

ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 86, ARTICLE 5, DIVISION 4 TO CHANGE THE METHODOLOGY BY WHICH WATER AND WASTEWATER IMPACT FEES ARE CALCULATED BASED UPON PEAK FLOW; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

1. The City Council hereby finds and determines that the adoption of the following ordinance is in the interest of the public health, welfare and safety.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. Chapter 86, Article 5, Division 4, Impact Fee Ordinance, of the San Marcos City Code is hereby amended as set forth below. Added text is indicated by underlining. Deleted text is indicated by strikethrough.

SECTION 2. The following definitions in Section 86.294 of the San Marcos City Code are hereby added or amended as follows:

Sec. 86.294. Definitions.

Impact fee means a fee either for water facilities or for wastewater facilities imposed on new development in order to generate revenue to fund or recoup all or part of the costs of capital improvements or facility expansions necessitated by and attributable to the new development. Impact fees do not include: 1) the dedication of on-site rights-of-way or easements for water facilities or wastewater facilities, 2) a requirement for the construction of such facilities imposed under the city's zoning or subdivision regulations, 3) fees placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or wastewater mains, 4) pro rata fees for reimbursement of the city's costs for extending water or wastewater mains, or 5) charges for water or wastewater services to a wholesale customer such as a water district, political subdivision of the state, or other wholesale utility customer.

Peak Flow Calculation means the calculation of water demand based upon the proposed fixture types using city approved methodology.

Schedule 1 means the maximum impact fee per service unit for each service area shall be established by category of capital improvements calculated by peak flow as outlined in section 86.297 and as shown in the table below:

SCHEDULE 1
APPLICABLE WATER AND WASTEWATER IMPACT FEE AMOUNTS*
CITY OF SAN MARCOS, TEXAS

Calculated Peak Water Flow (gpm)	Living Units Equivalent LUE's by Flow	Impact Fee Prior to 10/4/2002	Impact Fee after 12/31/2003**	Impact Fee after 12/31/2013	Impact Fee after 4/30/2018
WATER UTILITY					
1 to 10	1.0	\$363.00	\$2,466.00	\$2,285.00	\$3,801.00
> 10 to 15	2.0	\$726.00	\$4,932.00	\$4,570.00	\$7,602.00
> 15 to 25	4.0	\$1,452.00	\$9,864.00	\$9,140.00	\$15,204.00
> 25 to 50	6.0	\$2,178.00	\$14,796.00	\$13,710.00	\$22,806.00
> 50 to 80	8.5	\$3,085.50	\$20,961.00	\$19,422.50	\$32,308.50
> 80 to 160	32.5	\$11,797.50	\$80,145.00	\$74,262.50	\$123,532.50
> 160 to 250	64.5	\$23,413.50	\$159,057.00	\$147,382.50	\$245,164.50
> 250 to 500	104.0	\$37,752.00	\$256,464.00	\$237,640.00	\$395,304.00
> 500	150.0	\$54,450.00	\$369,900.00	\$342,750.00	\$570,150.00
WASTEWATER UTILITY					
1 to 10	1.0	\$527.00	\$2,185.00	\$3,506.00	\$2,684.00
> 10 to 15	2.0	\$1,054.00	\$4,370.00	\$7,012.00	\$5,368.00
> 15 to 25	4.0	\$2,108.00	\$8,740.00	\$14,024.00	\$10,736.00
> 25 to 50	6.0	\$3,162.00	\$13,110.00	\$21,036.00	\$16,104.00
> 50 to 80	8.5	\$4,479.50	\$18,572.50	\$29,801.00	\$22,814.00
> 80 to 160	32.5	\$17,127.50	\$71,012.50	\$113,945.00	\$87,230.00
> 160 to 250	64.5	\$33,991.50	\$140,932.50	\$226,137.00	\$173,118.00
> 250 to 500	104.0	\$54,808.00	\$227,240.00	\$364,624.00	\$279,136.00
> 500	150.0	\$79,050.00	\$327,750.00	\$525,900.00	\$402,600.00

Maximum fees for prior to 10/4/2002 update are:

Water \$363/ LUE Wastewater \$527/ LUE

Maximum fees for 2002 update are:

Water \$2,466/ LUE Wastewater \$2,185/ LUE

Maximum fees for 2013 update are:

Water \$2,285/ LUE Wastewater \$3,506/ LUE

Maximum fees for 2018 update are:

Water \$3,801/ LUE Wastewater \$2,684/ LUE

* Applicable amount may be reduced by any City-approved offsets.

**Exemption Rate in Ordinance 2002-81 is still in effect for remaining qualifying lots

Service unit means a living unit equivalent ("LUE") based upon the relationship of the maximum design water flow to that of single family residential peak demand as served by the maximum continuous rated flow for a 5/8-inch ~~AW~~ displacement-type standard residential water meter, which serves as the standardized measure of consumption, use or generation attributable to new development. The number of service units or LUEs for larger meters is based upon the peak development flow relative to the average peak demand in the system for a 5/8-inch meters' flow capabilities relative to the 5/8 ~~AW~~ meter and are contained in Schedules 1 and 2 and in the chart below.

<u>Calculated Peak Water Flow (gpm)</u>	<u>LUE's by Flow</u>
<u>1 to 10</u>	<u>1.0</u>
<u>> 10 to 15</u>	<u>2.0</u>
<u>> 15 to 25</u>	<u>4.0</u>
<u>> 25 to 50</u>	<u>6.0</u>
<u>> 50 to 80</u>	<u>8.5</u>
<u>> 80 to 160</u>	<u>32.5</u>
<u>> 160 to 250</u>	<u>64.5</u>
<u>> 250 to 500</u>	<u>104.0</u>
<u>> 500</u>	<u>150.0</u>

SECTION 3. Section 86.295 of the San Marcos City Code is hereby amended to read as follows:

Sec. 86.295. Applicability.

(a) This division applies to all new, non-exempt development within the city limits and its extraterritorial jurisdiction within the applicable service areas. The provisions of this division shall apply uniformly within each service area.

(b) Exemptions.

- (1) No wastewater impact fee shall be charged for an irrigation meter.
- (2) No impact fee shall be charged for a fire line meter that serves only a fire suppression system.
- (3) To encourage affordable housing as defined by 42 U.S.C. § 12745, the city may refund impact fees paid for construction of a new single-family dwelling that qualifies for the refund under affordable housing guidelines approved by the city council and exempt the construction of new single-family dwellings by Habitat for Humanity, ~~San Marcos, Texas Chapter~~ and San Marcos Housing Authority.
- (4) Any exemptions required under applicable state laws.

(b) The city manager is authorized to adopt and administer guidelines for applying the provisions of this section.

SECTION 4. Section 86.297 of the San Marcos City Code is hereby amended to read as follows:

Sec. 86.297. Maximum impact fees per service unit.

(a) The maximum impact fee per service unit for each service area shall be established by category of capital improvements, and shall be as set forth in Schedule 1 (the calculated fee by peak flow-meter size) ~~or Schedule 2 where Schedule 1 is not applicable~~. The maximum impact fee per service unit for each service area for each category of capital improvement shall be computed in the following manner:

- (1) Calculate the total projected costs of capital improvements identified in the capital improvements plan for each category of capital improvements;
- (2) From such amounts, subtract a credit that reflects other forms of payment for utility capital other than impact fees; and
- (3) Divide the resulting amounts by the total number of service units anticipated in the respective service area, based on the land use assumptions for that service area.

(b) *Collection rate.* The impact fee per service unit which is to be paid by each new development shall be established by ordinance of the city council, as amended from time to time, and shall be an amount less than or equal to the maximum impact fee per service unit calculated under subsection (a).

SECTION 5. Section 86.299 of the San Marcos City Code is hereby amended to read as follows:

Sec. 86.299. Computation of service units and collection of impact fees.

(a) Impact fees shall be computed and collected for platted land at the time the city issues a building permit for land within the city limits or at the time a plumbing permit or utility application is approved for land located outside the city limits.

(b) Impact fees shall be computed and collected for unplatted land at the time the city issues a building permit, plumbing permit or utility application, whichever is applicable pursuant to section 86,299(a).

The computation of the quantity of service units required for a new development will be as follows:

- (1) For new development subject to assessment under section 86,298(a)(1), and for new development subject to assessment under section 86.298(a)(2) ~~with plat recordation on or after October 5, 2002,~~ the quantity of service units will be determined by the calculated peak water demand ~~water meter size and type~~ as listed in Schedule

1. The calculated peak water demand ~~appropriate size and type of the water meter proposed for a new development~~ is to be determined initially by the applicant and is subject to review and approval by the director, using best water utility industry and engineering practices and standards. The director may require an applicant to provide building plans, plumbing layouts, flow calculations and other information ~~to support a request for use of a specific size or type of water meter.~~

~~(2) For new development subject to assessment under section 86.298(a)(2) with plat recordation on or before October 4, 2002, the quantity of service units will be determined by reference to the service unit computation criteria stated in the attached Schedule 2.~~

(23) No building permit or utility connection shall be issued if the applicant cannot verify payment to staff of the appropriate impact fee and other applicable fees or if existing facilities do not have actual capacity to provide service to the new connections(s), except for those entities that are exempted from impact fees as are specifically set forth herein.

(34) The impact fee shall attach to the property for which the impact fee was paid and shall not be transferable to other properties or service units.

(c) *Amount to be collected.* The city shall compute the impact fees for a new development in the following manner:

(1) The amount of each impact fee shall be determined by multiplying the number of service units required for the new development by the impact fee per service unit using the applicable rate in the applicable schedule. The calculation of peak water demand ~~appropriate size of the water meter proposed for new development~~ is subject to review and approval by the director, using best water utility industry and engineering practices and standards.

(2) The amount of each impact fee shall be reduced by any allowable *offsets* or credits for that category of capital improvements, in the manner provided in section 86.300.

(3) The total amount of each impact fee for the new development shall be calculated and attached to the permit or utility application as a condition of approval.

(4) Except as otherwise provided by contracts with political subdivisions, developer's contracts, or wholesale customers, no

building permit shall be issued until all impact fees due and owing have been paid to the city.

(d) *Limit on fees.* The amount of each impact fee for a new development shall not exceed an amount computed by multiplying the assessment amount per service unit under section 86.298 by the number of service units for the development determined under this section.

(e) If a building or plumbing permit or an approved utility application for which an impact fee has been paid has expired, and a new application is thereafter filed, the impact fees shall be computed using the Schedule 1 rate in effect at the time the new permit or application is filed, with credits for previously paid fees being applied against the newly determined amount.

(f) Whenever a property owner proposes to increase the number of service units for a new development, the additional impact fees collected for the new service units shall be determined by using the applicable service unit computation criteria in subsection (b) and the applicable Schedule 1 rate then in effect, and the additional fees for the increase in service units shall be collected at the times prescribed by this section.

(g) For new development to be served by the city wastewater system and by a water system other than the city's, the operator of the water system shall provide written notice to the city of each application for new water service or a change in meter size within ten days of the date the application is received. This requirement is satisfied by the submission of a legible copy of the application or other information that identifies the applicant and indicates the proposed land use, peak demand calculation and the meter size.

(h) The amount of impact fees to be collected for single purpose domestic (sanitary) or irrigation meters will be determined by calculated peak water demand ~~water meter size~~ as listed in Schedule 1. The amount of impact fees to be collected for a combined domestic and fire flow meter will be based upon the applicable peak flow demands ~~single purpose displacement type standard water meter~~ delineated in Schedule 1 excluding the fire flow portion.

(i) The city council may approve an agreement with a property owner for a different time, manner of computation, or payment of impact fees for new development on the owner's property.

SECTION 6. Section 86.300 of the San Marcos City Code is hereby amended to read as follows:

Sec. 86.300. Offsets and credits against impact fees.

(a) The city shall offset or credit the present value of any system facility

which has been dedicated or contributed to by a property owner and accepted by the city, including the value of off-site rights-of-way or system capital improvements constructed under an agreement with the city, against the amount of the impact fee due for that category of capital improvement. The offset or credit shall be associated with the plat of the property that is to be served by the system facility.

(b) *Calculation of offset or credit.* All offsets or credits against impact fees shall be subject to the following limitations and shall be granted based on this article and additional standards promulgated by the city, which may be adopted as administrative guidelines:

- (1) An offset or credit shall not be given for the dedication or construction of site-related facilities.
- (2) An offset shall not exceed an amount equal to the eligible costs of the improvement multiplied by a fraction, the numerator of which is the impact fee per service unit due for the new development computed using ~~the applicable~~ Schedule 1 ~~or Schedule 2~~, and the denominator of which is the maximum impact fee per service unit for the new development.
- (3) The unit costs used to calculate offsets and credits shall not exceed those assumed for the capital improvements included in the impact fees capital improvements plan for the category of facility for which the impact fee is imposed.
- (4) An offset or credit for an oversized improvement or facility shall not exceed the incremental increase in the cost of the improvement or facility over the cost of an improvement or facility needed to meet the greater of: (a) the city's minimum standards for water or wastewater facilities or, (b) the needs of the property being developed including, where development is being phased, all property and uses described in the subdivision concept plan for the area being developed.
- (5) An offset or credit shall not be given for an oversized facility which is not identified within the capital improvements plan, unless the Director determines that the facility supplies capacity to other new developments, and provisions for offsets or credits are incorporated in an agreement for capital improvements under section 86,308.
- (6) An offset or credit shall not be given a) when no impact fees for a new development can be collected under this division, b) for any amount exceeding the total impact fees due for a new development for that category of capital improvements, unless expressly agreed to by the city in writing, or c) for any oversized facility where the

city executes an oversize reimbursement agreement with the property owner for the oversize cost.

- (7) Offsets or credits for system facilities dedicated to and accepted by the city for a new development prior to the effective date of this division and such developer-borne costs eligible for an offset or credit shall be prorated among the total number of service units within the development.
- (8) The city may participate in the costs of a system facility to be dedicated to the city in connection with a new development, including costs that exceed the amount of the impact fees due for the development under Schedule 1 for that category of capital improvements, in accordance with the city's subdivision regulations. The amount of any offset shall not include the amount of the city's participation.
- (9) No offset or credit shall exceed the impact fee to be collected from new development as established in section 86.298.

(c) *Expiration of offset or credit.* All offsets or credits shall expire ten years from the date the offset or credit was created.

(d) *Application of offset or credit.* An offset or credit associated with a new development shall be applied to reduce the impact fee at the applicable time for collection of the fee, and thereafter until the number of properties subject to offset or credit are credited.

SECTION 7. Section 86.311 of the San Marcos City Code is hereby amended to read as follows:

Sec. 86.311. Land use assumptions.

(a) The amended system-wide land use assumptions for the City of San Marcos, on which the capital improvements plan for water and wastewater facilities are based, are identified in the most current version of the ~~Section 3 of the~~ Impact Fee Report which is attached as Exhibit A and incorporated herein for all purposes are adopted.

(b) The system-wide land use assumptions may be amended from time to time, under the procedures in section 86.306.

Sec. 86.312. Impact fee water service area.

(a) An amended impact fee water service area is established, consisting of the land within the city limits and within portions of the city's extraterritorial

jurisdiction depicted in the most current version ~~Section 2~~ of the Impact Fee Report attached hereto as Exhibit A* of this ordinance and is adopted and incorporated herein.

(b) The boundaries of the impact fee water service area may be amended from time to time, or new water service areas may be delineated, under the procedures in section 86.306.

*Editor's Note-A copy of Exhibit A can be found in the city offices.

Sec. 86.313. Water improvements plan.

(a) The amended city water improvements plan included in the most current version ~~Table 5~~ of the Impact Fee Report attached as Exhibit A* is adopted and incorporated herein.

(b) The water improvements plan may be amended from time to time under the procedures in section 86.306.

*Editor's Note-A copy of Exhibit A can be found in the city offices.

SECTION 8. Section 86.314 of the San Marcos City Code is hereby amended to read as follows:

Sec. 86.314. Water facilities impact fee.

(a) The maximum impact fee per service unit for water facilities included in ~~The~~ the most recent version of the Impact Fee Report, ~~Table 8~~ is adopted and included by reference in this division.

(b) The amount of the impact fee per service unit for water facilities stated in Schedules ~~1 and 2~~ is adopted and included by reference in this division.

(c) The impact fees per service unit for water facilities may be amended from time to time under the procedures in section 86.306.

Sec. 86.315. - Impact fee wastewater service area.

(a) An amended impact fee wastewater service area is established, consisting of the land within the city limits and within portions of the city's extraterritorial jurisdiction depicted in latest version ~~Section 2~~ of the Impact Fee Report attached as Exhibit A* and included by reference in this division.

(b) The boundaries of the impact fee wastewater service area may be amended from time to time, or new water service areas may be delineated, under the procedures in section 86.306.

*Editor's Note-A copy of Exhibit A can be found in the city offices.

SECTION 9. Section 86.316 of the San Marcos City Code is hereby amended to read as follows:

Sec. 86.316. Wastewater improvements plan.

(a) The amended city wastewater improvements plan included in the latest version Table 6 of the Impact Fee Report attached as Exhibit A* is adopted and included by reference in this division.

(b) The wastewater improvements plan may be amended from time to time under the procedures in section 86.306.

*Editor's Note-A copy of Exhibit A can be found in the city offices.

SECTION 10. Section 86.317 of the San Marcos City Code is hereby amended to read as follows:

Sec. 86.317. Wastewater facilities impact fee.

(a) The maximum impact fee per service unit for wastewater facilities included in the latest version of ~~in~~ The Impact Fee Report, Table 8 is adopted and included by reference in this division.

(b) The amount of the impact fee per service unit for wastewater facilities stated in Schedules ~~1 and 2~~ is adopted and included by reference in this division.

(c) The impact fees per service unit for wastewater facilities may be amended from time to time under the procedures in section 86.306.

SECTION 11. Section 86.318 of the San Marcos City Code is hereby amended to read as follows:

Sec. 86.318. Impact fee schedules.

(a) The maximum impact fees per service unit for water and wastewater facilities set out in the latest version of the ~~in Table 8 of the~~ Impact Fee Report are adopted and included by reference in this division.

(b) Schedules ~~1 and 2~~ setting forth the impact fees per service unit to be collected from new development for water and wastewater facilities, are adopted and are hereby included by reference in this division.

SECTION 12. In codifying the changes authorized by this ordinance, editor's notes may be inserted and paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

SECTION 13. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 14. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 15. This ordinance will take effect upon publication in a newspaper of general circulation within the City within ten days after the date of its final passage.

PASSED AND APPROVED on first reading on April 3, 2018.

PASSED, APPROVED AND ADOPTED on second reading on 17, 2018.

John Thomaides
Mayor

Attest:

Approved:

Jamie Lee Case
City Clerk

Michael J. Cosentino
City Attorney