CITY OF TRENTON, TEXAS
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF TRENTON, TEXAS, ADOPTING WATER AND WASTEWATER IMPACT FEES, DEFINING TERMS, REQUIRING AN IMPACT FEE AND PROVIDING FOR EXCEPTIONS; PROVIDING FOR ASSESSMENT AND COLLECTION; CALCULATING FEES, PROVIDING FOR CREDITS; PROVIDING FOR ACCOUNTING FOR FEES AND INTEREST; PROVIDING FOR REFUNDS; PROVIDING FOR APPEALS; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SAVINGS, SEVERABILITY AND CODIFICATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Trenton, Texas (the "City Council") has fully complied with Chapter 395 of the Texas Local Government Code ("Chapter 395") concerning the notice, adoption, promulgation and methodology necessary to adopt land use assumptions and a capital improvements plan establishing impact fees for water and wastewater; and

WHEREAS, as required by Chapter 395, the City Council conducted a public hearing on March 28, 2024 on the adoption of the capital improvements plan and land use assumptions, in which any member of the public had the right to appear at the hearing and present evidence for or against the plan and proposed fee; and

WHEREAS, the City Council approved the proposed land use assumptions and capital improvements plan by Resolution 537 on March 28, 2024; and

WHEREAS, the Capital Improvement Advisory Committee of the City of Trenton ("CIAC"), created pursuant to Sec. 395.058 of Chapter 395, filed its written comments on the proposed impact fees before the fifth (5^{th}) business day before the date of the public hearing on the adoption of the impact fees; and

WHEREAS, as required by Chapter 395, the City Council conducted a public hearing on June 5, 2024 on the adoption of impact fees for water and wastewater in which any member of the public had the right to appear at the hearing and present evidence for or against the plan and proposed fees; and

WHEREAS, the City Council desires to adopt the water and wastewater impact fees as herein described and finds that it is in the best interest of the citizens of the City of Trenton (the "City").

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

Section 1. Purpose.

This Ordinance is adopted pursuant to the provisions of Chapter 395, as amended, as well as under the authority of Article XI, Section 5 of the Texas Constitution. This Ordinance

implements a policy of the City to impose fees on each new development project to pay the costs of constructing capital improvements and facility expansions necessary to serve new development.

Section 2. Impact Fees and Regulations Adopted.

The impact fees and regulations described in **Exhibit A**, attached hereto and incorporated herein for all purposes, are hereby approved and adopted by the City Council.

Section 3. Severability Clause.

Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

Section 4. Savings/Repealing.

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 5. Code of Ordinances.

It is the intention of the City Council that this Ordinance shall become a part of the Code of Ordinances of the City upon adoption, and this Ordinance may be renumbered and codified therein accordingly.

Section 6. Effective Date.

This Ordinance shall take effect immediately from and after its passage as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF TRENTON, TEXAS, this 5th day of June 2024.

_____
Rodney Alexander, Mayor

Attest:

_____
Rebekka Aviles, City Secretary

Exhibit A

Section 1. General Provisions.

Section 1.1. Purpose.
This Ordinance is intended to assure the provision of adequate public facilities to serve new development in the city by requiring each development to pay its share of the costs of such improvements necessitated by and attributable to such new development.

Section 1.2. Authority.
This Ordinance is adopted pursuant to Texas Local Government Code chapter 395 and the city's charter. Chapter 395 supplements this ordinance to the extent that its provisions may be applicable hereto and, to such extent, its provisions are incorporated herein by reference. The provisions of this Ordinance 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 or in conjunction with this Ordinance. Guidelines may be developed by ordinance, resolution, or otherwise to implement and administer this ordinance.

Section 1.3. Definitions.

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

Capital improvement.
The term as defined in Tex. Loc. Gov't Code 395.001.

Capital Improvements Plan.
A plan approved by the city council that identifies capital improvements or facility expansions for which impact fees may be assessed.

Chapter 395.
Chapter 395 of the Texas Local Government Code, as amended.

City.
The City of Trenton, Texas.

City Council.
The city council of the City of Trenton, Texas.

City Secretary.
The City Secretary of the City of Trenton, Texas, or his or her designee.

Credit or credits.
The amount of the reduction of an impact fee reflecting the value of any construction of, contributions to, or dedications of a capital improvement 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. Impact fees otherwise due from the development. (This term is separate from "general credit" which is defined below).

Effective date.

June 5, 2024.

Facilities expansion.

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.

Final plat approval or approval of a final plat.

The point at which the applicant has complied with all conditions of approval and the plat has been released for filing with Fannin County.

General credit.

In accordance with Tex. Loc. Gov't Code 395.014(a)(7)(B), an amount equal to 50 percent of the total projected cost of implementing the capital improvements plans. This 50 percent credit reduction is an alternative to determining an amount equal to the portion of ad valorem tax revenues and utility revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan. (This term is separate from "credit" which is defined above.)

Impact fee.

The term as defined in Tex. Loc. Gov't Code 395.001.

Land use assumptions.

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 and approved by the city council, as may be amended from time to time.

LUE

Living Unit Equivalent.

New development.

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 to be generated by such activity, and which requires either the approval by the city and filing with the county of a plat pursuant to the city's subdivision ordinance or the issuance of a building permit.

Owner.

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. Owner includes the developer for the new development.

Plat.

Has the meaning given to the term in the city's subdivision regulations and includes each type of plat.

Recoup.

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 service area or a wastewater service area within the city or within the city's extraterritorial jurisdiction within which impact fees for capital improvements or facility expansion may 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.

The term as defined in Tex. Loc. Gov't Code 395.001, and more particularly described herein.

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 Capital Improvements Plan and for which the owner is solely responsible under subdivision or other applicable regulations or which is located at least partially on the plat which is being considered for impact fee assessment.

Water meter.

A device for measuring the flow of water to a development, whether for domestic or for irrigation purposes.

Section 1.4. Service areas.

The single service area for water and wastewater impact fees includes the city limits and its extraterritorial jurisdiction.

Section 1.5. Construction.

The terms and provisions of this Ordinance shall not be construed in a manner to conflict with Chapter 395, as amended, and if any term or provision of this Ordinance shall appear to conflict with any term, provision or condition of Chapter 395, such Ordinance term or provision shall be read, interpreted and construed in a manner consistent with and not in conflict with Chapter 395.

Section 2. Impact Fees Adopted.

Section 2.1. Impact fees adopted.
The impact fees for water and wastewater set forth in **Schedule A**, attached hereto and incorporated into this Ordinance for all purposes, are hereby approved and adopted and shall be imposed against new development in order to generate revenues for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to such new development.

Section 2.2. Maximum Allowable Impact Fee.
The maximum allowable impact fees for each service unit is set forth in **Schedule A**. The maximum impact fee per service unit that is established for each service area was calculated as follows:

1. Calculate the total projected costs of capital improvements necessitated by and attributable to new development in the service area identified in the Capital Improvements Plan;
2. From the amount calculated in subsection 1, subtract a credit equal to 50% of such total projected cost (herein, the "general credit");
3. Divide the amount calculated in subsection 2 by the total number of service units anticipated within the service area based upon the land use assumptions for that service area.

The formula for calculating the maximum impact fee per service unit described by subsections 1 through 3 may be expressed as:

(total CIP costs - total general credit) / total service units

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 allowable impact fee except by amendment of this Ordinance.

Section 2.3. Impact fees required.
No (i) final plat for new development shall be released for recordation, (ii) utility connection shall be provided, and/or (iii) building permit shall be issued, as applicable, without the assessment of applicable impact fees pursuant to this Ordinance. Except as otherwise provided in this Ordinance, no building permit shall be issued or utility connection shall be approved until the owner has paid the city all applicable impact fees due.

Section 2.4. Exceptions to Requirement of Impact Fee.
For new development which a plat has been approved prior to the adoption of this Ordinance, impact fees shall not be due on any service for which a valid building permit is issued within one (1) year after the effective date of this Ordinance.

Section 2.5. Modification of Required Impact Fee.
The City Council may modify, at its sole discretion, the impact fees to be assessed against new development by entering into a written development agreement with an owner, or as otherwise allowed by Chapter 395.

Section 3. Assessment, Collection, and Administration of Impact Fees.

Section 3.1. Assessment and collection of impact fees.

(a) The amount of impact fees to be assessed per service unit and collected 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, which assessed fees and amounts to be collected are set forth in **Schedule A**.

(b) For new development which has received final plat approval, assessment of impact fees shall occur at the time of recordation of the final plat. Replatting shall not require recalculation of impact fees unless the number of service units is increased. If a proposed development increases the number of service units, the impact fees shall be recalculated as provided by this ordinance.

(c) For land which is not required to be platted at the time of application for a building permit or water meter, assessment of impact fees shall occur at the time of such application.

(d) Per Section 395.017 of Chapter 395, 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 additional impact fees to be imposed are limited to the amount attributable to the additional service units.

(e) The City Secretary shall compute the impact fees for new development in accordance with **Schedule A**. The total amount of impact fees for the new development shall be attached to the development application as a condition of approval.

Section 3.2. Credits against impact fees.

(a) The city has already applied the general credit required by Chapter 395 to calculate the maximum allowable impact fees.

(b) If the city requires, as a condition of new development approval, or otherwise enters into an agreement with an owner, to have the owner construct, fund, or otherwise contribute toward the cost of a capital improvement or facility expansion included in the Capital Improvements Plan, the city shall provide for reimbursement in the form of credits against impact fees that would otherwise be due on the new development from the same category of impact fees assessed on the new development.

(c) All credits against impact fees shall be subject to the following limitations and shall be granted based on this Ordinance and any additional administrative guidelines that may be adopted by the city:

(i) No credit shall be given for the dedication or construction of site-related facilities.

(ii) No credit shall exceed an amount equal to the assessed impact fee.

(iii) If a credit applicable to a final plat has not been exhausted within ten (10) years from the acquisition of the first building permit issued, or utility connection (in the extraterritorial jurisdiction), made after the effective date of the adoption of this Ordinance, or within such period as may otherwise be designated by contract between the city and the owner, such credit shall lapse.

(iv) In no event will the city reimburse the owner for a credit when no impact fees for the new development can be collected pursuant to city ordinance or for any amount exceeding the total impact fees due for the new development for the category of capital improvement, unless otherwise agreed to by the City.

(d) The available credit associated with new development shall be applied against an impact fee in the following manner:

(i) For single-family residential lots in a new development consisting only of single-family residential development, such credit shall be prorated equally among such lots, to be applied at the time of application of a building permit or utility connection (in the extraterritorial jurisdiction) for each lot, against impact fees to be collected at the time the building permit is issued.

(ii) For all other types of new development, the credit applicable to the new development shall be applied to the impact fee due at the time of approval.

(iii) At its sole discretion, the city may authorize alternative credit agreements upon written agreement with the owner.

Section 3.3. Collection of impact fee.

(a) Impact fees shall be collected and paid at the time of issuance of a building permit, or utility connection (if in the extraterritorial jurisdiction), unless an agreement between the owner and the City has been executed providing for a different time of payment, pursuant to Section 395.018 of Chapter 395.

(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; provided, however, that such a service unit shall be subject to the collection of impact fees upon the submission of a subsequent application for a building permit if the subsequent application is not submitted and approved within one year after the effective date. For land that does not have to be platted, 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.

(c) If services are not currently available in any area, the city shall adhere to Section 395.019 of Chapter 395.

Section 3.4. Impact fee exemptions.

The city shall recognize any exceptions or exemptions to impact fees required by state or federal

law, including Chapter 395.

Section 3.5. Administration of impact 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 capital improvements plan for the service area, including the construction contract price, surveying, and engineering fees.

(b) Impact fees may be used to pay for or recoup the costs of any and all items authorized under Chapter 395. Impact fees shall not be adopted or used for any items prohibited by Chapter 395.

(c) The city's finance department shall establish an account to which interest is allocated for each category of capital improvement or facility expansion within the service area for which an impact fee is imposed pursuant to this Ordinance. Each impact fee collected within the service area shall be deposited in such account. Interest earned on the impact fee account shall be considered funds of the account and shall be used solely for the purposes authorized in this Ordinance and Chapter 395.

(d) 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.

(e) The city will present the financial records for impact fees to the capital improvements advisory committee twice a year, which shall be open for public inspection.

Section 3.6. Impact fees as additional supplemental regulation.

Impact Fees established by this Ordinance 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 the 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. This Ordinance 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.

Section 3.7. Update to plans and revision of fees.

The city shall update its land use assumptions and capital improvements plan in accordance with Chapter 395, but may review more frequently than provided therein.

Section 4. Refunds, Rebates, and Appeals

Section 4.1. Refunds and rebates.

(a) Upon application, any impact fee or portion thereof collected pursuant to these regulations, which has not been expended within the service area or any other obligations expressly

provided for in this Ordinance within ten (10) 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 Section 302.002 Texas Finance Code, or its successor statute. The application for refund pursuant to this section shall be submitted within sixty (60) days after the expiration of the ten-year period for expenditure of the fee. An impact fee shall be considered expended on a first-in, first out basis.

(b) An impact fee collected pursuant to these regulations shall also be considered expended if the total expenditures for capital improvements or facility expansions authorized within the service area within ten (10) years following the date of payment exceeds 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) or (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 the development for which the fee was paid, and interest due, if any, shall be calculated upon that amount.

(d) If the building permit for a new development for which an impact fee has been paid has expired, and a modified or new application has not been filed within six (6) 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 subsection has been filed within this period, no rebate shall become due.

Section 4.2. Appeals.

An owner may appeal the applicability or amount of the impact fee or the availability of credits or refunds to the City Secretary 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 thirty (30) days following the decision being appealed, the owner shall submit to the City Secretary 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 Secretary or his/her designee will respond to the appeal within thirty (30) days of receipt of completed appeal packet as described above.

(4) Consideration of appeal by city council. After the determination of the City

Secretary, the owner may petition the city council. The appeal must be filed within thirty (30) days of the City Secretary or his/her designee's decision. 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.

(5) Costs. An owner shall bear all costs of the owner's appeal under this Ordinance.

Schedule A
Maximum Assessed and Collected Impact Fees

1. Water Impact Fees

A. Maximum Allowable Water Impact Fees Assessed: The following water impact fees are assessed, which equal the maximum allowable amount under Chapter 395:

Residential & Commercial

Meter Size	Equivalent Factors	Total
5/8" x 3/4"	1.00	$7,157.69
1"	2.50	$17,894.23
1 1/2"	5.00	$35,788.45
2"	8.00	$57,261.52
3"	16.00	$114,523.04
4"	25.00	$178,942.25
6"	50.00	$357,884.50
8"	80.00	$572,615.20

One LUE represents one single-family household residence. 5/8”x3/4” meter is standard for all single-family residential customers. The “Equivalent Factors” is the LUE multiplier.

B. Assessed Water Impact Fees to be collected:

The amount of the water impact fees to be collected shall be equal to 55% of the maximum allowable water impact fees assessed.

2. Wastewater Impact Fees

A. Maximum Allowable Wastewater Impact Fees Assessed: The following wastewater impact fees are assessed, which equal the maximum allowable amount under Chapter 395:

Residential & Commercial

Tap Size	Equivalent Factors	Total
4"	1.00	$7,232.89
6"	2.00	$14,465.78

The maximum allowable fee is assessed for each wastewater connection. The number of wastewater connections will be considered to be the same as the number of water meters.

B. Assessed Wastewater Impact Fees to be collected:

The amount of the wastewater impact fees to be collected shall be equal to 55% of the maximum allowable wastewater impact fees assessed.