

ORDINANCE NO. 2023-46

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS ADOPTING IMPACT FEES FOR WATER AND WASTEWATER FACILITIES; DEFINING CERTAIN TERMS; PROVIDING FOR THE ASSESSMENT AND COLLECTION OF SUCH IMPACT FEES; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING FOR SEVERABILITY.

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WHEREAS, the City Council of the City of Tomball has reviewed and evaluated its impact fees for water and wastewater facilities in the time and manner required by law; and

WHEREAS, the City Council has employed qualified professionals to prepare its land use assumptions, capital improvements plan, and impact fees for water and wastewater facilities for the City, and each was considered by the City’s advisory committee, and such assumptions, plan, and proposed fees were filed with the City, along with the advisory committee’s comments; and

WHEREAS, the City Council has called, given notice of, and conducted a public hearing on such assumptions, plan, and proposed fees, in the time and manner required by law; and

WHEREAS, the City Council now desires to adopt such impact fees for water and wastewater facilities, all in accordance with said Chapter 395, Texas Local Government Code; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. Findings. The facts and matters contained in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Title. This Ordinance shall be known and cited as the “City of Tomball Impact Fee Ordinance.”

Section 3. Purpose. This Ordinance is intended to impose and levy water and wastewater impact fees on new development, as established in this Ordinance, in order to finance public facilities, the demand for which is generated by new development in the designated service areas.

Section 4. **Authorization.** The City is authorized to enact this Ordinance in accordance with Chapter 395, Texas Local Government Code, which authorizes cities to enact or impose impact fees (capital recovery fees) on land within their corporate boundaries or extraterritorial jurisdictions, as charges or assessments imposed against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to such new development

Section 5. **Impact Fees.** The impact fees set forth in Exhibit “A”, are hereby levied on lands located within the corporate boundaries of the City and Extraterritorial Jurisdiction.

Section 6. **Collection of Impact Fees.** For all new developments, the impact fees due shall be collected at the time of application for a building permit, or at the time of application for a utility connection, whichever occurs first. If the building permit for which an impact fee has been paid has expired, and a new application is thereafter filed, the impact fees due shall be computed using the impact fee then in effect, and previous payments of impact fees shall be credited against the new fees due.

Section 7. **Establishment of Accounts.**

- A. The City shall establish an account to which interest is allocated for each type of capital facility 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.
- B. Interest earned on the account into which the impact fees are deposited shall be considered funds of the account and shall be used solely for the purposes authorized in Section 8 below.
- C. The City shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the account are utilized solely for the purposes authorized in Section 8. Disbursement of funds shall be authorized by the City at such times as are reasonably necessary to carry out the purposes and intent of this Ordinance.

- D. The City shall maintain and keep financial records for impact fees, which shall show the source and disbursement of all fees collected in or expended within the service area. The records of the account into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours.

Section 8. Use of Proceeds of Impact Fee Accounts. The impact fees collected pursuant to this Ordinance may be used to finance or to recoup the costs of any capital improvements or facility expansion identified in the City of Tomball 2023 Water and Wastewater Impact Fee Study for the service area, including but not limited to the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney’s fees, and expert witness fees). Impact fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes, or other obligations issued by or on behalf of the City to finance such capital improvements or facility expansion. Impact fees also may be used to pay fees actually contracted to be paid to an independent qualified engineer or financial consultant for preparation of or updating the impact fee capital improvements plan.

Section 9. Refunds and Rebates.

- A. Upon application, any impact fee, or portion thereof, collected pursuant to this Ordinance, which has not been expended within the service area 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, Finance Code, or its successor statute. An impact fee shall be considered expended on a first in, first out basis.
- B. Upon application, any impact fee collected pursuant to this Ordinance shall be refunded if:
 - 1. Existing service is available and service is denied; or

2. Service was not available when the fee was collected and the City has failed to commence construction of facilities to provide service within two (2) years of fee payment; or
3. Service was not available when the fee was collected and has not subsequently been made available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in any event later than five (5) years from the date of fee payment.

Section 10. Repealer. Ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 11. Severability Clause. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 12. This Ordinance shall become effective fourteen days after the final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law. The City Secretary is directed to publish the caption of this Ordinance in the City's official newspaper within 14 days after the passage of the ordinance.

FIRST READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 6TH DAY OF NOVEMBER, 2023.

COUNCILMAN FORD	<u>Yea</u>
COUNCILMAN STOLL	<u>Yea</u>
COUNCILMAN DUNAGIN	<u>Yea</u>
COUNCILMAN TOWNSEND	<u>Yea</u>
COUNCILMAN PARR	<u>Yea</u>

SECOND READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 20TH DAY OF NOVEMBER, 2023.

COUNCILMAN FORD	<u>Yea</u>
COUNCILMAN STOLL	<u>Yea</u>
COUNCILMAN DUNAGIN	<u>Yea</u>
COUNCILMAN TOWNSEND	<u>Yea</u>
COUNCILMAN PARR	<u>Yea</u>

Derek Townsend, Sr., Mayor Pro Tem

Lori Klein Quinn, Mayor

ATTEST:

Tracylynn Garcia

Tracylynn Garcia, City Secretary

EXHIBIT A

Meter Size	Service Unit Equivalents	Impact Fees		
		Water	Wastewater	Total
3/4"	1	\$6,618	\$8,069	\$14,687
1"	1.6	\$10,588	\$12,910	\$23,498
1-1/2"	5.3	\$35,075	\$42,765	\$77,840
2"	6.6	\$43,678	\$53,255	\$96,933
3"	13.3	\$88,019	\$107,317	\$195,336
4"	26.6	\$176,038	\$214,635	\$390,673
6"	53.3	\$352,739	\$430,077	\$782,816
8"	90.0	\$595,620	\$726,210	\$1,321,830
10"	166.6	\$1,102,558	\$1,344,295	\$2,446,853