

ORDINANCE NO. 298-2

THE COMMUNITY IMPACT FEE ORDINANCE

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, PROVIDING DEFINITIONS; ADOPTING LAND USE ASSUMPTIONS; ADOPTING A CAPITAL IMPROVEMENTS PLAN; ESTABLISHING A COMMUNITY IMPACT FEE BASED UPON LIVING UNIT EQUIVALENTS; PROVIDING CONSTRUCTION, SEVERABILITY AND OPEN MEETING CLAUSES; AMENDING AND UPDATING ORDINANCE NO. 298-1; AND ESTABLISHING AN EFFECTIVE DATE.

Whereas, notice for public hearings was given and the hearings were held as provided in *Chapter. 395, Tex. Loc. Gov't. Code* ("Chapter 395");

Whereas, the City Council of the City of Kyle, Texas (the "City Council") adopted a Resolution, on January 8th, 2008 establishing the date for a public hearing to be held on the adoption of land use assumptions, a capital improvements plan and impact fees, and directing that notice be given for such public hearing as provided in *Chapter 395*;

Whereas, after notice of public hearing was published on January 18, 2007, the City Council held such public hearing, on February 19, 2008 to consider the adoption of land use assumptions, a capital improvements plan and impact fees;

Whereas, in accordance with the above, the City Council desires to amend and adopt the land use assumptions, the capital improvements plan and the Community Impact Fee pursuant to *Chapter 395*;

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

PART 1. GENERAL PROVISIONS.

Section 1.1. Title. This ordinance shall be known, and may be cited, as the Community Impact Fee ordinance of the City of Kyle, Texas.

Section 1.2. Purpose. This Ordinance is intended to assure the provision of adequate public facilities to serve new development within the City service area by requiring development to pay its *pro rata* share of the costs of improvements necessitated by and attributable to such new development.

Section 1.3. Authority. This Ordinance is adopted pursuant to *Chapter. 395, Tex. Loc. Gov't. Code*, the *Texas Constitution*, the general laws of the State of Texas, and the *City Charter*. 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 resolution or otherwise to implement and administer this Ordinance.

Section 1.4. Definitions. In this Ordinance:

- (1) "Advisory Committee" means the City's Impact Fee Advisory Committee appointed by the City Council pursuant to § 395.058, *Tex. Loc. Gov't. Code*, to advise and assist in the adoption of land use assumptions, review and file comments on the capital improvements plan and to perform the other duties set forth in such section.
- (2) "Assessment" means the determination of the amount of the impact fee per service unit and is the maximum amount which can be imposed on new development pursuant to this Ordinance.
- (3) "Capital Improvement" means either a water facility or a wastewater facility, with a life expectancy of three (3) or more years, to be owned and operated by or on behalf of the City and as listed in the Impact Fee Capital Improvements Plan.
- (4) "Chapter 395" means *Chapter 395, Texas Local Government Code*, as amended.
- (5) "City" means the City of Kyle, Texas.
- (6) "Credit" means the amount of the reduction of an impact fee or fees, payments or charges for the approved construction or provision of the same type of capital improvements for which the fee has been assessed.
- (7) "Facilities Expansion" means either a water facility expansion or a wastewater facility expansion.
- (8) "Final Plat Approval" or "Approval of a Final Plat" means the point at which the applicant has complied with all conditions of approval and the plat has been released for filing with the County Clerk of Hays County.
- (9) "Guidelines" means administrative or procedural guidelines, if any, developed by the City to further the implementation of the provisions of this Ordinance. Said guidelines, as amended from time to time, shall not supersede any provision or alter any substantive procedure established in this Ordinance.
- (10) "Impact Fee" means a fee, charge or assessment for water facilities, a fee for wastewater facilities, or both, as appropriately imposed on new development by the City in order to fund or recoup the costs of capital improvements or facilities expansions necessitated by and attributable to such new development. Impact Fees do not include the dedication or rights-of-way or easements for such facilities, the construction of water or wastewater improvements and other infrastructure within the development to serve the development unless such water or wastewater improvement is listed on the impact fee capital improvements plan, the dedication of park land or open space, any site-specific facility, or any other work, dedication or improvement that is not a water or wastewater facility listed on the impact fee capital improvements plan.
- (11) "Impact Fee Capital Improvements Plan" means a water improvements plan or a wastewater improvements plan adopted or revised pursuant to this Ordinance.

- (12) "Land Use Assumptions" means the projections of population growth and associated changes in land uses and intensities adopted by the City, as may be amended from time to time, upon which the impact fee capital improvements plan is based.
- (13) "Living Unit Equivalent (L.U.E.)" means a unit of measure which represents the quantity of water utilized and wastewater generated on an average annual daily basis from a single-family, detached residence of average size and occupancy and which is the standardized measure used for service units. The formula for determining Living Unit Equivalents is set out in the Impact Fee Capital Improvements Plan, attached hereto as Exhibit "A".
- (14) "New Development" means the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units.
- (15) "Offsite" means located entirely on land which is not included within the bounds of the plat or project being considered for impact fee assessment.
- (16) "Platted" means platted in accordance with *Chapt. 212, Tex. Loc. Gov't. Code*, or the applicable subdivision or platting procedures of the City of Kyle.
- (17) "Service Area" means the area within which impact fees for capital improvements or facilities expansions will 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 capital improvements plan applicable to the service area.
- (18) "Service Unit" means the same as "living unit equivalent", which is the applicable standard units of measure shown in Exhibit "A" hereto.
- (19) "Site-Specific Facility" means an improvement or facility which is for the primary use or benefit of a new development and which is not included in the capital improvements plan and for which the developer or property owner is solely responsible under subdivision and other applicable regulations. Site-specific facility may include improvements located offsite, within, or on the perimeter of the new development site.
- (20) "Wastewater Facility" means an improvement for providing sanitary sewer service, including, but not limited to, land or easements, treatment facilities, lift stations, collection lines, or interceptor mains. Wastewater facilities exclude site-specific facilities constructed by developers.
- (21) "Wastewater Facility Expansion" means the expansion of the capacity of any existing wastewater facility for the purpose of serving new development, but does not include the repair, maintenance, modernization, or expansion of an existing wastewater facility to serve existing development.
- (22) "Wastewater Improvements Plan" means the adopted plan, as may be amended from time to time, which identifies the wastewater facilities or sanitary sewer expansions and their associated costs which are necessitated by and which are attributable to new development projected within a period not to exceed ten (10) years, and which are to be

financed in whole or in part through the imposition of community impact fees pursuant to this Ordinance.

(23) "Water Facility" means an improvement for providing water service, including, but not limited to, land or easements, water supply, water treatment facilities, water supply facilities, water storage facilities, or water distribution lines. Water facility excludes site-specific facilities constructed by developers.

(24) "Water Facility Expansion" means the expansion of the capacity of any existing water facility, including increasing contract rights for water supply, for the purpose of serving new development, but does not include the repair, maintenance, modernization, or expansion of an existing water facility to serve existing development.

(25) "Water Improvements Plan" means the adopted plan, as may be amended from time to time, which identifies the water facilities or water expansions and their associated costs which are necessitated by and which are attributable to new development projected within a period not to exceed ten (10) years, and which are to be financed in whole or in part through the imposition of community impact fees pursuant to this Ordinance.

(25) Terms used which are defined in § 395.001, *Tex. Lac. Gov't. Code*, shall have the same meaning as they have in said Code.

Section 1.5. Adoption of Assumptions and Plan. The land use assumptions and the capital improvement plan identifying capital improvements or facility expansions pursuant to which impact fees may be assessed, as considered at the February 19th public hearing, are hereby approved. The land use assumptions and the capital improvements plan are set out in the document attached hereto as Exhibit "B", which is dated December 13, 2007 and entitled "Report To City Council on Impact Fees".

Section 1.6. State Law. *Chapter 395* supplements this Ordinance to the extent that its provisions may be applicable hereto and, to such extent, its provisions are incorporated herein.

Section 1.7. Advisory Committee. (a) The Advisory Committee shall consist of the City Planning and Zoning Commission (the "Commission") and other citizens of the City appointed by the City Council. If the Commission does not include at least one representative of the real estate, development or building industry who is not an employee or official of a governmental entity, the City council shall appoint at least one representative, having such qualifications, as a voting member of the Advisory Committee. If any impact" fee is to be applied to the extraterritorial jurisdiction of the City, a representative from that area shall be appointed by the City Council.

(b) The duties of the Advisory Committee shall be as follows:

(i) advise and assist the adoption of land use assumptions;

(ii) review the capital improvements plan and file written comments;

(iii) monitor and evaluate implementation of the capital improvements plan;

(iv) file semi-annual reports with respect to the progress of the capital improvements plan and report to the City Council any perceived inequities in

implementing the plan or imposing the impact fee; and

(v) recommend to the City Council as necessary and required the timely amendment and/or update of the capital improvements plan and the impact fees.

(c) All information and professional reports concerning the development and implementation of the capital improvements plan shall be made available to the Advisory Committee, and the City staff and contract officers of the City shall provide the committee with such support and assistance as may be required.

PART 2. COMMUNITY IMPACT FEE ESTABLISHED.

Section 2.1. Establishment. There is hereby established a Community Impact Fee which 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. Basis. The Community Impact Fee shall be assessed on the basis of Living Unit Equivalents. The number of Living Unit Equivalents shall be determined at the time of assessment as hereinafter set out.

Section 2.3. Amount. The Community Impact Fee for each Living Unit Equivalent shall, as set forth in Exhibit "A" as amended from time to time in accordance with *Chapter 395*, be \$2,115.00 for water service and \$2,216.00 for wastewater service.

Section 2.4. Payment. All payments pursuant to this Ordinance shall be made to the City Secretary or his/her designate.

Section 2.5. Exemption or Waiver. (a) Any building permit application which was duly accepted for filing prior to the effective date of this Ordinance and subsequently granted, shall be exempt from the assessment and payment of an impact fee under this Ordinance, unless such application thereafter expires. The applicant for any such building permit described in the preceding sentence shall be required to pay the impact fee specified by Ordinance- 298-1.

(b) The City Council may grant a waiver from any requirement of this Ordinance on other grounds, as may be set forth in administrative guidelines.

(c) If the City Council grants a variance or waiver to the amount of the impact fee due for a new development under this Section, it shall cause to be appropriated from the other City funds the amount of the reduction in the impact fee to the capital improvements account.

Section 2.6. Establishment of Accounts. (a) The City shall establish an account to which interest is allocated for each category 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 impact fee account shall be considered funds of the account and shall be used solely for the purposes authorized in Section 2.7.

(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 2.7. 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; provided, however, that any fee paid shall be expended within a reasonable period of time, but not to exceed ten (10) years from the date the fee is deposited into the account.

(d) The City shall maintain and keep financial records for impact fees, which shall show the source and disbursement of all fees collected or expended.

Section 2.7. Use of Proceeds. (a) The impact fees collected pursuant to this Ordinance may be used to finance or to recoup the costs of any capital improvements or facilities expansions identified in the impact fee capital improvements plan for the service area, including 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), and the fees actually paid or contracted to be paid to an independent qualified engineer or other consultants preparing or updating the impact fee capital improvements plan who is not an employee of the City. 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 facilities expansions.

(b) Impact fees collected pursuant to this Ordinance shall not be used to pay for any of the following expenses:

(i) construction, acquisition or expansion of capital improvements or assets other than those identified in the capital improvements plan;

(ii) repair, operation, or maintenance of existing or new capital improvements or facilities expansions;

(iii) upgrading, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;

(iv) upgrading, expanding or replacing existing capital improvements to provide better service to existing development; provided, however, that impact fees may be used to pay the costs of upgrading, expanding or replacing existing capital improvements in order to meet the need for new capital improvements generated by new development; or

(v) administrative and operating costs of the city.

PART 3. APPLICABILITY OF COMMUNITY IMPACT FEES.

Section 3.1. Fees under Ordinance No. 298-1. (a) Subject to the provisions of this Ordinance and *Chapter 395*, the Community Impact Fees imposed by Ordinance No. 298-1, adopted on April 17, 2001, shall continue to apply to land for which a subdivision plat was approved or filed for approval after the effective date of Ordinance No. 298-1 but prior to the effective date of this ordinance; provided that any such application for subdivision plat approval did not expire or lapse prior to the effective date of this ordinance; and provided that Ordinance No. 298-1

shall be deemed fully replaced by this Ordinance as to all other property.

(b). Any development for which a Community Impact Fee component was properly paid under Ordinance No. 298-1, or any prior ordinance, that adds additional service units will be charged the impact fee established by this ordinance for each such additional service unit. No additional impact fee shall be assessed against any such development unless the number of service units required to service such tract or property shall increase. Should the number of required service units increase, impact fees shall be increased in an amount equal to the impact fee established by this Ordinance multiplied by the difference in number of service units.

Section 3.2. Fees under this Ordinance. (a) Unless there is executed an agreement for payment of impact fees in another manner, the Community Impact Fee imposed by this Ordinance shall apply to new development not coming under 3.1 (a) above.

(b) The Community Impact Fee for development coming under this section shall be assessed and collected with respect to:

(i) land platted after the adoption of this ordinance, ;at the time the City releases such plat for recording; and

(ii) development which occurs or is proposed without platting, at the earlier of the time application is made for a building permit or application is made for connection to the City's water or wastewater system.

(c) Impact fees may be assessed but not collected for property where service is not available unless:

(i) the City commits to commence construction of necessary facilities identified in the capital improvements plan within two years and will have service available within a reasonable time not to exceed five years;

(ii) the City agrees in writing to permit the property owner to construct or finance the required capital improvement(s) or facility expansion(s) and that the costs incurred or funds advanced by such owner will either

(A) be credited against the impact fees otherwise due from such owner;

(B) reimburse the owner for such costs from impact fees paid from such owner and other new developments that will use such improvements or expansions, in which case fees shall be reimbursed to the owner as and when collected by the City from new development; or

(C) the owner voluntarily requests the City to reserve capacity to serve future development and the City and the owner enter into a valid written agreement; provided that any such impact fee assessed but not collected, and for which no written agreement is entered into between the City and the property owner pursuant to this Section 3 _ 2(c), shall be thereafter collected at the earlier of the time the City contracts for the capital improvements necessary to serve the property or service is made

available to the property.

(d) A property owner and the City may enter into a valid written agreement providing for the time and method of the payment of impact fees. which agreement shall prevail over any contrary provision of this Ordinance.

Section 3.3. Calculation of Impact Fees. (a) Impact fees shall be calculated based upon the number of service units as determined by using the conversion table provided in Exhibit "A". The impact fee required for any property, development or application shall be determined by multiplying the number of service units in the proposed development by the amount of the respective impact fees per service unit set forth in Section 2.3 and in Exhibit "A".

(b) Should the number of service units required for any property increase after the impact fees for such property are assessed and collected, the impact fees for such property shall be increased in an amount equal to the impact fee established by this Ordinance multiplied by the number of additional service units required for such property.

(c) The total amount of impact fees to be paid to and deposited into the impact fee account by the City for any development shall be reduced by any allowable credits, if any, for the category of capital improvements as provided in Section 3.7.

(d) If at anytime impact fees are assessed against any property but are unpaid, the total amount of such unpaid impact fees shall be attached to the development application, plat and/or other documents applicable to the property and thereafter collected

(i) at the earliest time provided for in this Ordinance; and

(ii) in no event later than the date service is connected to the property.

(e) Replatting shall not require recalculation of impact fees unless the number of service units is increased. If a proposed replat increases the number of service units, the impact fee shall be recalculated as provided in Section 3.3(b) above.

Section 3.4. In Addition to Other Fees. The Community Impact Fee shall be charged in addition to all other fees set out by City Ordinance or regulation including, but not limited to, building permit fees and tap fees, park land dedication requirements and payments in lieu, and dedication of easements and right-of-way.

Section 3.5. Easement Exclusive of Fees. If granting of easements or rights-of-way is necessary to construction of an impact fee capital improvement, said easement shall be granted by the record owner of the land so affected, exclusive and in addition to the payment of the impact fee, and at the time of payment of the impact fee, as a condition of service. if construction of an impact fee capital improvement is undertaken by the City in any public right-of-way due to lack of said easement, and subsequent relocation of the improvement is required by any public agency, the record owner of the land shall bear all expense of said relocation.

Section 3.6. Appeals. (a) The property owner or applicant for new development may appeal the following decisions to the City Council: (1) the applicability of an impact fee to the development; (2) the amount of the impact fee due; (3) the availability or the amount of any

credit; (4) the application of any credit against an impact fee due; (5) the amount of a refund due, if any.

(b) The burden of proof shall be on the appellant to demonstrate that the amount of the fee or the amount of the credit was not calculated according to the applicable schedule of service units or the guidelines established for determining credits.

(c) The appellant must file a notice of appeal with the City Secretary within thirty (30) days following the decision appealed from. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the City Attorney in an amount equal to the original determination of the impact fee due, the development application may be processed while the appeal is pending.

Section 3.7. Credits. If the property owner and the City have entered into a valid written agreement authorized by the City Council, then, in that event, to the extent provided for in such agreement, if any, the property owner shall be entitled to:

(a) an off-set against or credit for the payment of impact fees otherwise payable by such property owner for the land being developed, to the extent of the approved costs and expense of any such construction, contribution, or dedication of any facility appearing on the capital improvements plan which is required to be constructed by the City in order to serve a property owner's development, that is paid or made by such property owner;

(b) A credit against any category of impact fee as provided in the agreement; or

(c) Reimbursement for the costs of capital improvement(s), constructed or paid by the property owner, from impact fees received from other new developments that will use such capital improvement(s) or facility expansion(s).

Section 3.8. Refunds. (a) On the request of an owner of property on which an impact fee has been paid, the political subdivision shall refund the impact fee if existing facilities are available and service is denied or the political subdivision has, after collecting the fee when service was not available, failed to commence construction within two years or service is not available within a reasonable period considering the type of capital improvement or facility expansion to be constructed, but in no event later than five years from the date of the fee payment.

(b) Upon completion of all the capital improvements or facilities expansions identified in the impact fee capital improvements plan, the City shall recalculate the maximum impact fee per service unit using the actual costs of the capital improvements or expansions. If the maximum impact fee per service unit based on actual cost is less than the impact fee per service unit paid, the City shall refund the difference, if such difference exceeds the impact fee paid by more than ten percent (10%). The refund to the record owner shall be calculated by multiplying such difference by the number of service units for the development for which the fee was paid, and interest due shall be calculated upon that amount.

(c) The City shall refund any impact fee or part thereof that is not spent as authorized by this Ordinance within 10 years after the date of the fee payment.

(d) An impact fee collected pursuant to this Ordinance shall be considered expended if the total expenditures for capital improvements or facilities expansions authorized in Section 2.7 within the service area within ten (10) years following the date of collection exceeds the total fees collected for such improvements or expansions during such period.

(e) If a refund is due pursuant to this section, the City shall pro-rate the same by dividing 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 total refund payable to any such property owner shall be calculated by multiplying the refund due per service unit by the number of service units for the property for which the fee was paid, and interest due shall be calculated upon that amount.

(f) Refunds shall be made only to the record owner of the property at the time of the refund and shall bear interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Article 1.03, Title 79, Revised Statutes (Article 50691.03), or its successor.

Section 3.9. Updates to Plan and Revision of Fees. (a) The City shall update its land use assumptions and impact fee capital improvements plan and shall recalculate its impact fees not less than once every three years in accordance with the procedures set forth in *Tex. Rev. Civ. Stat., T-x. Loc. Gov't. Code, Chapt. 395*, or in any successor statute; provided that after giving the required notice the City Council may determine that no changes or amendments are required.

(b) The City may review its land use assumptions, impact fee capital improvements plan, and other factors such as market conditions more frequently than provided in subsection (a) to determine if the land use assumptions and capital improvements plan should be updated and the impact fee recalculated accordingly.

Section 3.10. Prohibition Against Transfer. The payment of impact fees and credits earned under this Ordinance shall inure to the benefit of and remain with the land for which such impact fees were paid or credits earned, and may not be sold, assigned, conveyed or transferred for the benefit of any other land or property. No impact fee receipts, LUEs, rights, benefits or credits arising under this Ordinance may be sold, assigned, transferred or conveyed except to a subsequent grantee or purchaser of the land for which such fee was paid or credit earned. All rights or benefits arising from the payment of an impact fee or any credit shall automatically vest in the owner and each subsequent owner of the land for which the fee was paid or credit earned.

PART 4: CLOSING PROVISIONS.

Section 4.1. 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 4.2. Amendment. Ordinance No. 298 is hereby updated and amended in its entirety; provided that such ordinance shall remain in force and effect as herein provided with respect to

plats and applications for building permits submitted prior to the effective date of this ordinance.

Section 4.3. Severability. If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Section 4.4. Code of Ordinances. It is the intention of the Council that this ordinance shall become a part of the Code of Ordinances of the City of Kyle, Texas, and may be renumbered and codified therein accordingly.

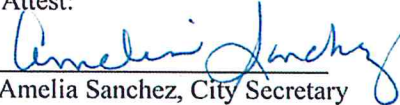
Section 4.5. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the City Charter, and it is accordingly so ordained.

Section 4.6. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on first reading this the 19th day of Feb. 2008.

FINALLY PASSED AND APPROVED on second and final reading on the 4th day of March, 2008.

Attest:


Amelia Sanchez, City Secretary

City of Kyle, Texas


Miguel Gonzalez, Mayor

REPORT TO CITY COUNCIL
ON
IMPACT FEES

RECOMMENDATIONS OF ADVISORY COMMITTEE

CITY OF KYLE

Hays County, Texas

Prepared by:

*Neptune-Wilkinson Associates, Inc.
Consulting Engineers
4010 Manchaca Road
Austin, Texas 78704
(512) 462-3373*

December 3, 2007
Revised December 6, 2007
Revised December 13, 2007
Revised February 12, 2008

TABLE OF CONTENTS

REPORT TO CITY COUNCIL

ADVISORY COMMITTEE RECOMMENDATIONS ON IMPACT FEES

I.	INTRODUCTION AND RECOMMENDATIONS	
II.	SUMMARY OF ADVISORY COMMITTEE DELIBERATIONS	
	A. Land Use Assumptions	4
	B. Service Area	4
	C. Richmond Branch Sub-basin	5
	D. Capital Improvements Plan (CIP)	5
	E. Other Issues	5
TABLE 1	LAND USE DENSITIES	6
TABLE 2	SUMMARY OF WATER CIP PROJECTS	7
TABLE 3	SUMMARY OF WASTEWATER CIP PROJECTS	10
EXHIBITS	Richmond Branch Subarea and Facilities	
	Land Use Map	
	Water Service Area Map	
	Wastewater Service Area Map	
	Water Impact Fee CIP Projects	
	Wastewater Impact Fee CIP Projects	
	Notice of Public Hearing	

**REPORT TO CITY COUNCIL ON
IMPACT FEES
ADVISORY COMMITTEE RECOMMENDATIONS**

I. INTRODUCTION AND RECOMMENDATIONS

The Impact Fee Advisory Committee met on November 13, 2007 to discuss Land Use Assumptions and Service Areas and again on November 27, 2007 to discuss the Capital Improvements Plan and amount of Impact Fees. Copies of the Reports for these meetings with Exhibits are on file for public review at City Hall.

The following six recommendations were made at the November 27, 2007 Advisory Committee Meeting:

- A. Recommendation to Council to add approximately 770 acres to Water Service Area to include area transferred from County Line Water Supply Corporation and the area to be transferred with the Hidden Valley Subdivision development.
- B. Recommendation to Council to add approximately 2,716 acres to Wastewater Service Area to include Pecanwood Planned Unit Development (708 acres), LaSalle Development (980 acres) and Richmond Branch Subarea Expansion (1,028 acres).
- C. Recommendation to Council to modify Land Use Map and Land Use Assumptions to accommodate new City limits and the above Water and Wastewater Service Area additions.
- D. Recommendation to Council to amend the Water and Sewer Certificates of Convenience and Necessity (CCN) Service Areas to correspond with Impact Fee Service Areas, where possible.

- E. Recommend adoption of the 5-Year CIP consisting of 48 ²⁾ water and wastewater projects including 25 percent of the Guadalupe-Blanco River Authority surface water supply projects as the basis of calculating the Impact Fee.
- F. Recommend adoption of updated Impact Fees by revision to Ordinance 298-1 in the following amounts per each living unit equivalent (LUE).

Water	\$2,115
Wastewater	\$2,216

II. SUMMARY OF ADVISORY COMMITTEE DELIBERATIONS

A. Land Use Assumptions

The Land Use Map was modified to include areas in the City limits and extraterritorial jurisdiction that have been added since the 2000 Comprehensive Plan. The land use densities were not changed. It was acknowledged this planning document will be extensively reviewed when the comprehensive plan is revised. The land use densities are shown in TABLE 1.

B. Service Area

The Service Area in which Impact Fees can be collected were proposed to be modified slightly to reflect changes in the Certificate of Convenience and Necessity (CCN) Water Service Area since the Year 2000 and proposed projects which overlap the present Wastewater Service Area.

Also, the area served by the Richmond Branch Lift Station was proposed to be expanded to the east to include area that has projects requesting sewer service, including Chapa Middle School.

2) Revision dated 12/13/07

C. Richmond Branch Sub-basin

Extending wastewater service to 1,028 acres east of Dacy Lane was considered resulting from service requests in the area. A Capital Improvements Plan (CIP) was developed in four phases to serve the expanded area and these projects are proposed to be incorporated into the CIP and be eligible for Impact Fee funding.

D. Capital Improvements Plan (CIP)

The 5-Year CIP and 10-Year CIP from the Year 2000 were proposed to be modified to include recent public infrastructure projects, Plum Creek CIP projects, utility supply and treatment investments and eligible projects from the 2006 Capital Program. The list of 46 projects to be in the revised CIP are in TABLE 2 and TABLE 3.

E. Other Issues

It was also recommended by the Advisory Committee to begin the process of amending the City's Water and Sewer Certificates of Convenience and Necessity (CCN) to include a new areas now proposed in the Impact Fee Service Areas. Impact Fees can also be implemented for street and drainage projects. A motion was passed to examine the use of Impact Fees for roadway projects; however, the work is beyond the scope of the present study and not part of this Report.

TABLE 1**LAND USE DENSITIES**

LAND USE	DENSITY (LUEs/ac)	ACRES IN STUDY AREA	LIVING UNIT EQUIVALENT
Agricultural	0.04	7,155	286
Vacant/ROW	0	504	0
Multifamily (high density)	12.0	206	2,472
Commercial	2.00	751	1,502
Light Industrial	0.70	765	536
Heavy Industrial	0.80	724	579
Manufactured Housing	4.00	133	532
Public	1.00	1,054	1,054
Single Family (Large lot)	0.33	10,570	3,488
Single Family (Residential)	2.00	8,342	16,684
Multifamily (Low Density)	6.00	90	540
Mixed Use Development	3.35	805	2,697
TOTAL	0.98 LUEs/AC	31,099 Acres	30,370 LUEs

TABLE 2

SUMMARY OF WATER CIP PROJECTS

A. WATER SUPPLY AND TREATMENT FACILITIES

Well No. 4	\$189,000
GBRA Raw Water Facilities	921,000
GBRA IH-35 Transmission Facilities	2,190,800
GBRA San Marcos Plant	<u>1,382,100</u>

TOTAL \$4,682,900

Living Unit Equivalents (LUEs) 4,888

Supply and Treatment Component of Impact Fee \$958

B. GROUND STORAGE WATER FACILITIES

150,000 Gallon Rebel Tank	\$125,000
250,000 Gallon Yarrington Tank (Non-Grant Share)	92,000
Water Supply Tanks (Goforth and FM 1626)	<u>820,400</u>

TOTAL \$1,037,400

Living Unit Equivalents (LUEs) 7,000

Ground Storage Component of Impact Fee \$148

C. ELEVATED STORAGE WATER FACILITIES

Plum Creek Elevated Tank	\$326,000
Kohlers Crossing Elevated Tank	717,200
Post Oak Elevated Tank	<u>750,000</u>

TOTAL \$1,793,200

Living Unit Equivalents (LUEs)	12,500
Elevated Storage Component of Impact Fee	\$143
D. <u>PUMPING STATION WATER FACILITIES</u>	
Yarrington Road (Non-Grant Share)	\$58,000
Water Supply Pumping Stations (Goforth and FM 1626)	<u>619,500</u>
TOTAL	\$677,500
Living Unit Equivalents (LUEs)	2,079
Pumping Station Component of Impact Fee	\$326
E. <u>TRANSMISSION LINE WATER FACILITIES</u>	
West IH-35 North Transmission Line	\$535,000
West IH-35 South Transmission Line	203,600
Highway 150 / County Road 136 Line	645,000
County Road 138 Transmission Line	151,800
County Road 137 Transmission Line	301,400
East IH-35 South Transmission Line	201,300
North Supplemental Supply and Transmission, Phase 1	1,003,900
North Supplemental Supply and Transmission, Phase 2	299,000 ²⁾
Goforth Road Supply and Transmission (Contract No. 1)	353,900
Lehman Road Interconnect	52,600
Plum Creek / FM 1626 Zone 930' Transmission Line	976,200
HEB 930' Pressure Zone Transmission Line	150,400
Stagecoach Forest Transmission Main	197,500
Plum Creek Phase 1 Water Line A1	511,300
Plum Creek Phase 2 Water Line A2	300,200
Plum Creek Phase 2 Water Line B	368,500
Plum Creek Phase 2 Water Line C1	209,900
Plum Creek Phase 2 Water Line D1	309,300
Seton / SCC Public Infrastructure	<u>770,400</u>

2) Revision dated 12/13/07

TOTAL	\$7,541,200	2)
System Wide Living Unit Equivalentents (LUEs)	13,810	
Transmission Component of Impact Fee	\$546	2)
F. <u>SYSTEM-WIDE STUDIES</u>		
Comprehensive Utility Master Plan	\$125,000	
System Inventory and GIS System	<u>100,000</u>	
TOTAL	\$225,000	
System-Wide Living Unit Equivalentents (LUEs)	13,810	
Studies Component of Impact Fee	\$16	
<u>SUMMARY OF WATER FACILITIES IMPACT FEE</u>		
A. Supply and Treatment	\$958	
B. Ground Storage	148	
C. Elevated Storage	143	
D. Pumping Station	326	
E. Transmission Lines	546	2)
F. Studies	<u>16</u>	
TOTAL WATER IMPACT FEE	\$2,137	2)

2) Revision dated 12/13/07

TABLE 3

SUMMARY OF WASTEWATER CIP PROJECTS

A. WASTEWATER TREATMENT FACILITIES

Annual Capital Cost (billed by Aqua-Texas)		\$365,692
Finance Period		20 Years
Capacity of Phase 2 WWTP	<u>1,500,000 gpd</u> 350 gpd/LUE	= 4,286 LUEs
Treatment Component of Impact Fee	<u>\$365,092 x 20 years</u> 4,286 LUEs	= \$1,706

B. WASTEWATER TRANSPORT FACILITIES

Bunton Basin	Richmond Subarea Phase 2	\$615,000	
	Bunton Interceptor Phase 1	484,500	
	Bunton Interceptor Phase 2	989,200	
	Bunton Interceptor Phase 2A	379,400	
	Bunton Interceptor Phase 3	2,565,500	
	Caraway Branch	338,300	
	Wastewater Line C1, Plum Creek	548,900	1)
	Wastewater Line C2 Plum Creek	661,800	1)
Plum Creek Basin	Plum Creek Interceptor Ph. 1 & 2	1,870,400	
	Wastewater Line B	344,600	
	Elliott Branch Interceptor	848,900	
	Seton/SCC Wastewater Infrastructure	568,000	3)
Blanco Basin	West Side	<u>1,650,000</u>	
	TOTAL	\$11,864,500	3)

1) Revision dated 12/06/07

3) Revision dated 02/12/08

Living Unit Equivalents (LUEs)

Richmond Branch outside of Bunton Basin	718
Bunton Basin	8,818
Plum Creek Basin	10,837
Blanco Basin	<u>1,127</u>
TOTAL LUEs	21,500

Transport Component of Impact Fee	<u>\$11,864,500</u>	\$525	3)
	21,500 LUEs		

C. SYSTEM-WIDE STUDIES

Comprehensive Utility Master Plan	\$125,000
System Inventory and GIS System	<u>100,000</u>

TOTAL \$225,000

System Wide Living Unit Equivalents (LUEs) 21,500

Study Component of Impact Fee 11

SUMMARY OF WASTEWATER FACILITIES IMPACT FEE

A. Treatment	\$1,706
B. Transport	552
C. Study	<u>11</u>

TOTAL WASTEWATER IMPACT FEE \$2,269 3)

1) Revision dated 12/06/07

3) Revision dated 02/12/08

EXHIBIT A

FACILITY CAPACITY RATING CRITERIA

TYPES OF CAPITAL IMPROVEMENT FACILITIES

WATER FACILITIES

CAPACITY RATING

Wells	0.6 gpm/LUE
Service Pumps	2.0 gpm/LUE
Elevated Storage	100 gallons /LUE
Total Storage (elevated and ground)	200 gallons/LUE
Transmission Mains	System-wide (13,810 LUEs)

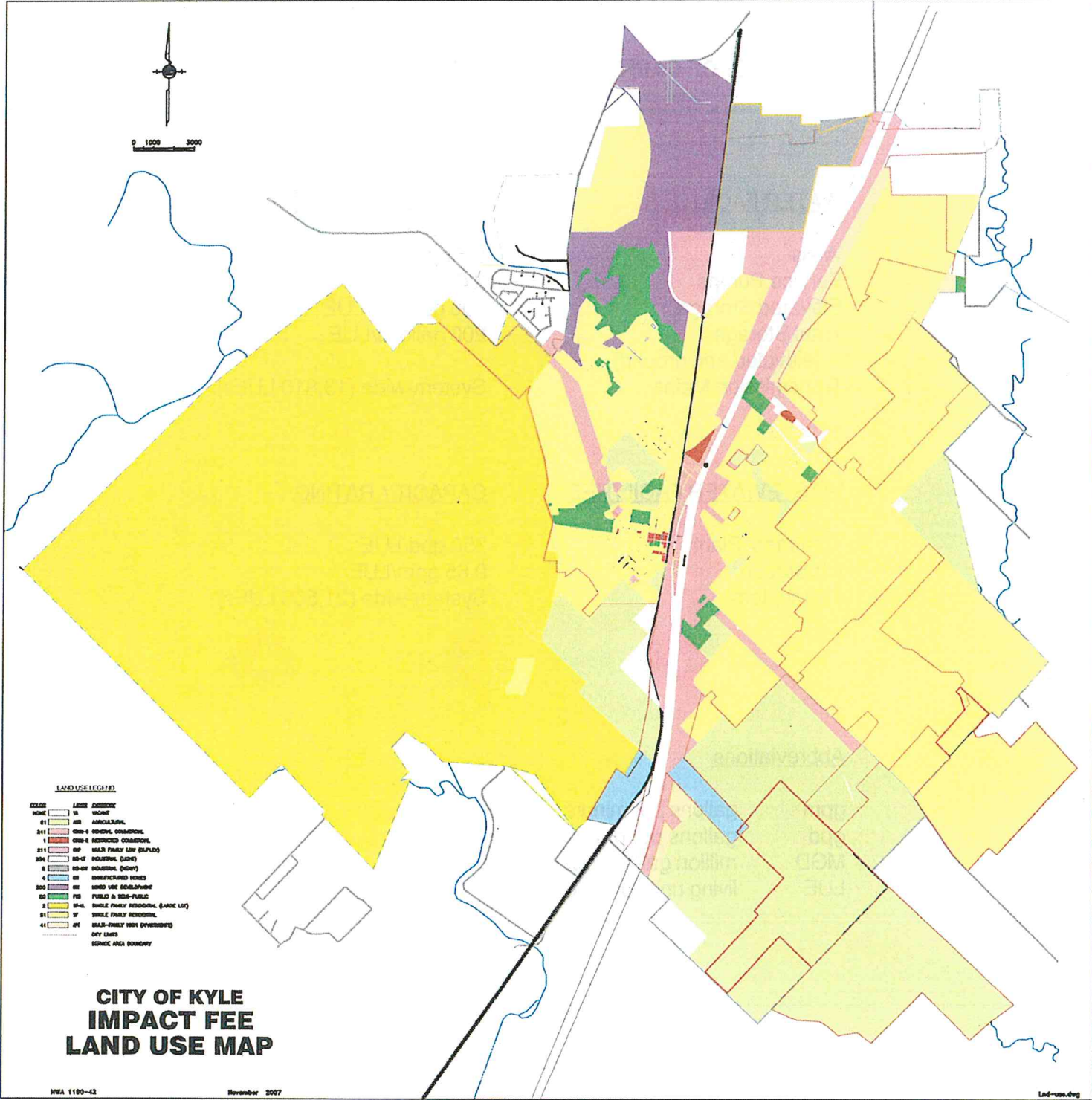
WASTEWATER FACILITIES

CAPACITY RATING

Treatment Plant	350 gpd/LUE
Lift Station	0.65 gpm/LUE
Interceptors	System-wide (21,500 LUEs)

Abbreviations

gpm	gallons per minute
gpd	gallons per day
MGD	million gallons per day
LUE	living unit equivalent



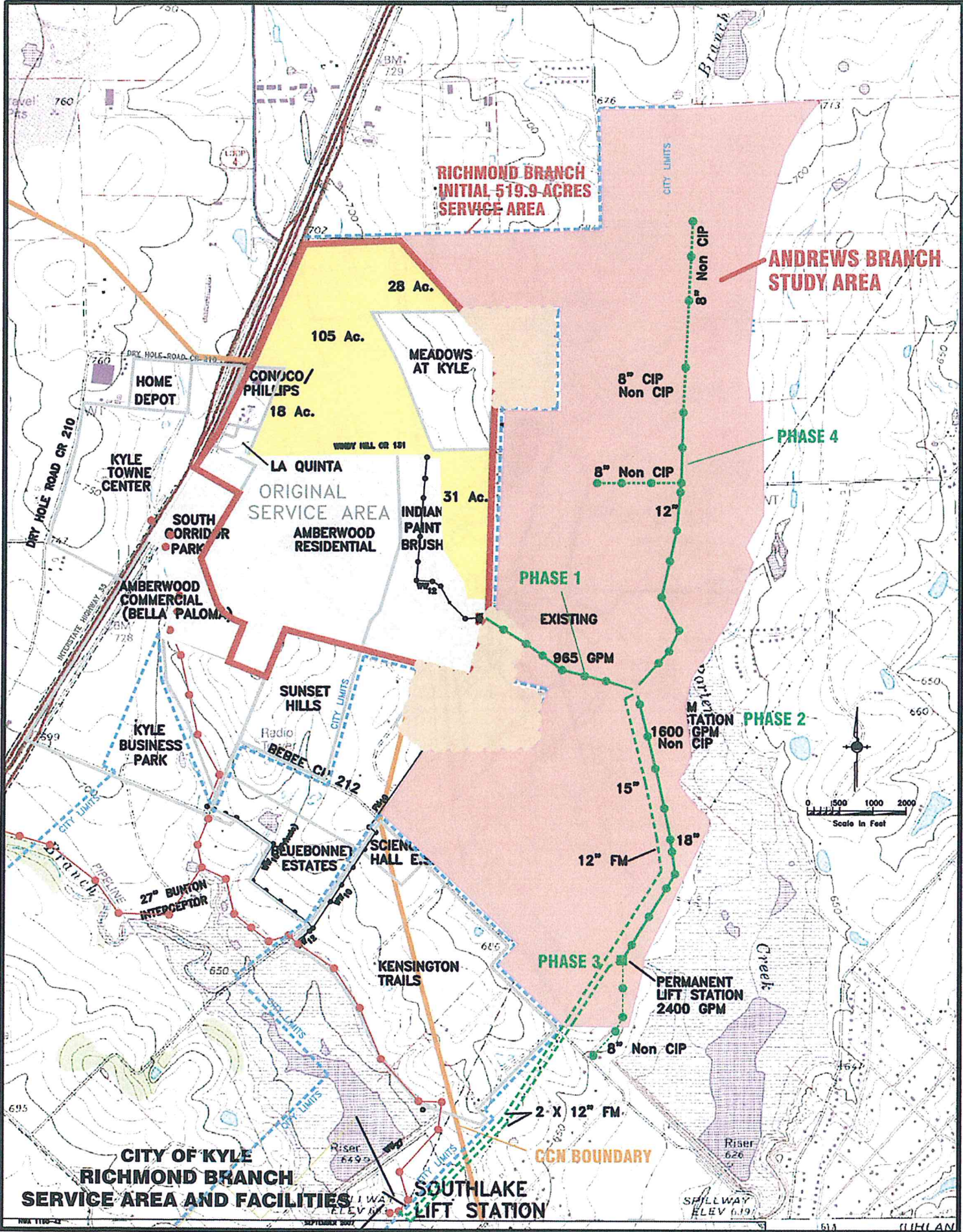
LAND USE LEGEND

- 02000 L2000 LARGE COMMERCIAL
- 03000 R3000 RESIDENTIAL
- 01100 A1100 AGRICULTURAL
- 04100 O4100 GENERAL COMMERCIAL
- 05100 O5100 RESTRICTED COMMERCIAL
- 06100 O6100 SINGLE FAMILY LOW DENSITY
- 07000 R7000 RESIDENTIAL (DENSE)
- 08000 R8000 INDUSTRIAL (DENSE)
- 09000 R9000 MANUFACTURING ZONES
- 10000 R1000 MIXED USE DEVELOPMENT
- 11000 P1100 PUBLIC & SEMI-PUBLIC
- 12000 R1200 SINGLE FAMILY RESIDENTIAL (SINGLE LOT)
- 13000 R1300 SINGLE FAMILY RESIDENTIAL
- 14000 R1400 MASS-FAMILY HOUS (OVERDENSITY)
- 15000 L1500 CITY LIMITS
- 16000 B1600 SERVICE AREA BOUNDARY

**CITY OF KYLE
IMPACT FEE
LAND USE MAP**

**RICHMOND BRANCH
INITIAL 519.9 ACRES
SERVICE AREA**

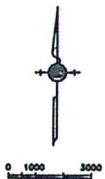
**ANDREWS BRANCH
STUDY AREA**



**CITY OF KYLE
RICHMOND BRANCH
SERVICE AREA AND FACILITIES**

**SOUTHLAKE
LIFT STATION**

CCG BOUNDARY



MOUNTAIN CITY
(11447)

MEADOW WOODS
(11157)

MONARCH
(12530)

GOFORTH
(11356)

BLANCO RIVER CROSSING
(11157)

COUNTY LINE
(10292)

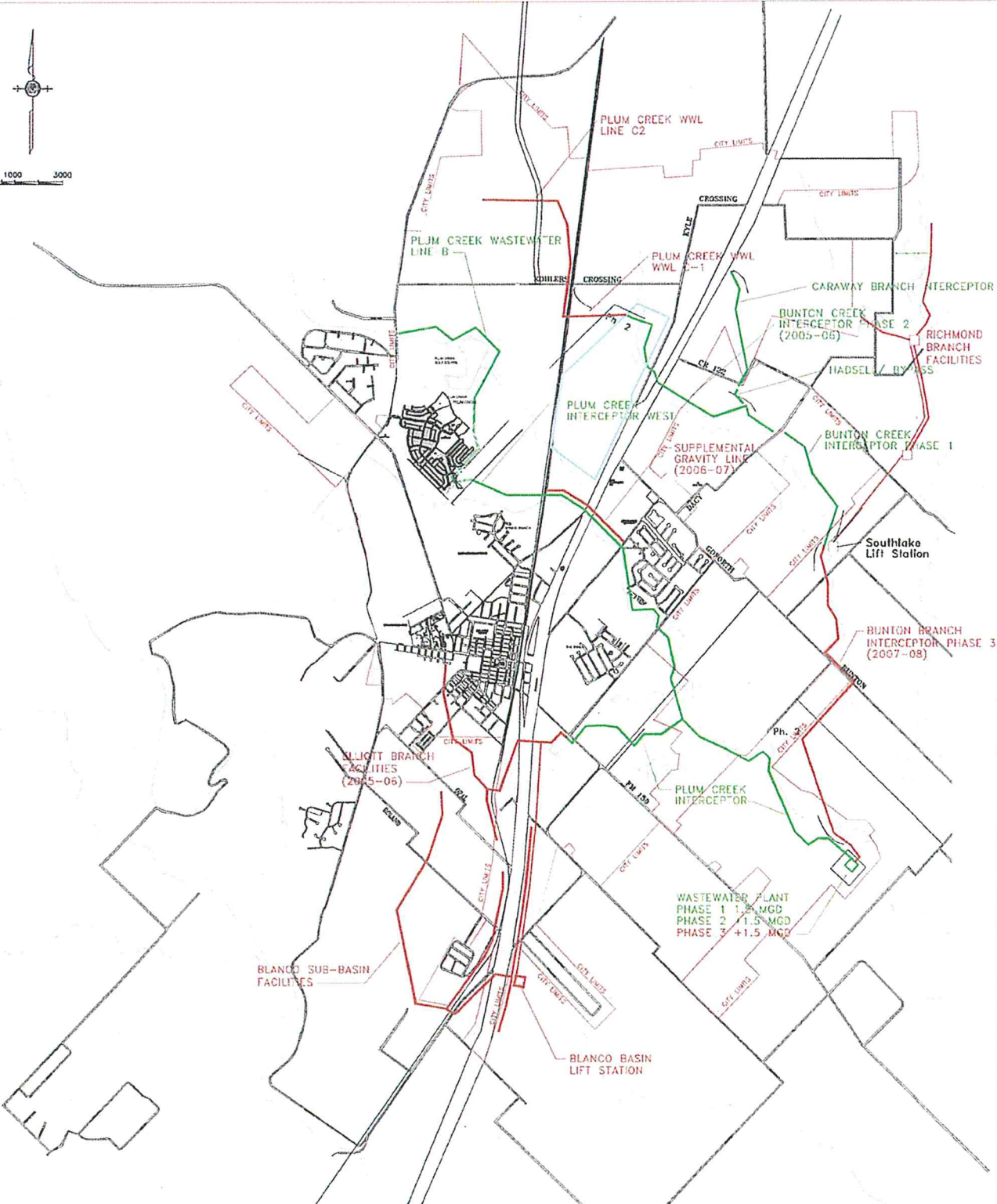
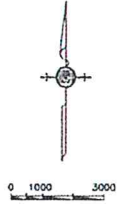
SAN MARCOS
(10298)

MAXWELL
(10293)

- LEGEND**
- City Limits
 - Water Service Area Boundary
 - Water CCN Boundary

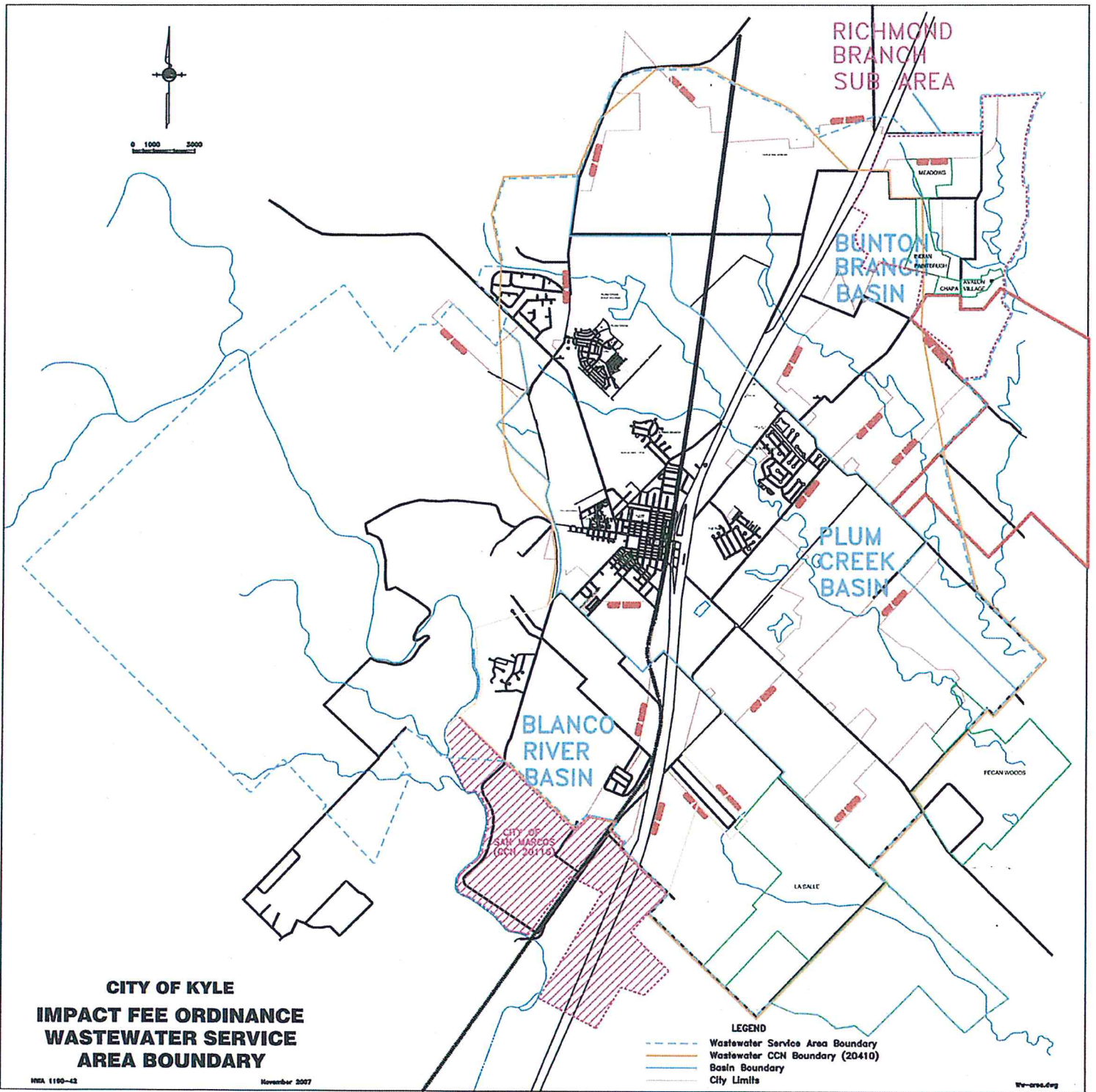
NOTE: Hatched Areas Are Adjacent CCN Area

**CITY OF KYLE
IMPACT FEE ORDINANCE
WATER SERVICE
AREA BOUNDARY AND CCN AREAS**



Existing		PROPOSED	
	Gravity Interceptor Line		
	Force Main		
	Lift Station		

**CITY OF KYLE
WASTEWATER
IMPACT FEE CIP PROJECTS**



ORDINANCE NO. 812

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 50, "UTILITIES," ARTICLE VI, "IMPACT FEES," SEC. 50-233(a), BY ADDING A DEFINITION OF "REDUNDANT METER"; AMENDING SEC. 50-261 OF SAID CHAPTER TO EXEMPT REDUNDANT METERS FROM PAYMENT OF IMPACT FEES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING REPEAL OF CONFLICTING ORDINANCES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING AN EFFECTIVE DATE; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED HERETO.

WHEREAS, the current ordinance governing impact fees periodically duplicates such fees to be paid by parties who install redundant water meters for the purpose of providing secondary, emergency back-up water; and,

WHEREAS, redundant water meters are commonly relied upon by medical and medical-allied facilities and utility providers; and,

WHEREAS, it is in the best interest of public safety, health and welfare to expedite the use of redundant water meters to vital facilities and providers by eliminating duplicate impact fees;

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

Section 1. The facts and findings recited hereinabove are found to be true and correct and are hereby adopted as part of this ordinance.

Section 2. Chapter 50, Article VI, Division 1, Sec. 50-233(a) ("Definitions") of the Code of Ordinances of the City of Kyle shall be amended to read as follows:

"Sec. 50-233. Definitions.

Redundant meter means any secondary meter or meters required for the purpose of providing emergency or necessary water if and when the primary meter or meters should fail, but the total volume of the primary and redundant meters shall not exceed the maximum volume of the primary meter. This term includes the periodic use of a secondary meter or meters for the purpose of flushing, testing, or maintaining such secondary meter or meters."

Section 3. Sec. 50-261 of Chapter 50, "Exemption or waiver" Article VI, Division 2, of the Code of Ordinances of the City of Kyle shall be amended to read as follows:

"Sec. 50-261. Exemption or waiver.

(b) The owner, user or custodian of a redundant meter shall be exempted from payment of impact fees under this article on said meter. The owner, user or custodian of any meter determined by the city not to be a redundant meter as defined herein shall be required to

comply with this article, including the payment of impact fees on any meter determined not to be a redundant meter.

Section 4. If any section, subsection, sentence, clause, phrase or word of this ordinance is declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

Section 5. All ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of this ordinance shall govern.

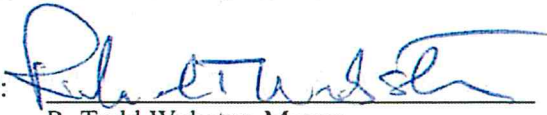
Section 6. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, TEX. GOV'T CODE, and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon.

Section 7. This ordinance shall take effect from and after its final passage and publication as required by law.

PASSED AND APPROVED on First Reading this 1st day of July, 2014.

PASSED AND ADOPTED on Second Reading this 15 day of July, 2014.

THE CITY OF KYLE, TEXAS

BY: 
R. Todd Webster, Mayor

ATTEST:


Amelia Sanchez, City Secretary

APPROVED AS TO FORM:


W. Ken Johnson, City Attorney