

ORDINANCE NO. 145.0

AN ORDINANCE OF THE CITY OF FAIR OAKS RANCH, TEXAS, AMENDING ORDINANCE NO. 131.0, ESTABLISHING IMPACT FEES FOR WASTEWATER UTILITIES AND ORDINANCE NO. 134.0, ESTABLISHING IMPACT FEES FOR WATER UTILITIES.

WHEREAS, the City of Fair Oaks Ranch, Texas, is responsible for and committed to the provision of public facilities and services (including water and wastewater service) at levels necessary to cure any existing public service deficiencies in already developed areas; and

WHEREAS, such facilities and service levels shall be provided by the City of Fair Oaks Ranch utilizing funds allocated in the capital budget and capital improvements programming processes and relying upon the funding sources indicated therein; and

WHEREAS, new residential and nonresidential development causes and imposes increased and excessive demands upon Fair Oaks Ranch Water and Wastewater Utilities public facilities and services that would not otherwise occur; and

WHEREAS, to the extent that such new development places demands upon the public facility infrastructure, those demands should be satisfied by shifting the responsibility for financing the provision of such facilities from the public at large to the developments actually creating the demands for them; and

WHEREAS, the amount of the impact fee to be imposed shall be determined by the cost of the additional public facilities needed to support such development, which public facilities shall be identified in a Capital Improvements Program, and

WHEREAS, the City Council, after careful consideration of the matter, hereby finds and declares that Impact Fees imposed upon residential and nonresidential development to finance specified major public facilities, the demand for which is created by such development, is in the best interests of the general welfare of the City and its residents, is equitable, and does not impose an unfair burden on such development;

WHEREAS, in 1987 the Texas Legislature adopted Senate Bill 336, now Texas Local Government Code Chapter 395; and

WHEREAS, the City Council finds that in all things the City has complied with said statute in the notice, adoption, promulgation, and methodology necessary to adopt Impact Fees; and

WHEREAS, the City has completed a review and update of the Land Use Assumptions Plan, the Capital Improvements Plan for water and wastewater facilities, and the Impact Fees in accordance with the procedures set forth in Texas Local Government Code Chapter 395; and

WHEREAS, Ordinance No. 131.0, establishing Impact Fees for wastewater utilities and, Ordinance No. 134.0, establishing Impact Fees water utilities, are no longer adequate:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS, THAT ORDINANCE NO 131.0, AND ORDINANCE NO 134.0, THE WASTEWATER AND WATER IMPACT FEE ORDINANCES OF THE CITY OF FAIR OAKS RANCH, TEXAS, ARE HEREBY COMBINED AND AMENDED TO READ AS FOLLOWS:

WATER AND WASTEWATER IMPACT FEES

ARTICLE I GENERAL PROVISIONS

Section 1.1 Short Title

This Ordinance shall be known and cited as the Water and Wastewater Impact Fees Ordinance.

Section 1.2 Intent

This Ordinance is intended to impose water and wastewater Impact Fees, as established in this Ordinance, in order to finance public facilities, the demand for which is generated by new development in the designated service area.

Section 1.3 Authority

The City is authorized to enact this Ordinance by Texas Local Government Code Chapter 395 (Senate Bill 336 enacted by the 70th Texas Legislature) and its successors, which authorizes cities, among others, to enact or impose impact 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. The provisions of this Ordinance shall not be construed to limit the power of the City to adopt such Ordinance pursuant to any other source of local authority, nor to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this Ordinance. Guidelines may be developed by resolution or otherwise to implement and administer this chapter.

Section 1.4 Definitions

As applied in this Ordinance, the following words and terms shall be used:

- (1) Area-related Facility - A capital improvement or facility expansion which is designated in the Capital Improvements Plan and which is not a site-related service facility. An area-related service facility may include a capital improvement which is located off-site, within, or on the perimeter of the development site.
- (2) 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.
- (3) Fair Oaks Ranch Utilities - the municipal water and wastewater utilities of the City of Fair Oaks Ranch, Texas.
- (4) Capital Construction Cost of Service - Costs of constructing capital improvements or facility expansions, including and 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), and the fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the Capital Improvements Plan who is not an employee of the City.
- (5) Impact Fee Advisory Committee (Advisory Committee) - Advisory committee, appointed by the City Council, consisting of at least five members which are not employees of the City, not less than 40 percent of which shall be representatives of the real estate, development, or building industries, which is appointed to regularly review and update the Capital Improvements Program in accordance with the requirements of Texas Local Government Code Chapter 395, and its successors.
- (6) Capital Improvements Program (CIP) - Plan which identifies water and wastewater capital improvements or facility expansions pursuant to which Impact Fees may be assessed.
- (7) Impact Fee - Fee to be imposed upon new development, calculated based upon the growth-related costs of facilities in proportion to development creating the need for such facilities. Impact Fees do not include dedication of rights-of-way or easements, or construction or dedication of site-related water distribution or wastewater collection facilities required by other ordinances of the City Code or policy.
- (8) City - City of Fair Oaks Ranch, Texas.

- (9) City Council (Council) - Governing body of the City of Fair Oaks Ranch, Texas.
- (10) City Administrator - The chief administrative and executive officer of the City, appointed by the City Council and responsible to the City Council for the administration of all the affairs of the city. City Administrator includes any city employee designated to act in the city administrator's behalf.
- (11) Commercial Development - For the purposes of this Ordinance, all development which is neither residential nor industrial. Commercial development includes any structure or structures on a single lot designed to accommodate more than four dwelling units.
- (12) Duplex - A structure on a single lot designed to accommodate two dwelling units.
- (13) Dwelling Unit - a structure or portion of an overall structure in which a typical household or person or unrelated persons would reside together. A single dwelling unit would include a single family detached house or individual units of attached housing, i.e., one unit within a duplex, triplex, quadplex, or larger apartment building.
- (14) Building Permit - Written document issued by the City pursuant to Ordinance No. 75.15 and its successors authorizing the development of a lot and or improvement to dwelling units, structures or other facilities located on said lot. Building Permit shall include the issuance of a permit for irrigation or sprinkler systems.
- (15) Existing Development - All development within the service area which has an approved final plat.
- (16) Facility Expansion - The expansion of the capacity of an existing facility in order that the existing facility may serve new development. Facility expansion does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.
- (17) Final Subdivision Plat or Final Plat - The map, drawing, or chart of a subdivision, which has received final approval by the City Council and is recorded with the office of the County Clerk.
- (18) Quadplex - A structure on a single lot designed to accommodate four dwelling units
- (19) Growth-Related Costs - Capital construction costs of service related to providing additional service units to new development, either from excess capacity in existing facilities, from facility expansions, or from new capital facilities. Growth-related costs do not include:

- (a) Construction, acquisition, or expansion of public facilities or assets other than capital improvements or facility expansions identified in the Capital Improvements Plan;
 - (b) Repair, operation, or maintenance of existing or new capital improvements or facility expansions;
 - (c) Upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;
 - (d) Upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;
 - (e) Administrative and operating costs of the City's Utilities; and
 - (f) Principal payments and interest or other finance charges on bonds or other indebtedness, except for such payments for growth-related facilities contained in the capital improvements program.
- (20) Land Use Assumptions Plan - Projections of changes in land uses, densities, intensities, and population therein over at least a 10-year period, adopted by the City, as may be amended from time to time, upon which the Capital Improvement Plan is based.
- (21) Living Unit Equivalent (LUE) - Basis for establishing equivalency among and within various customer classes based upon the relationship of the continuous duty maximum flow rate in gallons per minute for a water meter of a given size and type compared to the continuous duty maximum flow rate in gallons per minute for a 3/4" diameter simple water meter, using American Water Works Association C700-C703 standards. For purposes of this ordinance, 5/8" water meters are considered to equal one (1) LUE. LUE's for various water meter sizes are shown on table 1:
- (22) New Development - Subdivision of land; or 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 for water or wastewater service. New development includes the provision of water or wastewater service resulting from the conversion of an individual well, or septic or other individual waste disposal system, to the Fair Oaks Ranch Utilities' water or wastewater systems.

- (23) Residential - A lot developed for use and occupancy as a single-family residence, duplex, triplex, or quadplex.
- (24) Service Area - Area within the corporate boundaries and within the extraterritorial jurisdiction as defined by the Municipal Annexation Act (Chapter 41. Section 4202. Local Government Code), or such areas as contractually defined to be served by the water and wastewater capital improvements or facilities expansions specified in the capital improvements program applicable to the service area.
- (25) Service Unit - Standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements or facility expansions, expressed in living units equivalent.
- (26) Single-Family Residence - Single-family dwelling unit.
- (27) Site-related Facility - 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 developer or property owner is solely responsible under subdivision and other applicable regulations.
- (28) Application for City Utility Service - The filing with the City of a written application for a water or wastewater service and the acceptance of applicable fees by the City. The term "Application for City Utility Service" shall not be applicable to a meter purchased for and exclusively dedicated to fire protection.
- (29) Triplex - A structure on a single lot designed to accommodate three dwelling units
- (30) Wastewater Facility - Improvement for providing wastewater service, including, but not limited to, land or easements, treatment facilities, lift stations, or interceptor mains. Wastewater facilities exclude dedication of rights-of-way or easements or construction or dedication of on-site wastewater collection facilities required by valid ordinances or policies of the City and necessitated by and attributable to the new development.
- (31) Wastewater Facility Expansion - Expansion of the capacity of any existing wastewater facility for the purpose of serving new development, not including the repair, maintenance, modernization, or expansion of an existing wastewater facility to serve existing development.

- (32) Wastewater Capital Improvements Plan (Wastewater CIP) - Portion of the CIP, as may be amended from time to time, which identifies the wastewater facilities or wastewater facility expansions and their associated costs which are necessitated by and which are attributable to new development, for a period not to exceed ten (10) years, which are to be financed in whole or in part through the imposition of wastewater impact fees pursuant to this Ordinance.
- (33) Water Facility - Improvement for providing water service, including, but not limited to, land or easements, water supply facilities, treatment facilities, pumping facilities, storage facilities, or transmission mains. Water facilities also exclude dedication of rights-of-way or easements or construction or dedication of on-site water distribution facilities required by valid ordinances of the City and necessitated by and attributable to the new development.
- (34) Water Facility Expansion - Expansion of the capacity of any existing water facility for the purpose of serving new development, not including the repair, maintenance, modernization, or expansion of an existing water facility to serve existing development.
- (35) Water Capital Improvements Plan- (Water CIP) - Portion of the CIP, as may be amended from time to time, which identifies the water facilities or water facility expansions and their associated costs which are necessitated by and which are attributable to new development, for a period not to exceed ten (10) years, which are to be financed in whole or in part through the imposition of water impact fees pursuant to this Ordinance.

Section 1.5 Applicability of Impact Fees

No new development shall be exempt from the assessment of Impact Fees as defined in this Ordinance. However, the City Council of Fair Oaks Ranch may determine that for reasons of general community welfare, the applicable fees shall be paid by the City into the appropriate utility funds in lieu of payment by the applicant.

Section 1.6 Impact Fees as Conditions of Development Approval

No application for new development shall be approved without assessment of Impact Fees pursuant to this Ordinance, and no Application for City Utility Service or Building Permit shall be issued unless the applicant has paid the Impact Fees imposed by and calculated herein.

Section 1.7 Service Units

- A. Service units are established in accordance with generally accepted engineering and planning standards.
- B. Upon application for City Building Permit, the number of service units for levy of impact fees related to major water and wastewater facilities shall be based on the living units equivalent as determined by the size of the water meter(s) for the development. In the case of a new multi-family customer with greater than four attached units where the units are to have individual water meters, the levy of impact fee can alternately be based upon the potential size of a hypothetical master meter that would serve all of the attached units, calculated from the fixture flow provisions found in the City's current Plumbing Code applied to a fixture count of all units in the multi-family building.
- C. If a fire demand meter is purchased for a property, the meter size utilized to calculate the number of LUE's shall be the dimension of the portion of the fire demand meter which reflects the meter size which would provide only domestic service to the property. Said reduced meter size shall then be utilized to calculate the number of LUE's. The meter types used to calculate the number of LUE's shall be either simple or compound meters.
- D. The City Council may revise the service units designation according to the procedure set forth in Texas Local Government Code Chapter 395 and its successors.

Section 1.8 Impact Fees Per Service Unit

- A. Unless changed by subsequent ordinance the Impact Fees per Living Unit Equivalent (LUE) for water and wastewater shall be Two Thousand Six Hundred Seventy-six and 53/100 Dollars (\$2,676.53) broken down as follows: One Thousand Six Hundred Sixty-nine and 58/100 Dollars (\$1,669.58) for water facilities, and One Thousand Six and 53/100 Dollars (\$1,006.53) for wastewater facilities. Impact Fees for various water meter sizes are shown on table 1:

Table 1 – LUE's and Impact Fees by Meter Size

Meter Size	LUE Equivalent	Maximum Water Impact Fee	Maximum Wastewater Impact Fee	Combined Maximum Impact Fee
3/4" Displacement Meter	1.00	\$ 1,669.58	\$ 1,006.95	\$ 2,676.53
1" Displacement Meter	1.67	\$ 2,782.63	\$ 1,678.25	\$ 4,460.88
1 1/2" Displacement Meter	3.33	\$ 5,565.27	\$ 3,356.50	\$ 8,921.77
2" Displacement Meter	5.42	\$ 9,043.56	\$ 5,454.31	\$ 14,497.87
2" Compound Meter	5.42	\$ 9,043.56	\$ 5,454.31	\$ 14,497.87
2" Turbine Meter	5.42	\$ 9,043.56	\$ 5,454.31	\$ 14,497.87
3" Compound Meter	10.63	\$ 17,739.29	\$ 10,698.84	\$ 28,438.13
3" Turbine Meter	11.67	\$ 19,478.43	\$ 11,747.75	\$ 31,226.18
4" Compound Meter	16.67	\$ 27,826.33	\$ 16,782.50	\$ 44,608.83
4" Turbine Meter	17.50	\$ 29,217.65	\$ 17,621.63	\$ 46,839.28
6" Compound Meter	33.33	\$ 55,652.67	\$ 33,565.00	\$ 89,217.67
6" Turbine Meter	45.83	\$ 76,522.42	\$ 46,151.88	\$ 122,674.29
8" Compound Meter	54.17	\$ 90,435.58	\$ 54,543.13	\$ 144,978.71
8" Turbine Meter	66.67	\$ 111,305.33	\$ 67,130.00	\$ 178,435.33

Section 1.9 Assessment of Impact Fees

- A. The approval of any subdivision of land or of any new development shall include as a condition the assessment of the impact fee applicable to such development.

- B. Assessment of the impact fee for any new development shall be made as follows:
 - 1. For a development which is submitted for approval pursuant to the City's subdivision regulations and policies following the effective date of this Ordinance, assessment shall be at the time of final plat approval, and shall be the amount as set forth in Section 1.8.

 - 2. No assessment of impact fees pursuant to this Ordinance shall be made for a development which has received final plat approval prior to the effective date of this Ordinance. Any development which has received final plat approval and has been assessed a impact fee under a previous ordinance shall not have that impact fee assessment changed.

3. For land on which new development occurs or is proposed to occur without platting, assessment shall be at any time during the development or building process, but not later than Application for City Building Permit.
 4. Because fire protection is of critical concern to the community as a whole, water demand related solely to fire protection is not subject to assessment of an impact fee. However, if the fire protection capacity of the fire demand meter is routinely utilized for domestic purposes as evidenced by the registration of consumption recorded on the City of Fair Oaks Ranch's meter-reading and billing systems, the current owner of the property shall be assessed the current Impact Fees, as set forth in Section 1.7.C, for the fire protection capacity which has been converted to domestic capacity by its routine usage as domestic capacity.
- C. Following assessment of the impact fee pursuant to subsection (B), no additional Impact Fees or increases thereof shall be assessed against that development unless the number of service units increases, as set forth under Section 1.7.
- D. Following the lapse or expiration of approval for a plat, a new assessment must be performed at the time a new final plat for such development is approved.

Section 1.10 Calculation of Impact Fees

- A. Following the request for new development as provided in Section 1.11 of this Ordinance, the City shall compute Impact Fees due for the new development in the following manner:
1. The applicable number of service units per dwelling unit or per water meter size shall be determined according to Section 1.7 of this Ordinance;
 2. The total service units shall be multiplied by the appropriate per-unit fee amount determined as set forth in Section 1.8

Section 1.11 Collection Of Impact Fees

- A. No approval of Application for City Building Permit or Utility Service shall be made until all relevant Impact Fees have been paid to the City, or until a "notice of impact fee due" is recorded as provided in this Section.

- B. For a platted or unplatted development which is submitted for approval pursuant to the City's subdivision regulations and Utilities policies subsequent to the effective date of this Ordinance, Impact Fees shall be collected at time of Application for City Building Permit.
- C. For a development which has received final plat approval prior to the effective date of this Ordinance and for which no replatting is necessary prior to provision of a water or wastewater utility services, Impact Fees shall be collected at the time of Application for City Building Permit except as provided by Section 1.14.
- D. In the event that a water or wastewater utility service is provided as the result of a conversion from an individual well, or septic or other individual waste disposal system, the appropriate fee shall be collected at the time of Application for City Utility Service, except as provided below:
 - 1. At the request of the applicant, and with the approval of the City Administrator, the Impact Fees for such customers may be paid in increments over a period of not more than one year.
 - 2. If the applicant chooses this extended payment option, the applicant shall, as a condition of utility service, sign and file with the City Administrator, and consent to the recordation of, a "notice of impact fee due", which shall be recorded as a lien against the subject property. The City shall release the lien held only upon payment in full of the Impact Fees and any late penalties.
 - 3. Late payments shall subject the applicant to a penalty of ten percent of the amount due in addition to all other remedies available to the City as lien holder.

Section 1.12 Offsets and Credits Against Impact Fees

- A. The City shall credit Impact Fees which have been paid pursuant to Ordinance No.131.0, and Ordinance No. 134.0, prior to the effective date of this Ordinance, against the amount of an impact fee due.

Section 1.13 Establishment of Accounts

- A. The City shall establish adequate accounting procedures to insure that the funds are kept separate and in interest bearing accounts.

- B. Interest earned by such accounts shall be credited to the appropriate fund and shall be used solely for the purposes specified for funds authorized in Section 1.14.
- C. The City shall establish adequate financial and accounting controls to ensure that Impact Fees disbursed from the accounts are utilized solely for the purposes authorized in Section 1.14. Disbursement of funds shall be authorized by the Fair Oaks Ranch Utility Board 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 Administrator shall maintain and keep adequate financial records for each such account, which shall show the source and disbursement of all revenues, which shall account for all monies received, and which shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the capital improvements program as area-related facilities. The City shall also maintain such records as are necessary to ensure that refunds are appropriately made under the provision in Section 1.16 of this Ordinance.

Section 1.14 Use of Proceeds of Impact Fee Accounts

- A. The Impact Fees collected pursuant to this Ordinance may be used to finance or to recoup capital construction costs of service. Impact Fees may also be used to retire bonds or 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 water and wastewater 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:
 - 1. Construction, acquisition or expansion of capital improvements or assets other than those identified for the appropriate utility in the Capital Improvements Plan;
 - 2. Repair, operation, or maintenance of existing or new capital improvements or facilities expansions;
 - 3. Upgrading, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;

4. 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
5. Administrative and operating costs of the City of Fair Oaks Ranch.

Section 1.15 Appeals

- A. The property owner or applicant for new development may appeal the following decisions to the Utility Board of Fair Oaks Ranch:
 1. The applicability of a impact fee to the development;
 2. The availability or the amount of an offset or credit;
 3. The application of an offset or credit against a impact fee due;
 4. The amount of the 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 offset or credit was not calculated according to the applicable impact fee schedule or the guidelines established for determining offsets and credits.
- C. If the appellant is dissatisfied with the decision of the Utility Board a notice of appeal may filed with the City Administrator of Fair Oaks Ranch within thirty (30) days following the decision. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the City Secretary in an amount equal to the original determination of the impact fee due, the development application or Application for City Building Permit may be processed while the appeal is pending.
- D. A person who has exhausted all administrative remedies as provided above, and is aggrieved by a final decision is entitled to trial de novo in accordance with Local Government Code Section 395.077

Section 1.16 Refunds

- A.
 1. Any Impact Fee or portion thereof collected pursuant to this Ordinance which has not been expended for the purposes and within the time frame set forth in Local

Government Code Section 395.002(a), shall, shall be refunded, upon application, to the record owner of the property at the time the refund is paid.

2. Any Impact Fee or part of it that is not spent as authorized by this ordinance within 10 years after the day of payment shall be refunded to the then owner of record within 60 days and without request by said owner of record.

- B. 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 1.14 within ten (10) years following the date of payment exceeds the total fees collected for such improvements or expansions during such period.
- C. If a refund is due pursuant to subsections (A) and (B), 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 refund to the record owner or governmental entity 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.
- D. Petition for refunds shall be submitted to the City Administrator on a form provided by the City for such purpose. Within two months of the date of receipt of a petition for refund, the City Administrator must provide the petitioner, in writing, with a decision on the refund request, including the reasons for the decision. If a refund is due to the petitioner, the City Administrator shall cause a refund payment be made to the petitioner. The petitioner may appeal the determination to the City Council of Fair Oaks Ranch, as set forth in Section 1.15.

Section 1.17 Updates to Plan and Revision of Fees

The City shall review the Land Use Assumptions Plan and Capital Improvements Plan for water and wastewater facilities at least every five years, the first five year period which shall commence from the date of adoption of the Capital Improvements Plan referenced herein. The City Council shall accordingly then make a determination of whether changes to the Land Use Assumptions Plan, Capital Improvements Plan or Impact Fees are needed and shall, in accordance with the procedures set forth in Texas Local Government Code Chapter 395, or any successor statute, either update the fees or make a determination that no update is necessary.

Section 1.18 Functions of Advisory Committee

- A. The functions of the Advisory Committee are those set forth in Texas Local Government Code Chapter 395, or any successor statute, and shall include the following:
 - 1. Advise and assist the City in adopting Land Use Assumptions Plan;
 - 2. Review the Capital Improvements Plan regarding water and wastewater capital improvements and file written comments thereon;
 - 3. Monitor and evaluate implementation of the Capital Improvements Program;
 - 4. Advise the City of the need to update or revise the Land Use Assumptions Plan, Capital Improvements Program, and Impact Fees; and
 - 5. File a semiannual report evaluating the progress of the City in achieving the Capital Improvements Plans and identifying any problems in implementing the plans or administering the Impact Fees.
- B. The City shall make available to the Advisory Committee any professional reports prepared in the development or implementation of the Capital Improvements Plan.
- C. The Council shall adopt procedural rules for the committee to follow in carrying out its duties.

Section 1.19 Relief Procedures

- A. The Council may grant a variance or waiver from any requirement of this ordinance, upon written request by a developer or owner of property subject to the ordinance, following a public hearing, and only upon finding that a strict application of such requirement would, when regarded as a whole, result in confiscation of the property.
- B. If the Council grants a variance or waiver to the amount of the Impact Fees due for a new development under this Section, it shall cause to be appropriated from other City funds the amount of the reduction in the Impact Fees to the account in which the fees would have been deposited.

Section 1.20 Exemption from Ordinance

No exemptions will be granted from payment of applicable water and wastewater Impact Fees, except as provided for in Section 1.19.

ARTICLE II

WATER FACILITIES FEES

- Section 2.01 Water Service Area The boundaries of the water and service area may be amended from time to time, and new water service areas may be delineated, pursuant to the procedures set forth in Texas Local Government Code Chapter 395 and its successors.
- Section 2.02 Land Use Assumptions Plan. The Land Use Assumptions Plan for the City of Fair Oaks Ranch for water facilities prepared by the Fair Oaks Ranch Utility Board and approved by the Utility Board on October 14, 2003 are hereby adopted and incorporated herein by reference.
- Section 2.03 Water Improvements Plan
- A. The Water Improvements Plan for the City of Fair Oaks Ranch for impact fee calculation purposes, prepared by HDR Engineering, and dated October 15, 2003 is hereby adopted and incorporated herein by reference.
 - B. The Water Improvements Plan may be amended from time to time, pursuant to the procedures set forth in Texas Local Government Code Chapter 395 and its successors.

ARTICLE III

WASTEWATER FACILITIES FEES

- Section 3.01 Wastewater Service Area The boundaries of the wastewater service area may be amended from time to time, and new wastewater service areas may be delineated, pursuant to the procedures set forth in Texas Local Government Code Chapter 395 and its successors.
- Section 3.02 Land Use Assumptions Plan. The Land Use Assumptions Plan for the City of Fair Oaks Ranch for wastewater facilities prepared by the Fair Oaks Ranch Utility Board and approved by the Utility Board on October 14, 2003 are hereby adopted and incorporated herein by reference.

Section 3.03 Wastewater Improvements Plan

- A. The Wastewater Improvements Plan for the City of Fair Oaks Ranch for Impact Fee calculation purposes prepared by HDR Engineering, and dated October 15, 2003 is hereby adopted and incorporated herein by reference.
- B. The Wastewater Improvements Plan may be amended from time to time, pursuant to the procedures set forth in Texas Local Government Code Chapter 395 and its successors.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

If any sentence, section, subsection, clause, phrase, part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes, which are hereby found and declared to be in furtherance of the public health, safety, and welfare. Any member of the City Council, City official, or employee charged with the enforcement of this ordinance, acting for the City in the discharge of his or her duties, shall not thereby render himself or herself personally liable; and is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of said duties.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Fair Oaks Ranch in court of competent jurisdiction, and this remedy shall be in addition to any penalty provision in this ordinance.

This Ordinance shall take effect immediately upon passage.

APPROVED and ADOPTED this the 15th day of Jan., 2004.

ATTEST:

A. Vanzant
City Secretary

APPROVED:

C. H. Hawley
Mayor

APPROVED AS TO FORM:

Adolph H. Jacobson
City Attorney