMENDING TITLE II BUILDINGS; DEVELOPMENT; PROPERTY MAINTENANCE, OF THE CITY OF LUBBOCK CODE OF ORDINANCES, BY ADDING CHAPTER 41, IMPACT FEES; ESTABLISHING WATER, WASTEWATER, AND ROADWAY IMPACT FEES PER SERVICE UNIT; ESTABLISHING PROCEDURES FOR THE ASSESSMENT, COLLECTION, COMPUTATION, EXPENDITURE, REFUND AND GENERAL ADMINISTRATION OF IMPACT FEES; PROVIDING FOR THE ESTABLISHMENT OF ACCOUNTS FOR IMPACT FEES; ESTABLISHING AN APPEAL PROCEDURE; ESTABLISHING EFFECTIVE DATES; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, Chapter 395, Texas Local Government Code (the Statute) provides the requirements and procedures for the adoption of land use assumptions, a capital improvements plan, and Impact Fees; and

WHEREAS, after notice of a public hearing was given as required by the Statute, the City Council held a public hearing on May 28, 2020 and continued on June 23, 2020, and by Resolution No 2020-R0211 approved the land use assumptions and capital improvements plan; and

WHEREAS, the Capital Improvement Advisory Committee (CIAC) of the City of Lubbock, created pursuant to the Statute, filed its written comments on the proposed Impact Fees before the fifth business day before the date of the public hearing on the imposition of the Impact Fees; and

WHEREAS, after notice of a public hearing was given as required by the Statute, the City Council held a public hearing on October 6, 2020, to discuss the imposition of the Impact Fees by this ordinance with an effective date six months after the adoption of the ordinance; and

WHEREAS, the City Council finds it to be in the best interest of the citizens of the City of Lubbock to adopt and approve the ordinance for Impact Fees herein; **NOW, THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION ONE. THAT the Code of Ordinances, City of Lubbock, Texas is hereby amended by adding a Chapter to Article II, Buildings; Development; Property

Maintenance, to be numbered Chapter 41, Impact Fees, which said Chapter shall read as follows:

ARTICLE 41.01 GENERAL PROVISIONS

41.01.001 Purpose.

This Chapter is intended to assure the provision of adequate public facilities to serve New Development in the City by requiring each such development to pay its share of the costs of such improvements necessitated by and attributable to such New Development.

41.01.002. Definitions.

Terms defined herein are specific to this Chapter and shall not be construed as conflicting with similar terms in other parts of the Code.

1. *Assessment* means the determination of the amount of the Maximum Impact Fee per service unit which can be imposed on New Development pursuant to this Chapter.
2. *Capital Improvement* means any water supply, treatment, and distribution; wastewater collection and treatment, or roadway that has a life expectancy of three or more years and is owned and operated by or on behalf of the City including the City's share of costs for infrastructure and associated improvements designated on a City's master plan but constructed by another entity.
3. *Capacity Plans* means a plan recommended by Capital Improvements Advisory Committee and approved by the City Council that identifies capital improvements or facility expansions for which Impact Fees may be assessed. This is the equivalent of the capital improvements plans as described in the Texas Local Government Code 395.
4. *Capital Improvement Advisory Committee (CIAC)* means the advisory committee created in compliance with the Texas Local Government Code Sec. 395.058.
5. *City* means the City of Lubbock, Texas.
6. *City Council* means the City Council of the City of Lubbock, Texas.
7. *City Manager* means the City Manager of the City of Lubbock, Texas, or his or her designee.
8. *Credit* means an amount equal to 50 percent (50%) of the total projected cost of implementing the capital improvements plans in accordance with Sec. 395.014 of the Texas Local Government Code. (*Credit* is not an *offset* or *reduction*, defined below.)

9. *Effective date* means June 1, 2021, except for Sections 41.02.003(a)&(b) which shall be effective June 1, 2022.

10. *Facility Expansion* means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve New Development. The term does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

11. *Final plat approval* means the point at which the Owner has complied with all conditions of approval in compliance with the City of Lubbock Code of Ordinances and the plat has been released for filing with the County. This term applies to both original plats and replats.

12. *Impact Fee* means a charge or assessment imposed as set forth in this Chapter against New Development in order to generate revenue for funding or recouping the costs of Capacity Improvements or facility expansions necessitated by and attributable to the New Development.

The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction and any other fee that functions as described by this Chapter. The term is inclusive of both the maximum assessable Impact Fee and the Impact Fee collection rate as herein described. The term does not include:

- a. Dedication of land for public parks or payment in lieu of the dedication to serve park needs;
- b. Dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development;
- c. Lot or acreage fees to be placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or
- d. Other pro rata fees for reimbursement of water or sewer mains or lines extended by the City.

An item included in the Capacity Plans may not be required to be constructed except in accordance with Section 395.019(2) of the Texas Local Government Code, and an Owner may not be required to construct or dedicate facilities and to pay impact fees for those facilities.

13. *Land Use Assumptions* means a description of the service area and projections of changes in land uses, densities, intensities, and population in the service area over at least a 10-year period.

14. *Land Use Vehicle-Mile Equivalency Table* or *LUVMET* are tables set forth in the Impact Fee Study that provide the standardized measure of consumption or use of roadway facilities attributable to a New Development. The LUVMET expresses the number of service units consumed by each individual land use application as vehicle miles per development unit based on regionalized Lubbock values.

15. *Maximum Assessable Impact Fee* means the Impact Fee that is established for each service area computed by calculating the total projected costs of capital improvements necessitated by and attributable to New Development and subtracting a credit in accordance with the Texas Local Government Code Sec. 395.015. The Maximum Impact Fee shall be established and reflected in Sec. 41.02.003 of this Chapter. The City may adopt an Impact Fee collection rate that is less than this amount, but in no instance shall the Impact Fee exceed the Maximum Assessable Impact Fee except by amendment of this Chapter.

16. *New Development* means a project involving the subdivision of land and/or the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of the use of land which has the effect of increasing the requirements for capital improvements, measured by an increase in the number of service units.

17. *Owner* means an owner of real property, or an agent, employee, applicant or representative thereof who is authorized to act on the real property owner's behalf, or a person who is subject to and/or has paid an Impact Fee.

18. *Offset* means the amount of a reduction of an Impact Fee reflecting the value of any construction of, contributions to, or dedications of a system facility agreed to or required by the city as a condition of development approval, pursuant to rules herein established or pursuant to administrative guidelines which value shall be credited on an actual cost basis against capital improvements. (*Offset* is not a "credit", defined above).

19. *Recoupment* means the imposition of an Impact Fee that shall be paid to the City for Capacity Improvements which the City has previously oversized to serve New Development.

20. *Reduction* means an amount of the Maximum Assessable Impact Fee that can be reduced in compliance with **Sec. 41.02.003(c)** of this Chapter.

21. *Roadway Facilities* means an arterial that has been designated on the adopted Master Thoroughfare Plan of the City, together with all necessary appurtenances (excluding rights-of-way). The term includes the City's share of costs for roadways and associated improvements designated on the federal or Texas highway system, including local matching funds and costs related to utility line relocation and the establishment of curbs, gutters, sidewalks, drainage appurtenances, and rights-of-way.

22. *Service Area* means the area within the corporate boundaries of the City to be served by the capital improvements or facilities expansions specified in the capacity improvements plan. The map of City of Lubbock service areas adopted is contained within the Impact Fee Study, and incorporated herein.

a. For Water and Wastewater Impact Fees: one (1) service area covers the corporate limits of the City of Lubbock.

b. For Roadway Impact Fees: the term means the geographic area(s) within the City's corporate limits, which:

i. Do not exceed six miles, and

ii. In which Roadway Impact Fees shall be assessed for the cost of New Development.

23. *Service Unit* means a standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development, calculated in accordance with generally accepted engineering or planning standards, and based on historical data and trends applicable to the City during the previous ten (10) years. (For water and wastewater this is measured by meter size and for roadway this equals one vehicle mile of travel in the afternoon peak hour of traffic and is also referred to as a "vehicle mile").

24. *Site-Related Facility* means an improvement or facility which is for the primary use or benefit of a New Development, or which is for the primary purpose of safe and adequate provision of roadway, water, or wastewater facilities to serve the New Development, and which is not included in the capital improvements plan.

25. *System-Related Facility* is designated in the capacity improvements plan for purpose of Impact Fees. This term may include a capital improvement, which is located off-site, within, or on the perimeter of the development site.

26. *Wastewater Facility* includes, but is not limited to, a wastewater interceptor or main,

lift station or other facility or improvement used for providing wastewater collection and treatment included within the City's collection system for wastewater as illustrated on the City's master plan. This term includes land, easements, or structures associated with such facilities. This term excludes a site-related facility.

27. *Water Facility* includes, but is not limited to, a water interceptor or main, pump station, storage tank, or other facility or improvement used for providing water supply, treatment, and distribution service included within the City's water storage or distribution system as illustrated on the City's master plan. This term includes, but is not limited to, land, easements, or structures associated with such facilities. This term excludes site-related facilities.

ARTICLE 41.02 STUDY AND FEES ADOPTED

41.02.001. Study Adopted.

The Impact Fee Study dated October 6, 2020 is hereby approved, adopted, and incorporated herein for all purposes consistent with this Chapter.

41.02.002. Service Areas.

For Water and Wastewater Impact Fees the City is included as one (1) service area. For Roadway Impact Fees, the City is hereby divided into eight (8) service areas as shown on the official service area map identified within the adopted study. The official service area maps, which, together with all explanatory matter thereon, are hereby adopted by reference and declared to be a part of this chapter.

41.02.003. Impact Fees Adopted.

(a) A Wastewater Impact Fee shall be assessed and charged against New Development in the service area as set forth below.

Meter Size (Based on Water Meter)	Maximum Impact Fee	Collection Rate
1"	\$562	\$0
1.5"	\$1,124	\$0

2"	\$1,798	\$0
3"	\$3,934	\$0
4"	\$6,744	\$0
6"	\$14,050	\$0
8"	\$26,976	\$0
10"	\$42,712	\$0

(b) A Water Impact Fee shall be assessed and charged against New Development in the service area as set forth below.

Water Meter Size	Maximum Impact Fee	Collection Rate
1"	\$576	\$0
1.5"	\$1,152	\$0
2"	\$1,843	\$0
3"	\$4,032	\$0
4"	\$6,912	\$0
6"	\$14,400	\$0
8"	\$27,648	\$0
10"	\$43,776	\$0

(c) A Roadway Impact Fee shall be assessed and charged against New Development in the service areas as set forth below. The number of service units applicable are identified in the LUVMET table contained within the adopted study.

Service Area	Maximum Fee Per Service Unit (per Vehicle-Mile)	Collection Rate Per Single Family	Collection Rate For Non-Single Family***
A	\$878	\$439.00	\$439.00
B	\$655	\$327.50	\$327.50
C	\$825	\$412.50	\$412.50
D	\$639	\$319.50	\$319.50
E	\$994	\$497.50	\$497.50
F	\$1,178	\$589.00	\$589.00
G	\$23	\$0	\$0
H	\$77	\$0	\$0

***** Impact Fee Reductions for Collection Rates.**

Roadway Impact Fees: Service Areas G & H shall receive a one hundred percent (100%) discount from the Maximum Impact Fee rate shown above in **Sec. 41.02.003(c)** for all land uses.

Roadway Impact Fees: All other Service Areas shall receive a fifty percent (50%) discount from the Maximum Impact Fee rate shown above in **Sec. 41.02.003(c)** for all land uses.

ARTICLE 41.03 REQUIREMENT AND ASSESSMENT

41.03.001. Impact Fees Required.

No final plat for New Development shall be released for recordation and no building permit shall be issued without the assessment and payment of applicable Impact Fees pursuant to this Chapter. Except as otherwise provided in this Chapter, no building permit shall be issued until the owner has paid the City of Lubbock all applicable Impact Fees due.

41.03.002. City Contribution on Projects Subject to Impact Fees.

The City shall be responsible for the cost delta of approved projects funded by collected impact fees in an amount ratable to the amount of impact fees collected by Service Area.

41.03.003. Assessment of Impact Fees

- (a) Assessment of the Impact Fees for any New Development shall be based on the applicable Impact Fees per service unit in the applicable Service Area in effect at the time of assessment. No act by the City is required to assess Impact Fees.
- (b) For a New Development which has received final plat approval before the effective date, assessment of Impact Fees shall occur on the effective date and shall be the amount of the Maximum Impact Fee. No Impact Fees shall be paid by New Development if the building permit is issued within one year after the effective date of the Chapter, except as provided for in **Sec. 41.05.001(b)** of this Chapter.
- (c) For land that is not required to be platted at time of the application for a building permit or water meter, assessment of Impact Fees shall be assessed at the time of application for building permit or water meter and shall be the amount of the Maximum Assessable Impact Fee per Service Unit then in effect.
- (d) For a New Development which has received final plat approval on or after the effective date of this Chapter, assessment of Impact Fees shall be assessed at the time of final approval of the final plat.
- (e) After assessment of the Impact Fees attributable to a New Development, or execution of an agreement for payment of Impact Fees, additional Impact Fees or increases in fees may not be assessed against the tract unless, the number of service units to be developed on the tract increases. In the event of the increase in the number of service units, the Impact Fees to be assessed are limited to the amount attributable to the additional service units.
- (f) The City Engineer, or his or her designee, shall compute the Impact Fees for New Development. The total amount of Impact Fees assessed for the New Development shall be attached to the development application, and payment of the Impact Fees shall be required as a condition of approval.

ARTICLE 41.04 CREDITS AND OFFSETS

41.04.001. Credits and Offsets Against Impact Fees.

The City may offset the improvements or funding for construction of any system facility included on the identified capacity plans that is required or agreed to by the City, pursuant

to rules established in this section and administrative guidelines. Any agreements entered into hereunder shall be subject to the approval of the City Council of the City of Lubbock.

(a) *General credit.* The City shall apply against assessed Impact Fees a credit equal to fifty percent (50%) of the total projected cost of implementing the capacity plan. This credit is already reflected in the Maximum Assessable Impact Fee.

(b) *Offsets by developer.* Before Impact Fees can be reduced by offsets authorized under this section, the owner of the property shall apply for offsets based on actual costs with the City. Unless an agreement specifies otherwise, an offset associated with a plat shall be applied when the first building permit is submitted and to each subsequent building permit application to reduce the Impact Fees due until the amount associated with the offset is exhausted.

(c) *Roadway offsets.* Any construction of, contributions to, or dedications of roadway facilities that are system-related facilities included on the identified capacity plans and that are agreed to or required by the City as a condition of development approval shall be offset against roadway facilities impact fees otherwise due from the development.

(d) *Water offsets.* Any construction of, contributions to, or dedications of water facilities that are system-related facilities included on the identified capacity plans and that are agreed to or required by the City as a condition of development approval shall be offset against water facilities impact fees otherwise due from the development.

(e) *Wastewater offsets.* Any construction of, contributions to, or dedications of wastewater facilities that are system-related facilities included on the identified capacity plans and that are agreed to or required by the City as a condition of development approval shall be offset against roadway facilities impact fees otherwise due from the development.

(f) *No offsets for rights-of-way or easements.* Rights-of-way and easements are not included in the study, and no offsets shall be granted for the dedication of rights-of-way or easements. Rights-of-way and easements are dedicated as required by the ordinances of the City, necessitated by and attributable to a New Development, and do not exceed the amount required for infrastructure improvements that are roughly proportionate to the New Development.

(g) *Master planned projects.* Master planned projects, including subdivisions containing multiple phases, and whether approved before or after the effective date of the impact fee regulations, may apply for offsets against impact fees for the entire project based upon improvements or funds toward construction of system facilities, or other capital improvements supplying excess capacity. Offsets shall be spent within the same Service Area utilizing a methodology approved by the City and be approved in an agreement.

ARTICLE 41.05 COLLECTION AND EXEMPTIONS

41.05.001. Collection of Impact Fees.

- (a) Impact Fees shall be collected and paid at the time of issuance of a building permit or, application for a water meter, for a New Development.
- (b) For a New Development that received final plat approval before the effective date, Impact Fees may not be collected on any service unit for which a valid building permit is issued within one year after the effective date of this Chapter; *except* additional Impact fees shall be assessed in accordance with **Sec. 41.03.002(e)** of this Chapter when:
 - 1. A subsequent application(s) for a building permit is submitted more than one year after the effective date of this Chapter; and
 - 2. The number of services units to be developed increases.
- (c) For land that does not have to be platted, an Impact Fee may not be collected on any service unit for which a valid building permit is issued within one year after the effective date.
- (d) The City shall compute the Roadway Impact Fees to be paid and collected for the New Development in the following manner:
 - 1. Determine the number of development units for each land use category in the New Development using the land use equivalency table (LUVMET) then in effect.
 - 2. Multiply the number of development units for each land use category in the New Development by the vehicle miles (per development unit) for each such land use category also found in land use equivalency table (LUVMET) then in effect to determine the number of service units attributable to the New Development.
 - 3. The amount of Roadway Impact Fees to be collected shall be determined by multiplying the number of service units for the New Development by the Roadway Impact Fee per service unit for the applicable service area and applicable land use and shall be collected with the issuance of a building permit.
 - 4. The amount of the Roadway Impact Fees to be collected shall be calculated as described in **Sec. 41.02.003(c)** of this Chapter.
 - 5. If an agreement as described in **Sec. 41.04.001** of this Chapter providing for offsets is entered, the amount of the offsets based on actual costs shall be deducted from the Roadway Impact Fees as calculated above.

(e) Where an application for a building permit is for a “shell” or speculative building, the amount of the Roadway Impact Fee shall be calculated assuming that the entire building will be used as either “General Office”, “Light Industrial”, or “Shopping Center” as shown in the land use equivalency table (LUVMET). Where a subsequent application for a building permit is made for the finish-out of the shell building, or portion thereof, for the ultimate use, an additional Roadway Impact Fee shall be assessed and collected if the ultimate use is different from “General Office”, “Light Industrial”, or “Shopping Center”.

(f) An applicant may submit an alternative service unit computation based upon a trip generation study as defined by the Institute of Transportation Engineers for the proposed land use not included in the land use equivalency table (LUVMET).

(g) The City may enter into a payment agreement for Impact Fees based on administrative guidelines. All Impact Fees shall be paid prior to the issuance of a building permit.

(h) The City shall compute the Water and Wastewater Impact Fees by water meter size. The amount of Water and Wastewater Impact Fees shall be collected as set forth in **Sec. 41.02.003(a) & (b)** of this Chapter.

41.05.002. Impact Fee Exemptions.

(a) Pursuant to Texas Local Government Code Chapter 395, a public school district is not required to pay an Impact Fee imposed under this Chapter unless the board of trustees of the district consents to the payment of the fees by entering a contract with the City imposing the fees.

(b) Roadway Impact Fees will not be collected in Service Areas G and H.

(c) No additional Roadway Impact Fee shall be assessed for existing, occupied buildings that:

1. Are not being demolished;
2. Have a change of use; and
3. The total square footage is modified by less than 1,000 additional square feet.

(d) Affordable housing. Development that qualifies as affordable housing under 42 U.S.C. § 12745, as amended, and is participating in an affordable housing development program, is exempt from roadway impact fee collection. An applicant for affordable housing exemption shall make application for same by letter to the City Engineer or his/her designee. The letter shall describe the development, its location and number of

housing units, and shall include written verification from the responsible agency that the subject property is an active participant in an affordable housing development program as described above. If the fee is not paid and the affordable housing is not built or the development subsequently is not qualified as affordable housing, the City shall assess and collect the roadway impact fee that was applicable at the time of the issuance of the building permit(s) for the development.

- (e) The City of Lubbock may spend funds from any lawful source to pay for all or part of the capital improvements or facility expansions to reduce the amount of impact fees.

41.06 ADMINISTRATION

41.06.001. Administration of Impacts Fees

- (a) The Impact Fees collected within each service area may be used to finance, pay for or to recoup the costs of any capital improvements identified in the capacity plans for the service area, including the construction contract price, surveying and engineering fees.
- (b) Impact Fees may be used to pay for the contract services of an independent qualified engineer or financial consultant preparing or updating the capacity plans who is not an employee of the political subdivision.
- (c) Impact Fees also may be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the City to finance such capital improvements in the capacity plans.
- (d) The City's Finance Department shall establish an account to which interest is allocated for each Service Area which interest earned on the Impact Fees shall be considered funds of the account and shall be used solely for the purposes authorized in this Chapter.
- (e) The City's Finance Department shall maintain and keep financial records for Impact Fees which shows the source and disbursement of all fees collected in or expended from each Service Area to be provided in the semiannual report to the Capital Improvements Advisory Committee.
- (f) The City will present the financial records for Impact Fees to the Capital Improvements Advisory Committee twice a year and shall be open for public inspection.

41.06.002. Impact Fees as Additional and Supplemental Regulation

Impact Fees established by this Chapter 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 Impact Fees are intended to be consistent with and to further the policies of Plan Lubbock 2040, the Master

Thoroughfare Plan, Water Master Plan, Wastewater Master Plan, the Land Development Code, 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. This Chapter shall not affect, in any manner, the permissible use of property, density of development, design, and improvement standards and requirements, or any other aspect of the development of land or provision of public improvements subject to the zoning and subdivision regulations or other regulations and policies of the City, which shall be operative and remain in full force and effect without limitation with respect to all such development.

41.06.003. Update to Plans and Revision of Fees.

The City shall update its Land Use Assumptions and Capacity plan based in accordance with Texas Local Government Code Chapter 395.

The collection rates in **Sec. 41.02.003** of this Chapter may be amended without revising the Land Use Assumptions and Capacity Plans at any time provided the public hearing process is followed as outlined in Texas Local Government Code Chapter 395 and collection rates do not exceed the Maximum Assessable Impact Fees. Any update to the collection rate or Impact Fee Ordinance shall require a public hearing following the process outlined with Texas Local Government Code Chapter 395, including a collection rate review by the CIAC. The City Council shall provide the CIAC with a minimum of sixty (60) days to review the requested ordinance changes. Any change to the impact fee collection rate shall go into effect six (6) months from the adoption date of the new collection rates.

41.06.004. Refunds, Rebates and Appeals

(a) *Refunds.* Upon payment of an Impact Fee any portion that is not expended in the Service Area within ten (10) years from the date of payment shall be refunded to the record owner of the property at the time the refund is paid in accordance with the Texas Local Government Code Sec. 395.025. Impact Fees shall be accounted for and expended on a first-in, first-out basis.

(b) *Rebates.* In the event that after six (6) months of paying an Impact Fee, no vertical construction has occurred, and a modified or new application has not been filed, the City shall, upon written request, rebate that amount to the record owner of the property for which the Impact Fee was paid. No interest shall be paid on the rebate. If no written request for rebate pursuant to this subsection has been filed within this period, no rebate shall become due.

(c) *Appeals.* The Owner for New Development may appeal the applicability or amount of the Impact Fee or the availability of Offsets or Refunds to the City Manager or his/her designee using the following:

1. *Burden of proof.* The burden of proof shall be on the owner to demonstrate that the owner is entitled to relief.
2. *Notice of appeal.* Within 30 days following the decision being appealed, the owner shall submit to the City Manager or his/her designee a written notice of appeal that states the basis for the appeal with particularity. To the extent the owner relies on any studies or other documents as evidence that the owner is entitled to relief, the owner shall submit such studies and documents with the notice of appeal.
3. *Resolution of appeal.* The City Manager or his/her designee will respond to the appeal within 30 days of receipt of completed appeal packet as described above.
4. *Consideration of Appeal by City Council.* Following the determination of the City Manager, the owner may petition the City Council. The petition of appeal to City Council shall be filed within 30 days of the City Manager or his/her designee's written decision on the appeal submitted in accordance with **Sec. 41.06.004(c)(2)**, above. To the extent that the City Council's action on the appeal requires the owner to pay an impact fee, the owner shall promptly pay the impact fee within five (5) business days after the City Council's action on the appeal. The City Council's action on the appeal shall constitute the City's final decision on the matter appealed.

SECTION TWO. THAT the effective date of this ordinance shall be June 1, 2021, except for Sections 41.02.003(a)&(b) which shall have an effective date of June 1, 2022.

SECTION THREE. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by a fine not to exceed applicable fines in accordance with Section 1.01.004 of the City Code of Ordinances.

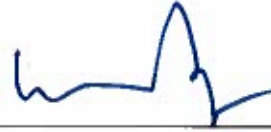
SECTION FOUR. THAT should any paragraph, sentence, clause, phrase or work of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION FIVE. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading this 13th day of October, 2020.

Passed by the City Council on second reading this 27th day of October, 2020.



DANIEL M. POPE, MAYOR

ATTEST:



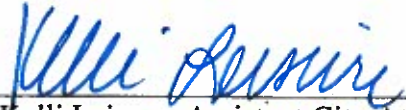
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



~~For~~ Jessica McEachern, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

AsPassed_AmendOrd.ImpactFees
10.28.20