

ORDINANCE NO. O-24-014

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 28, IMPACT FEES, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS ADOPTING STANDARDS PERTAINING TO THE IMPLEMENTATION OF IMPACT FEES WITHIN THE CITY LIMITS AND THE BRENHAM EXTRA-TERRITORIAL JURISDICTION (ETJ) IN ACCORDANCE WITH CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING FOR A REPEALER AND SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 395 of the Texas Local Government Code (“the Statute”) authorizes the City to enact impact fees as charges or assessments imposed against new development in order to generate revenue for recouping the costs of capital improvements necessitated by the new development; and

WHEREAS, on May 4, 2023 the City Council authorized the preparation of an Impact Fee Study (“Study”) by a qualified engineer, Strand Associates, Inc. which is on file and available in the City Secretary’s Office; and

WHEREAS, on July 13, 2023 the City Council appointed the Capital Improvements Advisory Committee pursuant to the Statute to review, advise and recommend the adoption of assessing impact fees in conjunction with the Study as conducted by Strand Associates, Inc.; and

WHEREAS, on December 7, 2023 the City Council, following procedures outlined in the Statute, passed Resolution R-23-044 adopting Land Use Assumptions and Water, Wastewater and Roadway Capital Improvement Plans for the designated service areas under which an impact fee may be imposed; and

WHEREAS, the Capital Improvements Advisory Committee (“CIAC”) filed its written comments and made its positive recommendation of the adoption of the proposed water, wastewater and roadway impact fees on January 24, 2024, before the date of the public hearing on the adoption of water, wastewater and roadway impact fees; and

WHEREAS, the recommendation of the CIAC and the adoption of water, wastewater and roadway impact fees were considered by the City of Brenham City Council during a public hearing held on February 1, 2024 at which all persons desiring to be heard were heard; and

WHEREAS, the City Council on February 22, 2024 adopted Chapter 28 – Impact Fees of the Code of Ordinances of the City of Brenham, Texas with an effective date of July 1, 2024, and now desires to adopt additional standards pertaining to the implementation of the previously adopted Impact Fees;

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

SECTION 1.

Chapter 28 – Impact Fees, Section 28-4 – Definitions of the Code of Ordinances of the City of Brenham, Texas, is hereby amended to include the additional definitions as specified below. All existing definitions contained in the existing ordinance shall remain and be reordered in alphabetical order:

Sec. 28-4. – Definitions.

Abandon. Shall mean a structure, property or development that once contained a habitable structure with a certificate of occupancy and water services which subsequently ceased occupancy and no longer actively uses water or sewer services as previously intended.

Legal Lot of Record. Shall mean a lot, the boundaries of which were established by a plat recorded in the office of the county clerk of Washington County, Texas before September 1, 1989, that has not been subdivided after September 1, 1989.

SECTION 2.

Chapter 28 – Impact Fees, Section 28-10 – Assessment of Impact Fees of the Code of Ordinances of the City of Brenham, Texas, is hereby amended to read as follows:

Sec. 28-10. – Assessment of Impact Fees.

1. No final plat for new development shall be released for recordation, and no building permit and/or plumbing permit shall be issued, without the assessment of applicable impact fees pursuant to this Chapter. Except as otherwise provided in this Chapter, no building permit and/or plumbing permit shall be issued until the owner has paid the applicable impact fees.
2. Following the lapse or expiration of an approved plat that was not recorded prior to its lapse or expiration, assessment of impact fees shall occur on the date the new final plat application is approved for recordation.
3. Impact fees shall not be assessed for new development on properties which are: 1) vacant; 2) do not contain a water service connection; and 3) which are determined by City Staff upon submittal of property records by the applicant, to be a legal lot of record as recorded in the Washington County Official Public Records.
4. For a new development which has received final plat approval before the Effective Date, assessment of impact fees shall occur on the Effective Date of this Chapter except as otherwise provided herein.
 - (a) Exception: Subdivision plats submitted for approval to the Development Services Department as of the Effective Date and not yet approved or recorded shall be eligible for the 1-year waiver of impact fees.

5. For a new development which has received final plat approval on or after the effective date, assessment of impact fees shall occur at the time of recordation of the final plat.
6. After assessment of the impact fees attributable to a new development, and/or in conjunction with the expansion or enlargement of a development in existence as of the effective date of this Chapter, additional impact fees or increases in fees may not be assessed against the tract unless the number of service units to be developed on the tract increases. In the event of the increase in the number of service units, the impact fees to be imposed are limited to the amount attributable to the additional service units. For all new development applications proposed to occur without a modification to the Subdivision Plat, assessment of required impact fees shall occur at the time of the building permit application.
7. For multiple-family residential, commercial, industrial and all non-residential uses, the effective service unit required shall be determined by a licensed engineer and approved by City Staff.
8. Irrigation meters that are a sub-meter to the main domestic meter shall not be assessed an impact fee for water or wastewater.
9. Irrigation meters that are 1.5-inches or greater shall be assessed an impact fee for water and shall not be assessed an impact fee for wastewater.
10. Impact fees for water or wastewater shall not be assessed for connections only utilized to provide fire protection.
11. Existing businesses abandoning their current location and relocating within the City of Brenham City Limits as a result of the Texas Department of Transportation State Highway 36/ US Highway 290 interchange reconstruction shall be exempt from the assessment of impact fees provided that property owners may exchange previously purchased connections for the equivalent number of service connections. Should the exchange of service connections results in an increase in the meter type and/or size as outlined in Table 1 and Table 2, the property owner shall be assessed the effective impact fee at the time of the new service connection based on the additional service units.

SECTION 3.

Chapter 28 – Impact Fees, Section 28-11 – Collection of Impact Fees of the Code of Ordinances of the City of Brenham, Texas, is hereby amended to read as follows:

Sec.28-11. – Collection of Impact Fees.

1. Impact fees shall be collected at the time of issuance of a building permit.
2. For a new development that received final plat approval before the Effective Date, impact fees may not be collected on any service unit for which a valid building permit is issued within one (1) year after the Effective Date of this Chapter; provided, however, such a service unit shall be subject to the collection of impact fees upon the submission of a subsequent application for a building permit if the subsequent building permit application is not issued within one (1) year after the Effective Date.

- Impact fees shall be assessed and collected on all properties of which a modification to the subdivision plat or legal lot of record is required in conjunction with new development and as defined in Chapter 23 – Subdivisions of the Code of Ordinances, City of Brenham, Texas.

SECTION 4.

All provisions of any ordinance, resolution, or other action of the City in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portions of said ordinances, resolutions or other actions shall remain in full force and effect.

SECTION 5.

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


SECTION 6.

This Ordinance, upon passage, approval and publication as required by law, shall take effect on July 1, 2024.

PASSED and **APPROVED** on its first reading this the 6th day of June, 2024.

PASSED and **APPROVED** on its second reading this the 20th day of June, 2024.

ATTEST:


Jeana Bellinger, TRMC, CMC
City Secretary




Atwood C. Kenjura
Mayor