

ORDINANCE NUMBER 2016-1217-D

**AN ORDINANCE AMENDING ORD. NO. 2009-1217-C OF APRIL 21, 2009 BY:
(A) MEMORIALIZING THE ACCOMPLISHMENT OF CERTAIN PRE-
REQUISITE ADMINISTRATIVE PROCEDURES AND ADOPTING THE
AMENDED MAXIMUM ALLOWABLE AND AMENDED ACTUAL WATER
AND WASTEWATER IMPACT FEES; (B) PROVIDING FOR CERTAIN
QUALIFIED EXEMPTIONS FROM SUCH FEES; (C) PROVIDING FOR
SEVERABILITY; AND (D) PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, pursuant to Chapter 395 of the Texas Local Government Code, the City Commission of the City of Brownsville adopted the Maximum Allowable Water and Wastewater Impact Fees by passage of Ordinance No. 2009-1217-C on April, 21, 2009; and

WHEREAS, Chapter 395 of the Texas Local Government Code establishes the requirements and processes for a municipality to follow when: amending its existing Land Use Assumptions Plan; Capital Improvements Plan: and resulting Impact Fees, including: the development of an amended Land Use Assumptions Plan that forecasts the current demand within the water and wastewater service area for a ten year prospective planning period, and evaluates the existing capacity of the service area water and wastewater systems; the preparation of an amended Capital Improvements Plan that determines the infrastructure necessary to serve the projected demand; the calculation of amended maximum allowable water and wastewater impact fees based on the eligible projects within the amended Capital Improvements Plan; the implementation of certain qualified exemptions from paying impact fees in accordance with State law; and the establishment and continuation of a Capital Improvements Advisory Committee to periodically monitor the development of and to recommend said amended Plans and Impact Fees to the City Commission; and

WHEREAS, the City's current 2016 Capital Improvements Advisory Committee has monitored the development of and has recommended the adoption of an amended Land Use Assumptions Plan, Capital Improvements Plan, and amended maximum allowable Impact Fees based on these amended Plans and in accordance with Chapter 395 of the Texas Local Government Code; and

WHEREAS, on July 28th 2016, the City's present Capital Improvements Advisory Committee

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made written recommendations to the City Commission for potential updated revisions to the 2009 Land Use Assumptions Plan, 2009 Capital Improvements Plan, and current Maximum Allowable Water and Wastewater Impact Fees, all as comprehensively summarized in the "2016 Report on Water and Wastewater Impact Fees" prepared by Arcadis Design and Consultancy for the City of Brownsville and Brownsville Public Utilities Board, submitted and presented to the City Commission on September 20, 2016 and included herewith for reference as Exhibit "A"; and

WHEREAS, all local and Texas procedural requirements for the passage of this Ordinance have been met; and

WHEREAS, the City Commission, in accordance with Chapter 395 of the Texas Local Government Code, formally ordered a Public Hearing for Sept 20, 2016 to discuss and review the proposed updates, revisions, and amendments to the Land Use Assumptions Plan, Capital Improvements Plan, and Impact Fees; and

WHEREAS, pursuant to the cumulative input of the Capital Improvements Advisory Committee, the Brownsville Public Utilities Board and its engineering consultants, the general public and subsequent deliberations of the City Commission.

NOW THEREFOR, BE IT ORDAINED BY THE CITY OF BROWNSVILLE THAT:

- (1) The 2009 Maximum Allowable Water Impact Fee of \$1,389.00 per Equivalent Service Unit ("ESU") for Priority 1 and 2 Water system projects and the 2009 Maximum Allowable Wastewater Impact Fee of \$2,097.00 per ESU which were applicable within the Brownsville Public Utility Board's Certificated Water and Wastewater Service Area pursuant to Ordinance No. 2009-1217-C of April 21, 2009, are hereby updated, revised and amended to provide for a Zonal Impact Fee Rate Structure where the respective maximum allowable Impact Fees are as follows:

Max.Allowable Impact Fee	Water	Wastewater
Area 1	\$362.00	\$556.00
Areas 2&3	\$1438.00	\$1,974.00

- (2) The actual 2009 Water and Wastewater Impact Fees within the Brownsville Public Utility Board's Certificated Water and Wastewater Service Area pursuant to Ordinance No. 2009-

1217-C of April 21, 2009, are hereby updated, revised, amended and are hereby adopted as follows:

Adopted Impact Fee	Water	Wastewater
Area 1	\$300.00	\$500.00
Areas 2&3	\$600.00	\$1,000.00

- (3) Additionally, it is further hereby provided pursuant to the enabling language found in Texas Local Government Code Sections 395.016(g) and 395.022(a), (b) respectively, and as may be amended, that the City of Brownsville may reduce or waive an impact fee for any service unit that would qualify as affordable housing under 42 U.S.C. Section 12745, as amended, once the service unit is constructed. The City's Planning Department will administer this provision and direct the Brownsville Public Utilities Board in writing accordingly. Further, other political subdivisions and governmental entities may choose to voluntarily pay impact fees to the Brownsville Public Utilities Board on behalf of the City of Brownsville, if the terms of any negotiated written contract call for such voluntary payment.


The Brownsville Independent School District is specifically not required to pay impact fees to the Brownsville Public Utilities Board on behalf of the City, unless the School District Board knowingly consents to the voluntary payment of said impact fees in a written contractual instrument for reasons deemed advisable by the District's Board of Trustees.

- (4) Any and all remaining portions of Ordinance No. 2009-1217-C which do not conflict with the contents of this October 4, 2016 amending Ordinance, shall remain in full force and effect, otherwise any conflicting portions of the above referenced Ordinance are hereby repealed.
- (5) The Brownsville Public Utilities Board is hereby directed to administratively review and amend any appropriate and applicable Water and Wastewater Service Policies within sixty

(60) days of the effective date of this Ordinance, to appropriately implement the intent of this Ordinance. The City Planning Department is also hereby directed to administratively review and amend any appropriate and applicable Development Regulations within sixty (60) days of the effective date of this Ordinance, to appropriately implement the intent of this Ordinance. The adopted rates are effective on the passage date of this ordinance.

- (6) This Ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Brownsville, Texas and this Ordinance shall not operate to repeal or effect 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.
- (7) The 2009 Water and Wastewater Capital Improvements Plan for water and wastewater capital improvements and facility expansions within the Brownsville Public Utility Board's Certificated Water and Wastewater Service Area adopted in Exhibit "A" of Ordinance No. 2009-1217-C on April 21, 2009, is hereby amended, revised, updated, and incorporated into Ordinance No. 2016-1217-D by this adoption of Exhibit "A" hereto.
- (8) If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, unenforceable or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance.
- (9) All of the regulations provided in this Ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public.
- (10) Pursuant to the Brownsville City Charter Sections 14, 17 and 18, this Ordinance, once passed by the City Commission and signed by the Mayor and City Secretary within two (2) days of any such passage, shall then be immediately recorded by the City Secretary in the City's Official Ordinance Book for public records, and then become immediately effective and lawfully enforceable.

Passed and Approved on this the 04th day of October, 2016.


Antonio "Tony" Martinez
Mayor

Attest:


Michael Lopez
City Secretary



Approved as to form and legality


Mark Sossi
City Attorney