



**City Council City Council Special Meeting
Tuesday, May 28, 2019
6:00 PM**

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's Office at (979) 265-2082 or FAX (979) 265-7345 for further information.

AGENDA

BE IT KNOWN that the **City Council** of the City of Richwood will meet in **City Council Special Meeting** on **Tuesday, May 28, 2019** at **6:00 PM** at 1800 N. Brazosport Blvd., Richwood, TX 77531 at the Richwood City Hall in the Council Chambers with the following agenda:

- I. CALL TO ORDER
- II. INVOCATION
- III. PLEDGES OF ALLEGIANCE 4
 - Pledge of Allegiance & Texas Pledge
- IV. ROLL CALL OF COUNCIL MEMBERS
- V. PUBLIC COMMENTS
 - All public comments will be subject to the following rules: all speakers will be permitted to speak no longer than 3 minutes; all speakers will only be permitted to speak once; speakers cannot defer their 3 minutes to another speaker; the first five individuals who sign up for the public comment section will be permitted to speak
- VI. APPROVAL OF MINUTES
- VII. DISCUSSION AND ACTION ITEMS
 - A. Public Hearing on adopting Land Use Assumptions and a Capital 5
 - Improvements Plan associated with the imposition of a proposed Impact Fee.
 - B. Public hearing on proposed amendments to Appendix B Zoning Ordinance of 14
 - the Code of Ordinances, to include but not limited to, changes in definitions, home occupations, all zoning district setbacks, accessory dwelling units, lot coverage, violations and penalties, and other zoning regulations
 - C. Discuss and consider a resolution adopting Land Use Assumptions and a 29
 - Capital Improvement Plan
 - D. Discuss and consider a resolution calling for Public Hearing on adoption of 84
 - proposed impact fees
- VIII. ADJOURNMENT

The City Council may go into Executive Session on any item listed on the Agenda in accordance with Section 551.071 of the Government Code (attorney-client privilege).

I, Giani B. Cantu, do hereby certify that I did, on 5/22/19 at _____ p.m., post this notice of meeting on the bulletin board at 1800 N. Brazosport Blvd., Richwood, TX, in compliance with the Texas Open Meetings Law.

Giani Cantu, City Secretary
City of Richwood

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Pledge of Allegiance

I pledge allegiance to the flag of
the United States of America and
to the republic for which it
stands, one nation under God,
indivisible, with liberty and
justice for all.

Texas Pledge

**Honor the Texas flag. I
pledge allegiance to thee,
Texas, one and indivisible.**

NOTICE OF PUBLIC HEARING ON LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN RELATING TO POSSIBLE ADOPTION OF IMPACT FEES

Notice is hereby given that a Public Hearing will be held before the City Council of the City of Richwood for the purpose of considering land use assumptions and capital improvements plan relating to possible adoption of impact fees.

Anyone seeking to give or receive information and/or present evidence for or against the land use assumptions and capital improvement plans should be present at Richwood City Hall (1800 N. Brazosport Boulevard) on Monday, May 28, 2019 at 6:00 p.m. before the City Council.

Michael Coon
City Manager



WATER AND WASTEWATER IMPACT FEES LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN

PUBLIC HEARING NO. 1

LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN

May 28, 2019



Impact Fee Process



Impact Fees 101 CIAC Presentation

Establish the CIAC

Identify Service Areas

Develop Land Use Assumptions

Develop Capital Improvements Plan

CIAC Workshop No. 1 – LUA and Impact Fee CIP

Public Hearing No. 1 & Council Approval of LUA/CIP

Impact Fee Calculation

CIAC Workshop No. 2 – Draft Impact Fees

Public Hearing No. 2 & Council Approval of Impact Fees

Adopt Water/Wastewater Impact Fee Ordinance

CIAC =
Capital
Improvements
Advisory
Committee

LUA =
Land Use
Assumptions

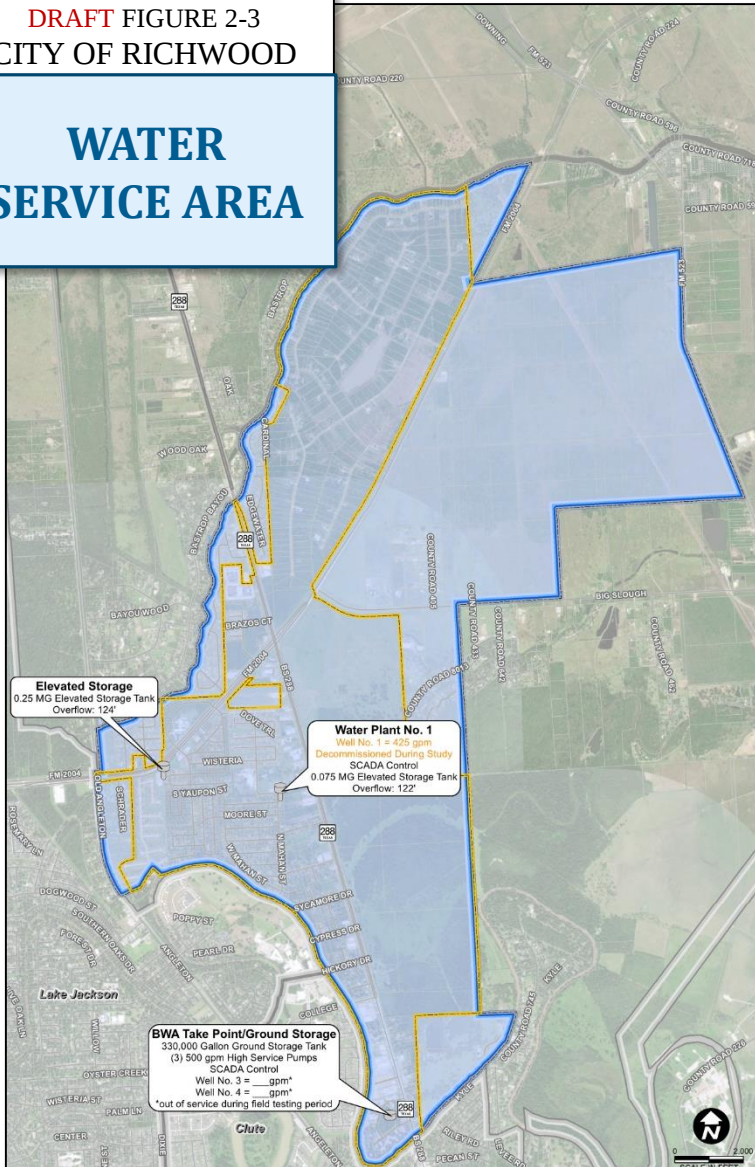
CIP =
Capital
Improvements
Plan

Water and Wastewater Impact Fee Service Area



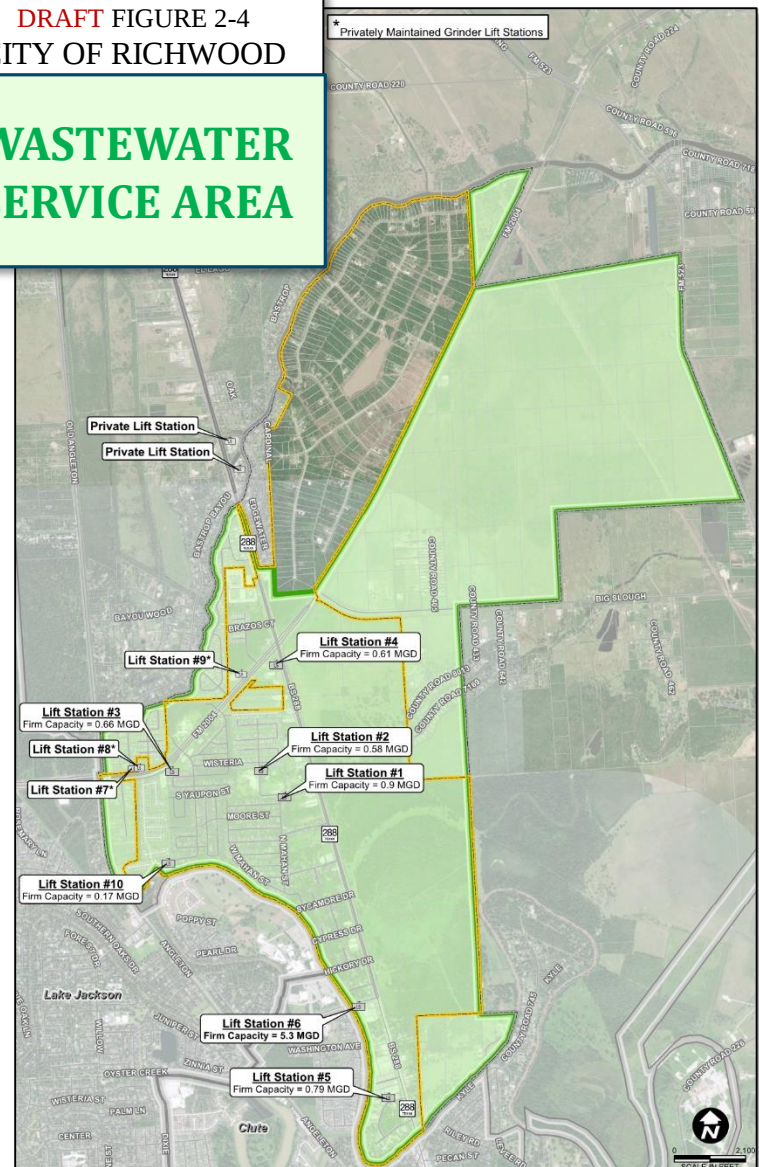
DRAFT FIGURE 2-3
CITY OF RICHWOOD

WATER SERVICE AREA



DRAFT FIGURE 2-4
CITY OF RICHWOOD

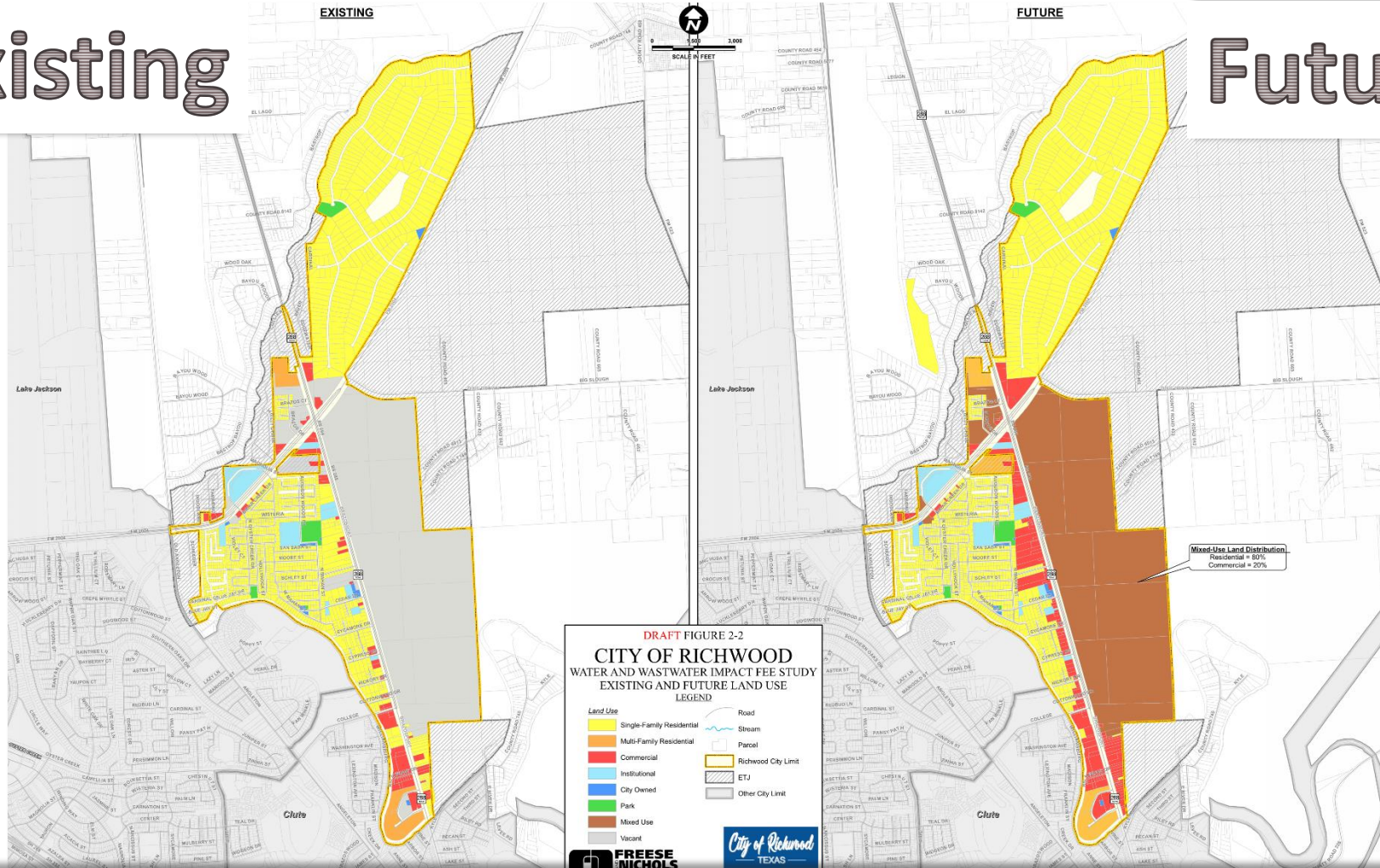
WASTEWATER SERVICE AREA



Land Use Assumptions

Existing

Future



10-Year Growth in Service Unit Equivalents (SUEs)

Water

1,708

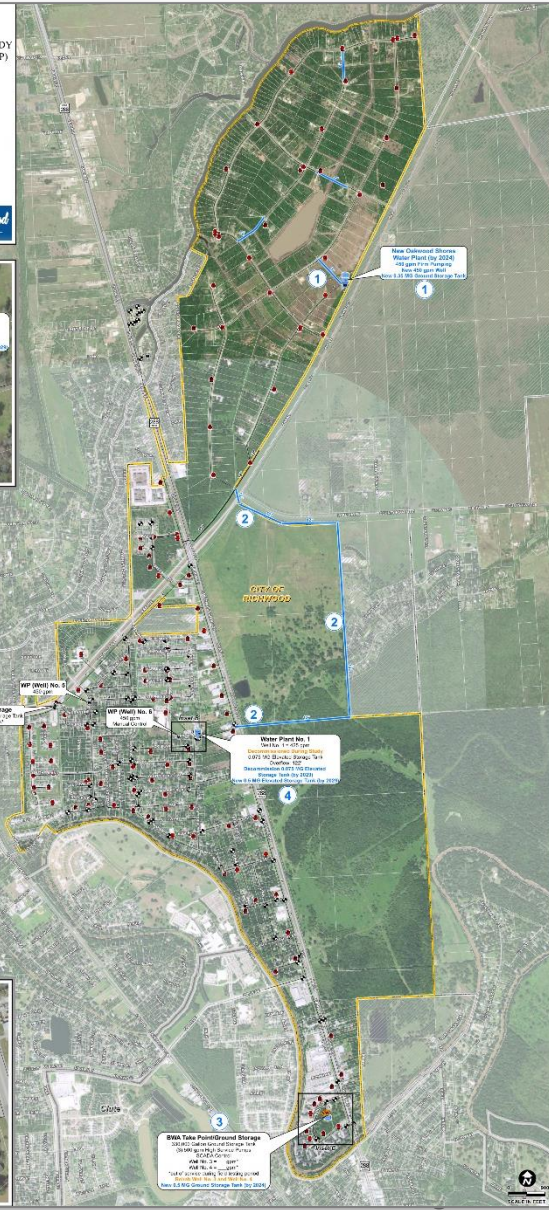
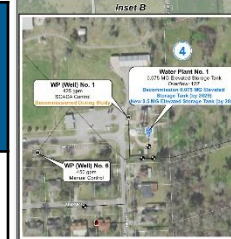
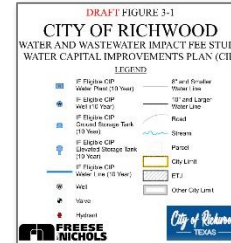
Wastewater

1,392

Water Impact Fee Capital Improvements Plan



City of Richwood
TEXAS



CIP No.	Description of Project	Capital Cost (2019 Dollars)
1	Construct New Oakwood Shores Water Plant	\$4,049,800
2	Construct New 12-inch East Water Line Loop	\$2,457,800
3	Construct New 0.5 MG Ground Storage Tank at BWA Take Point	\$780,000
4	Construct New 0.5 MG Elevated Storage Tank (EST)	\$2,925,000
Water Eligible Projects Total		\$10,212,600

CIP No.	Description of Project	Capital Cost (2019 Dollars)
1	New 1.5 MGD Lift Station No. 2A and 8-inch Force Main	\$2,614,600
2	New 2.6 MGD Lift Station No. 4A and 10-inch Force Main	\$3,379,000
3	New 1.0 MGD Wastewater Treatment Facility	\$13,260,000
4	New Wastewater Transfer System (Lift Station No. 6 to New WWTF)	\$3,381,700
Wastewater Eligible Projects Total		\$22,635,300



Next Steps



Action Item	Date	Action By
CIAC Impact Fees 101 Presentation	11/12/2018	City Staff, Council, CIAC, FNI
CIAC Workshop No. 1 – LUA and Impact Fee CIP	4/22/2019	City Staff, CIAC, FNI
Council Resolution for Public Hearing No. 1 for LUA/CIP	4/22/2019	City Staff, Council
Submit advertising for Public Hearing No. 1	4/23/2019	City Staff
Public Hearing No. 1 – Resolution Approving LUA/CIP	5/28/2019*	City Staff, Council, FNI
Council Resolution for Public Hearing No. 2 for Impact Fees	5/28/2019*	City Staff, Council
Submit advertising for Public Hearing No. 2	5/29/2019	City Staff
CIAC Workshop No. 2 – Draft Impact Fees	6/10/2019	City Staff, CIAC, FNI
CIAC submits written comments to Council	By 6/28/2019	City Staff, CIAC
Public Hearing No. 2 – Council Approval / Adopt Ordinance	7/8/2019	City Staff, Council, FNI

**Special Meeting*



Kendall Ryan, P.E.

(832) 456-4732

Kendall.Ryan@freese.com

NOTICE OF PUBLIC HEARING

Notice is hereby given that a Joint Public Hearing will be held before Planning Commission and City Council of the City of Richwood for the purpose of considering amendments to Appendix B Zoning Ordinance of the Code of Ordinances, to include but not limited to, changes in definitions, home occupations, all zoning district setbacks, accessory dwelling units, lot coverage, violations and penalties, and other zoning regulations.

Residents and citizens are encouraged to appear on Monday, May 28, 2019, at 6:00 p.m. before the City Council at Richwood City Hall (1800 N. Brazosport Boulevard) to give or receive information on this amendment.

Michael Coon
City Manager

ORDINANCE NUMBER 324-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHWOOD, TEXAS AMENDING APPENDIX B, ZONING ORDINANCE, IN ORDER TO DEFINE AND INCREASE THE ALLOWABLE LOT COVERAGE, DEFINE A SHADE TREE, CLARIFY THE REAR-YARD AND SIDE-YARD SETBACKS WITHIN RESIDENTIAL ZONING DISTRICTS, INCREASE THE REAR YARD SETBACK REQUIREMENTS FOR COMMERCIAL AND INDUSTRIAL DISTRICTS, ALLOW HOME OCCUPATIONS WITHIN RESIDENTIAL DISTRICTS WITHOUT A CONDITIONAL USE PERMIT WHEN LOCATED WITHIN THE RESIDENCE, AND TO INCREASE THE MINIMUM AND MAXIMUM FINES FOR VIOLATIONS OF THE ZONING ORDINANCE; FINDING THAT ALL PREREQUISITES OF THE LAW HAVE BEEN COMPLIED WITH AS NECESSARY; REPEALING ALL ORDINANCES TO THE EXTENT OF ANY CONFLICT HERewith; AND PROVIDING A SAVINGS CLAUSE.

WHEREAS, the City Council of Richwood wishes to clarify the zoning ordinance related to development regulations in residential, commercial, and industrial districts within the City; and

WHEREAS, the City Council of Richwood shall adopt the minimum and maximum fines violations of the Zoning Ordinance as permissible by the Local Government Code Sec. 54.001; and

WHEREAS, the City Council of Richwood wants to provide an option for an accessory dwelling unit (ADU) for owner occupied properties within single-family residential districts with large enough lots to adequately preserve the character of the neighborhood; and

WHEREAS, all prerequisites of the law have been complied to enable the City Council of the City of Richwood, Texas, to amend the Comprehensive Zoning Plan of said city as hereinafter set forth and all persons interested in such proposed amendments have been given a hearing before the Planning and Zoning Committee on the ____ day of ____, 2019, and by the City Council of the City of Richwood on the ____ day of ____, 2019 and the City Council has deemed the proposed Zoning Ordinance amendments are in the public interest;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RICHWOOD, BRAZORIA COUNTY TEXAS:

Section 1. The Recitals set forth above are found to be true and correct and are adopted as the findings of fact of the City.

Section 2. Appendix B, Zoning Ordinance of the City of Richwood, Texas is amended to read as set out in Appendix A, attached hereto. All other portions of the Zoning Ordinance not specifically amended hereby remain in full force and effect.

Section 3. All ordinances and parts of ordinances in conflict with this Ordinance are repealed to the extent of the conflict only.

Section 4. If any word, phrase, clause, sentence, paragraph, section or other part of this Ordinance or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, neither the remainder of this Ordinance, nor the application of such word, phrase, clause, sentence, paragraph, section or other part of this Ordinance to any other persons or circumstances, shall be affected thereby.

Section 5. The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this Ordinance was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

PASSED, APPROVED and ADOPTED this, the day of, 2019.

Steve Boykin, Mayor
City of Richwood, Texas

ATTEST:

Giani Cantu, City Secretary
City of Richwood, Texas

Appendix A

Appendix B – ZONING ORDINANCE

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Sec. 3. - Definitions.

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Accessory building or use: A subordinate building or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.

Accessory building (temporary): A subordinate building located on the same lot on which the main building is situated that is not affixed to a permanent foundation (such as a concrete, slab, piers) and can readily be relocated if needed. An Accessory building (temporary) may extend into, on, and/or over platted easements, so long as they are not permanently affixed to the ground, other than by their own weight or temporary removable anchors. Any encroachment into a recorded easement requires the approval by the utility companies and/or easement owner.

...

Accessory Dwelling Unit: An Accessory Dwelling Unit (ADU) is an additional, self-contained housing unit that is secondary to the main residence. ADUs are some-times referred to as “Granny units” or “Mother-In-Law units.” The intent of ADU’s is to allow direct family members, parents, children, brothers, & sisters to stay long-term as guests on an owner-occupied property. A typical example of an ADU is a residence above a garage or an accessory building on the property designed for visiting guests or family.

Acreage: Any tract or parcel of land which has not been subdivided and platted in accordance with the laws of the State of Texas regulating subdivisions and the filing thereof and which is not included in the definition of the term "subdivision" as contained in Ordinance Number 193 of the City of Richwood, Texas [now Code [ch. 19](#)] which is the ordinance governing land subdivision regulations within the city.

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Cluster house: Bungalow courts or premises of similar design intended for habitation by more than one family.

Conditional uses: The following uses of land or structures, or both, may be permitted within any "use district" subject to the provisions of this ordinance.

- [1.] Airport, land field or landing strip.
- [2.] Areas for the dumping or disposal of trash or garbage.
- [3.] Bus terminal, railroad passenger station or any other transportation facilities.
- [4.] Cemeteries, crematories or mausoleums.
- [5.] Churches and accessory buildings used for religious teaching.
- [6.] Extraction of gravel, sand or other raw materials.
- [7.] Golf courses, public or private.
- [8.] Home occupations located within an accessory building.

- [9.] Hospitals or sanitariums.
- [10.] Institutions for the care of the insane or feeble-minded.
- [11.] Municipal or privately owned recreation buildings or community centers.
- [12.] Nursery schools, day nurseries, and child care centers, provided there is a minimum of 80 square feet of outdoor play area for each child to be cared for, and that the play area is fenced and screened with planting from any adjoining lot in any "R" district.
- [13.] Parking area, public.
- [14.] Police stations, fire stations or places for storage of municipally owned equipment.
- [15.] Public administration buildings, auditoriums, gymnasiums or any other publicly-owned structures.
- [16.] Public or private parks or playgrounds.
- [17.] Public utility facilities, i.e., filtration plant or pumping stations, heat or power plants, transformer stations and other similar facilities.
- [18.] Radio and television antenna towers, commercial.
- [19.] Railroad right-of-way.
- [20.] Schools, public or private.
- [21.] Telephone exchanges.
- [22.] Trailer courts or mobile home parks.

Condominiums: A single structure which contains three or more residences having common walls between them whether adjacent vertically or horizontally or both vertically or horizontally whether each residence be owned by individual owners or several units owned by a group with no individually owned yard space.

...

Guesthouse: A structure for [human] habitation, containing one or more rooms with bath and toilet facilities, but not including a kitchen or facilities which would provide a complete housekeeping unit.

Home occupation. A home occupation is the use of an accessory structure on a lot zoned for residential use, which is for commercial purposes and clearly secondary to the use of the structure as a residential dwelling. A home occupation must comply with the requirements of [Section 5\(17\)](#) of the City of Richwood Code of Ordinances and any and all Texas occupational licensing laws.

Hospitals or sanitariums: An institution open to the public, in which sick patients or injured persons are given medical or surgical care; or for the care of contagious diseases or incurable patients.

...

Lot: A parcel of land occupied or suitable for occupancy by one main building or use, with accessory buildings, including the open spaces required by this ordinance, and having its principal frontage upon a public street or highway.

Lot Coverage: the amount of lot area covered by all structures measured by the footprint of the foundation(s) or slab(s).

Lot depth: The horizontal distance between the front and rear lot lines measured in the mean direction on the side lot lines.

...

Signs, outdoor advertising: Any card, cloth, paper, metal, painted, glass, wooden, plaster, stone or other sign of any kind or character whatsoever, placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure or anything whatsoever. The term "placed" as used in the definition of "outdoor advertising sign" and "outdoor advertising structure" shall include erecting, constructing, posting, painting, printing, tacking, nailing, glueing, sticking, carving or other fastening, affixing or making visible in any manner whatsoever.

Shade tree: a shade tree is any tree grown specifically for its shade. This term applies to large trees with spreading canopies. Examples of Texas native shade trees are Swamp Chestnut Oak, Live Oak, Willow Oak, Loblolly Pine, Bald Cypress, Sweetgum, American Elm, White (Upland) Ash, Green (Swamp) Ash, Drummond Red Maple, and Pecan.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding 14 feet in height shall be considered as an additional story for each 14 feet or fraction thereof.

...

Sec. 4. - [Districts.]

...

[b.] Each zoning classification has specific purposes and descriptions, permitted uses, maximum percentage of lot specifications to be used for building, minimum floor area or living space square foot requirements, maximum building height requirements, minimum lot area requirements, minimum lot frontage requirements, minimum depth requirements, minimum building set-back requirements, permitted accessory uses, accessory building limitations and conditional uses.

1. *R-1, single-family residence zone.* The purpose and description for single-family residence is for individual home sites. The permitted uses are single-family dwellings, and any conditional uses allowed by this ordinance. Garage apartments are not allowed in this district, unless as permitted by the provisions of an Accessory Dwelling Unit.

[a.] The maximum ~~percentage of the lot used for building will be~~ lot coverage must not exceed 40~~35~~ percent of the lot.

[b.] The minimum floor area, or living space in square feet will be 1,000 square feet.

[c.] The maximum building height will be 2½ stories or 35 feet.

[d.] The minimum lot size is as follows:

[1.] Front, 70 feet.

[2.] Depth, 120 feet.

[3.] Area, 8,400 square feet.

[e.] The minimum building setbacks are as follows:

[1.] Front, 25 feet.

[2.] Side, 7½ feet.

[3.] Rear, 20 ~~percent of the lot depth~~ feet.

- [4.] Side street, 15 feet.
- [f.] The permitted accessory uses are for private garages, storage sheds. No structure is permitted for any business enterprise.
- [g.] The accessory building requirements in a R-1 zone are as follows:
 - [1.] Maximum height, 25 feet.
 - [2.] Minimum setbacks from the property line are as follows for permanent structures:
 - [i.] Front, to the front of the house.
 - [ii.] Side, ~~7½~~ 5 feet.
 - [iii.] Back, ~~7½~~ 5 feet.
 - [iv.] Side Street, 15 feet.
 - [3.] Minimum setbacks from the property line are as follows for non-permanent structures (Accessory building (temporary))*:
 - [i.] Front, ~~60 feet~~ To the front of the house.
 - [ii.] Side, ~~0 five~~ feet
 - [iii.] Back, ~~0 five~~ feet
 - [iv.] Side Street, 15 feet.

* Any encroachment into an easement requires approval from utility companies and/or easement owner.
- [h.] The map color code for R-1 single-family residence zone is white.
- [i.] Conditional uses: Home occupations within an accessory structure (except for a garage typically associated with a single-family residence), homes for the aged, recreation buildings/community centers, nursery schools/day care (12 or less), parks, playgrounds, play fields, stadiums.

...

2. *R-1A, single-family residence zone—Zero lot lines.* The purpose and description for single-family residence is for individual home sites. The permitted uses are single-family dwellings and any conditional uses allowed by this ordinance. Garage apartments are not allowed in this district.
 - [a.] The maximum lot coverage must not exceed percentage of the lot used for building will be 45 50 percent of the lot.
 - [b.] The minimum floor area, or living space in square feet will be 1,000 square feet.
 - [c.] The maximum building height will be 2½ stories or 35 feet.
 - [d.] The minimum lot size is as follows:
 - [1.] Front, 55 feet.
 - [2.] Depth, 100 feet.
 - [3.] Area, 5,500 square feet.
 - [e.] The minimum building setbacks are as follows:
 - [1.] Front, 15 feet.
 - [2.] Side, five feet total for both sides.
 - [3.] Rear, 15 ~~percent of the lot depth feet.~~
 - [4.] Side street, 15 feet.
 - [f.] The permitted accessory uses are for private garages, storage sheds. No structure is permitted for any business enterprise.
 - [g.] The accessory building requirements in a R-1A zone for permanent and non-permanent structures are as follows:
 - [1.] Maximum height, 25 feet.
 - [2.] Minimum setbacks for permanent structures are as follows:
 - [i.] Front, to front of the house.
 - [ii.] Side, five feet.
 - [iii.] Back, five feet.
 - [iv.] Side Street, 15 feet.

[3.] Minimum setbacks from the property line are as follows for non-permanent structures ((Accessory building (temporary)))*:

[i.] Front, ~~60 feet~~ to the front of the house.

[ii.] Side, 0 feet.

[iii.] Back, 0 feet.

[iv.] Side Street, 15 feet.

* Any encroachment into an easement requires approval from utility companies and/or easement owner.

[h.] The map color code for R-1A single-family residence zone is grey.

[i.] Conditional uses: Home occupations within an accessory structure (except for a garage typically associated with a single-family residence), and recreation buildings/community centers.

...

2.5 *R-1B, single-family attached residence zone (townhomes).* The SFA, single-family attached residential, district is intended to promote stable, quality, attached-occupancy residential development on individual lots at higher residential densities. Individual ownership of each lot and dwelling unit is required. This district may be included within certain areas of neighborhoods or, when in accordance with the intent of the comprehensive plan, may provide a "buffer" or transition district between lower density residential areas and multi-family or non-residential areas or major thoroughfares. Garage apartments are not allowed in this district.

[a.] Each SFA lot shall contain a private yard with not less than 400 square feet of area (i.e., a back yard or large side yard). Private yards may include a patio cover, gazebo or other similar non-enclosed structure which does not cover more than 25 percent of the area of private yard, and they may include a swimming pool, swing set, play fort, or other private leisure amenity.

[b.] The minimum floor area, or living space in square feet will be 1,000 square feet.

[c.] The maximum building height will be 2½ stories or 35 feet.

[d.] The maximum lot coverage must not exceed 50 percent of the lot.

[e.] Density: There shall be no more than 10 dwelling units per acre.

[f.] The minimum lot size is as follows:

[1.] Front, 25 feet.

[2.] Depth, 100 feet.

[3.] Area, 2,500 square feet.

[g.] The minimum setbacks are as follows:

[1.] Front, ~~25~~ A minimum of 18 feet staggered in at least four-foot increments so that no more than two units have the same front setback in a row.

[2.] a. Side, 7½ feet. From a side property line when adjacent to open space lots or amenity center lots.

b. 15 feet from a side property line when adjacent to detached residential dwelling unit.

c. 20 feet from a side property line when adjacent to a dedicated street.

d. 0 feet from side property line to an attached residential unit.

[3.] Rear, 20 ~~percent of the lot depth~~ feet.

[4.] Homes with side entry garages where lot frontage is only to one street not a corner lot) shall have a minimum of 25 feet from the door face of the garage to the side property line for maneuvering. The minimum setback from any garage door to street or alley right-of-way line shall ~~also be 18~~ also be 18 ~~25~~ feet or the same as the staggered front yard setback for the dwelling.

[h.] The permitted accessory uses are for private garages, storage sheds. No structure is permitted for any business enterprise. Carports are not allowed.

[1.] Community owned or multiple ownership areas: Common open space, community centers, access gates, entrance guard facilities, recreational buildings and facilities are permitted uses provided they are incidental to the above described residential uses, are approved on a final plat and meet the following conditions:

[i.] In accordance with the subdivision ordinance a homeowners association (HOA) shall be established to maintain open space, recreational areas, and other commonly owned facilities.

The developer is responsible for drafting the HOA documents pertaining to the HOA's responsibilities to maintain these areas.

[i.] The accessory building requirements in a R-1B Zone are as follows:

[1.] Maximum height, 25 feet.

[2.] lots Minimum setbacks from the property line are as follows for permanent structures:

[i.] Front, ~~60 feet to front of house.~~

[ii.] Side, ~~7-1/2~~ 5 feet

[iii.] Back, ~~7-1/2~~ 5 feet

[iv.] Side Street, 20 feet

[3.] Minimum setbacks from the property line are as follows for non-permanent structures ((Accessory building (temporary))*):

[i.] Front, ~~60 feet to front of house~~

[ii.] Side, ~~five~~ 0 feet

[iii.] Back, ~~five~~ 0 feet

[iv.] Side Street, 20 feet

*Any encroachment into an easement requires approval from utility companies and/or easement owner.

[j.] All utilities shall be provided separately to each lot within an SFA district so that each unit is individually metered.

[k.] The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited.

[l.] Electrical fencing and barbed wire is prohibited as perimeter fencing.

[m.] Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, etc., which may only be stored in the side or rear yards and which shall be screened from view of public streets and neighboring properties.

[n.] The map color code for R-1B single-family residence zone is pink.

[o.] Conditional uses: Home occupations within an accessory structure (except for a garage typically associated with a single-family residence), recreation buildings/community centers, parks, playgrounds, play fields.

3. *R-2, two-family residence zone.* The purpose and description for the R-2 zone is for duplexes. The permitted uses are the same as for R-1, single-family residence zone except with the additional use of duplex housing structures. Garage apartments are not allowed in this district.

[a.] The maximum ~~lot coverage percent of the lot used for building will be~~ must not exceed ~~55~~ 9 percent of the lot.

[b.] The minimum floor area, or living space, in square feet will be 720 square feet for each living unit.

[c.] The maximum building height will be 2½ stories or 35 feet.

[d.] The minimum lot size is as follows:

[1.] Front, 75 feet.

[2.] Depth, 120 feet.

[3.] Area, 8,400 square feet.

- [e.] The minimum building setbacks are as follows:
 - [1.] Front, 25 feet.
 - [2.] Side, 7 ½ feet
 - [3.] Rear, 20 ~~percent of the lot depth~~feet.
 - [4.] Side street, 15 feet.
- [f.] The permitted accessory uses in the R-2 two-family residence zone are the same as the R-1 zone, except that no garage apartments are allowed.
 - [1.] Maximum height, 25 feet.
 - [2.] Minimum setbacks from the property line are as follows for permanent structures:
 - [i.] Front, ~~60 feet to front of house.~~
 - [ii.] Side, ~~7½~~5 feet.
 - [iii.] Back, ~~7½~~5 feet.
 - [iv.] Side Street, 15 feet.
 - [3.] Minimum setbacks from the property line are as follows for non-permanent structures ((Accessory building (temporary))*):
 - [i.] Front, ~~60 feet to front of house.~~
 - [ii.] Side, ~~0five~~ feet.
 - [iii.] Back, ~~0five~~ feet.
 - [iv.] Side Street, 15 feet.

* Any encroachment into an easement requires approval from utility companies and/or easement owner.
- [g.] The map color code for the R-2 zone is orange.
- [h.] Conditional uses: Recreation buildings/community centers and home occupations within an accessory structure (except for a garage typically associated with a single-family residence).

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4. *R-3, multifamily residence zone.* The purpose and description of the R-3 zone is for three-family or more dwelling sites, apartments, bungalow courts, or condominiums. Garage apartments are not allowed in this district.
 - [a.] The permitted uses are the same as for the R-2, and additionally apartment houses, bungalow courts, condominiums, townhouses, cluster houses, fraternity and sorority houses are allowed.
 - [b.] The maximum lot coverage percent of the lot used for building will be 5~~50~~ percent of the lot.
 - [c.] The minimum floor area, or living space in square feet, will be 500 square feet for each living unit.
 - [d.] The maximum building height will be 3 stories or 50 feet.
 - [e.] The minimum lot size is as follows:
 - [1.] Front, 70 feet.
 - [2.] Depth, 120 feet.
 - [3.] Area, 8,400 square feet.
 - [f.] The minimum building setbacks are as follows:
 - [1.] Front, 25 feet.
 - [2.] Side, 7 ½ feet
 - [3.] Rear, 25~~0 percent of the lot depth~~feet.
 - [4.] Side street, 15 feet.
 - [g.] The permitted accessory uses are the same as for the R-2 zone.
 - [h.] The accessory building requirements are as follows:
 - [1.] Maximum height, 14 feet.
 - [i.] The minimum accessory building setbacks are as follows:
 - [1.] Front, 60 feet.
 - [2.] Side, 7½ feet.

[3.] Back, ~~24~~5 feet.

[4.] Side street, 15 feet

[j.] The map color code for the R-3 zone is green.

[k.] Conditional uses: Recreation buildings/community centers, home occupation within an accessory structure (except for a garage typically associated with a single-family residence), and fraternity/sorority houses

...

5. *R-4, single-family rural residential zone.* The purpose and description for single-family rural residence is to provide for the development of primarily very low-density detached, single-family residences on lots not less than one acre. The permitted uses are single family dwellings, and any conditional uses allowed by this ordinance. Garage apartments are not allowed in this district, unless under the provisions of Sec 5(18) of the Zoning Ordinance.

[a.] The maximum lot coverage is percentage of the lot used for building will be 35~~40~~ percent of the lot.

[b.] The minimum floor area, or living space in square feet will be 1,500 square feet.

[c.] The maximum building height will be 2½ stories or 35 feet.

[d.] The ~~minimum~~ lot size requirements are as follows:

[1.] Front, minimum of 150 feet.

[2.] Depth, mimimum of 200 feet.

[3.] Area, one acre or 43,560 square feet.

[4.] Maximum lot size shall be 2.25 acres, or 98,010 square feet, for all lots platted after July, 1 2019.

[e.] The minimum building setbacks are as follows:

[1.] Front, 50 feet.

[2.] Side, ~~ten percent of the lot width, not to exceed~~ 25 feet.

[3.] Rear, 25 feet for the main building and any accessory building(s); ten feet from a main building to an accessory building.

[4.] Side street, 25 feet.

[f.] The permitted accessory uses are for private garages, storage sheds, barns. Detached servants quarters without garage shall be permitted. No such accessory building or quarters shall be used or occupied as a place of abode or dwelling by anyone other than a bona fide servant or farm worker actually and regularly employed by the land owner or occupant of the main building or is a guest or family member. The structure shall in any case not be rented, leased or sold and shall not be separately metered. No structure is permitted for any business enterprise, unless as approved through the requirements of a conditional use for a home occupation.

[g.] The accessory building requirements in a R-4 zone are as follows:

[1.] Maximum height, 25 feet.

[2.] The minimum building setbacks are as follows for permanent structures:

[i.] Front, to front of house~~60 feet.~~

[ii.] Side, ~~210~~5 feet.

[iii.] Back, ~~210~~5 feet

[iv.] Street side, 25 feet.

[3.] Minimum setbacks from the property line are as follows for non-permanent structures ((Accessory building (temporary)))*.

[i.] Front, front of the house.

[ii.] Side, 0 feet

[iii.] Back, 0 feet

[iv.] Corner side, 25 feet

* Any encroachment into an easement requires approval from utility companies and/or easement owner.

- [h.] The map color code for R-4 single-family residence zone is purple.
 - [i.] Conditional uses: Home occupations located within an accessory structure (except for a garage that is typically associated with a single-family residence), homes for the aged, nursery schools/day care, parks/playgrounds/playfield/stadium, schools.
6. ...*B-1, business zone*. The purpose and description of the business zone is for retail and service establishments used for daily public operation.
- [a.] The permitted uses are office buildings, studio retail shops, service shops, auto supply shops, banks, beauty shops, bakeries, billiard halls, cafeterias, dry cleaning establishments, carpet sales, theaters, restaurants, laundry establishments, motels, hotels, professional offices, studios, and grocery stores.
 - [b.] The maximum percent of the lot used for building will be 100 percent.
 - [c.] The minimum floor area, or living space in square feet is none.
 - [d.] The maximum building height will be 2½ stories or 35 feet.
 - [e.] The minimum lot size is as follows:
 - [1.] Front, none.
 - [2.] Depth, none.
 - [3.] Area in square feet, 3,000 square feet.
 - [f.] The minimum building setbacks are as follows:
 - [1.] Front, none.
 - [2.] Side, none
 - [3.] Rear, 1825 feet.
 - [4.] Side street, none.
 - [g.] The permitted accessory uses are storage sheds and garages.
 - [h.] No dwellings are permitted in the business zone.
 - [i.] The accessory building requirements are as follows:
 - [1.] Maximum height, 14 feet.
 - [j.] Minimum building setbacks are as follows:
 - [1.] Front, 60 feet.
 - [2.] Side, 7 ½ feet.
 - [3.] Back, 425 feet

...

7. *C-1, commercial*. The purpose and description of the C-1 commercial district is for warehousing and distribution, supply houses and other business supply operations.
- [a.] The permitted uses are the same as for the B-1 zone and additionally retail or wholesale use, lumber and brick yards, metals supply distribution, cabinet and sheet metal shops, drive-in eating places, groceries, day care centers, auto repair shops, membership clubs, nursing homes, supervised living facilities, homes for the aged, newspaper, banks and financial institutions, wholesale business, veterinary clinics, commercial laundries, beverage manufacturing, self-storage facilities or mini warehouses are allowed in the C-1 zone.
 - [b.] The maximum percent of the lot used for building is no limit.
 - [c.] The minimum floor area in living space in square feet is none.
 - [d.] The maximum building height is four stories or 60 feet.

- [e.] The minimum lot size is as follows:
 - [1.] Front, none.
 - [2.] Depth, none.
 - [3.] Area in square feet, 3,000 square feet.
- [f.] The minimum building setbacks requirements are as follows:
 - [1.] Front, none.
 - [2.] Side, none.
 - [3.] Rear, ~~18~~25 feet.
 - [4.] Side street, none.
- [g.] The permitted accessory uses are the same as for the B-1 business zone.
- [h.] The accessory building requirements are as follows:
 - [1.] Maximum height, 14 feet.
- [i.] Minimum building setbacks are as follows:
 - [1.] Front, 60 feet.
 - [2.] Side, 7 ½ feet.
 - [3.] Back, ~~12~~5 feet.

...

8. *C-2, commercial zone.* The purpose and description of the C-2 commercial zone is for high-rise buildings.
 - [a.] The permitted uses are for hotels, motels, office buildings and hospitals.
 - [b.] The maximum percent of the lot used for building is no limit.
 - [c.] The minimum floor area in living space in square feet is none.
 - [d.] The maximum building height is to be approved by the Richwood City Council.
 - [e.] The minimum lot size is as follows:
 - [1.] Front, 100 feet.
 - [2.] Depth, 100 feet.
 - [3.] Area in square feet, 10,000 square feet.
 - [f.] The minimum building setbacks are as follows:
 - [1.] For the rear and side parts of the property it is specified that the setbacks will be twice the height of the building if the building abuts a residential zone.
 - [g.] The permitted accessory uses are for doctor's offices, pharmacies, cafeterias, restaurants, gift shops and barber shops.
 - [1.] Any accessory buildings are to be approved by the Richwood City Council.

...

9. *M-1, industrial zone.* The purpose and description of the M-1 industrial zone is for manufacturing operations.
 - [a.] The permitted uses are the same as for the C-I commercial zone and additionally wrecking yards, cement plants, bulk concrete sales, meat and food processing, chemical manufacturing and metal fabrication shops.
 - [b.] The maximum percent of the lot used for building will be no limit.
 - [c.] The minimum floor area in living space in square feet is none.
 - [d.] The maximum building height is none.
 - [e.] The minimum lot size is as follows:
 - [1.] Front, none.
 - [2.] Depth, none.
 - [3.] Area in square feet, 10,000 square feet.

[f.] The minimum setback requirements are as follows:

- [1.] Front, none.
- [2.] Side, none.
- [3.] Rear, ~~18~~50 feet.
- [4.] Side street, none.

[g.] There are no restrictions as to the permitted accessory uses, except that no dwellings are allowed in the M-1 industrial zone.

[h.] The accessory building requirements are as follows:

- [1.] Maximum height, none.

[i.] Minimum setbacks are as follows:

- [1.] Front, none.
- [2.] Side, none.
- [3.] Back, ~~none~~50 feet.

...

Sec. 5. - General provisions.

...

18. Accessory Dwelling Units (ADU).

1. Accessory dwelling units may be installed on a single-family residential property within the R-1 and R-4 Zoning Districts under the following conditions;

- (a) Only one accessory dwelling unit shall only be allowed on owner occupied lots within the City.
- (b) The maximum size of an Accessory Dwelling Unit is 50% of the size of the single-family residence.
- (c) An additional parking space is required for any Accessory Dwelling Unit.
- (d) Accessory dwelling units must utilize similar exterior materials of the single-family residence on the property.
- (e) Accessory dwelling units may include an efficiency kitchen including a sink, cooking appliance, counter surface, and storage cabinets that meet the minimum building code standards. No Gas, or 220V circuits are permitted.
- (f) All of the requirements for accessory buildings within the zoning district must be satisfied.

...

Sec. 14. - Violations and penalties.

Any person, firm, corporation, association or any other entity who shall violate any of the provisions of this ordinance or who shall build, alter, or occupy any building in violation of any statement or plans submitted and approved hereunder shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum of not more than \$~~2~~+000.00. Unless a violation presents an imminent risk to health and public safety, the City shall not assess any fines before first notifying the property owner of the violation by certified mail and giving the property owner 10 days to correct the violation.

Each day such violation shall be continued, or shall be allowed to continue to exist shall constitute a separate offense.

The owner or owners of any building or property or part thereof where anything in violation of this ordinance shall be placed or shall exist, and any architect, builder, contractor, agent, attorney, person, firm, corporation, association or other entity employed in connection therewith and who has assisted in the commission of such violation, shall be guilty of a separate offense, and upon conviction thereof, shall be fined in the sum of not more than \$~~5~~2000.00. Unless a violation presents an imminent risk to health and public safety, the City shall not assess any fines before first notifying the property owner of the violation by certified mail and giving the property owner 10 days to correct the violation.

In addition to the remedies provided herein, the public works director may, in case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to refrain, correct or abate such violation, to prevent the occupancy such building, structure or land or to prevent any illegal act, conduct or business or use in or about such premises.

RESOLUTION NO. 19-R-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHWOOD, TEXAS APPROVING THE LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN FOR THE CITY'S PROPOSED WATER AND WASTEWATER IMPACT FEE SERVICE AREA; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, Tex Loc Gov't Code §395.045 states that to impose water and wastewater impact fees, the City Council must, after holding a public hearing, approve land use assumptions and a capital improvements plan for the City's proposed water and wastewater impact fee service area; and,

WHEREAS, A report on Land Use Assumptions for the Implementation of Impact Fees for the City's proposed water and wastewater impact fee service area (the Land Use Assumptions Report) has been prepared for the City by Freese and Nichols and an Engineering Report and Capital Improvements Plan for Implementation of Water and Wastewater Impact Fees for the City's proposed water and wastewater impact fee service area (the CIP Report) has been prepared for the City by Freese and Nichols; and,

WHEREAS, The City Council finds and determines that the City has complied with the requirements in Tex Loc Gov't Code §395.042 and §394.043 for publicizing the Land Use Assumptions Report and the CIP Report before the public hearing on those reports; and,

WHEREAS, The Capital Improvements Advisory Committee, met on April 22, 2019 and recommended that the City Council approve the Land Use Assumptions Report and the CIP Report; and,

WHEREAS, The City Council has held a public hearing on May 28, 2019 to consider the Land Use Assumptions Report and the CIP Report.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RICHWOOD, TEXAS:

SECTION 1. The Land Use Assumptions Report (a copy of which is attached to this Resolution and incorporated into this Resolution for all purposes) is approved as the City's system-wide land use assumptions for the City's proposed water and wastewater impact fee service area.

SECTION 2. The CIP Report (a copy of which is attached to this Resolution and incorporated into this Resolution for all purposes) is approved as the City's capital improvements plan for the City's proposed water and wastewater impact fee service area.

SECTION 3. This resolution is in full force and effect immediately upon its adoption.

PASSED AND APPROVED on this 28th day of May, 2019.

Steve Boykin, Mayor

ATTEST:

Giani Cantu, City Secretary

CITY OF RICHWOOD

DRAFT 2019 WATER AND WASTEWATER IMPACT FEE LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN



PREPARED FOR:

City of Richwood

PREPARED BY:

Freese and Nichols, Inc.
11200 Broadway Street, Suite 2320
Pearland, Texas 77584
832-456-4732



City of Richwood
— TEXAS —

DRAFT

**WATER AND WASTEWATER
IMPACT FEE STUDY**

**LAND USE ASSUMPTIONS AND
CAPITAL IMPROVEMENTS PLAN REPORT**

Prepared for:

City of Richwood

DRAFT

THIS DOCUMENT IS RELEASED
FOR THE PURPOSE OF INTERIM
REVIEW UNDER THE AUTHORITY
OF RICHARD WEATHERLY, P.E.,
TEXAS NO. 100211 ON 4/19/2019.

IT IS NOT TO BE USED FOR
CONSTRUCTION, BIDDING OR
PERMIT PURPOSES.

FREESE AND NICHOLS, INC.
TEXAS REGISTERED ENGINEERING
FIRM F-2144

DRAFT

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TEXAS NO. 125786 ON 4/19/2019.

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PERMIT PURPOSES.

FREESE AND NICHOLS, INC.
TEXAS REGISTERED ENGINEERING
FIRM F-2144

Prepared by:

FREESE AND NICHOLS, INC.
11200 Broadway St, Suite 2320
Pearland, Texas 77584
832-456-4700

FNI Project No.: RIW18456

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- Appendix A Chapter 395, Texas Local Government Code
- Appendix B Water CIP Opinions of Probable Construction Cost (OPCC) Estimates
- Appendix C Wastewater CIP Opinions of Probable Construction Cost (OPCC) Estimates

1.0 BACKGROUND AND SCOPE

In July 2018, the City of Richwood, Texas (City) authorized Freese and Nichols, Inc. (FNI) to perform an impact fee analysis for the City's water and wastewater systems. The purpose of this report is to document the land use assumptions and capital improvements plan which will be used in the development and calculation of water and wastewater impact fees for the City of Richwood. The methodology used herein satisfies the requirements of the Texas Local Government Code (TLGC) Section 395 (**Section 1.1**) for the establishment of impact fees. The City currently does not charge water and wastewater impact fees to new developments.

1.1 TEXAS LOCAL GOVERNMENT CODE

Chapter 395 of the Texas Local Government Code (**Appendix A**) requires an impact fee analysis before impact fees can be created and assessed. Chapter 395 defines an impact fee as "a charge or assessment imposed by a political subdivision 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 the new development." In September 2001, Chapter 395 was amended creating the current procedure for implementing impact fees. Chapter 395 identifies the following items as impact fee eligible costs:

- Construction contract price
- Surveying and engineering fees
- Land acquisition costs
- Fees paid to the consultant preparing or updating the capital improvements plan (CIP)
- Projected interest charges and other finance costs for projects identified in the CIP

Chapter 395 also identifies items that impact fees cannot be used to pay for, such as:

- Construction, acquisition, or expansion of public facilities or assets other than those identified on the capital improvements plan
- Repair, operation, or maintenance of existing or new capital improvements
- Upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards
- Upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development

- Administrative and operating costs of the political subdivision
- Principal payments and interest or other finance charges on bonds or other indebtedness, except as allowed above

As a funding mechanism for capital improvements, impact fees allow cities to recover the costs associated with new or facility expansion in order to serve future development. Statutory requirements mandate that impact fees be based on a specific list of improvements identified in a capital improvements program and only the cost attributed (and necessitated) by new growth over a 10-year period may be considered. As projects in the program are completed, planned costs are updated with actual costs to more accurately reflect the capital expenditure of the program. Additionally, new capital improvement projects may be added to the system.

1.2 IMPACT FEE DEVELOPMENT

FNI recently completed a *Water and Wastewater Master Plan* for the City of Richwood that included phased, prioritized recommendations for water and wastewater capital improvement plan (CIP) projects for 5-year, 10-year, and 25-year planning periods. The Impact Fee development process will utilize project recommendations and demand and flow projections developed as part of the City's *Water and Wastewater Master Plan*. The impact fee calculation is limited to project recommendations within the next 10 years that will serve projected growth.

As part of the impact fee development, FNI will conduct workshops with the City's appointed Capital Improvements Advisory Committee (CIAC) and City Council. FNI will calculate the maximum allowable impact fee utilizing the 50% credit option, as allowed by TLGC Chapter 395. The CIAC's role includes reviewing the land use assumptions and impact fee capital improvement plans (CIPs), and recommending an impact fee rate to the City Council. The City Council sets the impact fees to be collected.

1.3 LIST OF ABBREVIATIONS

The list of abbreviations used in this report are presented in **Table 1-1**.

Table 1-1: List of Abbreviations

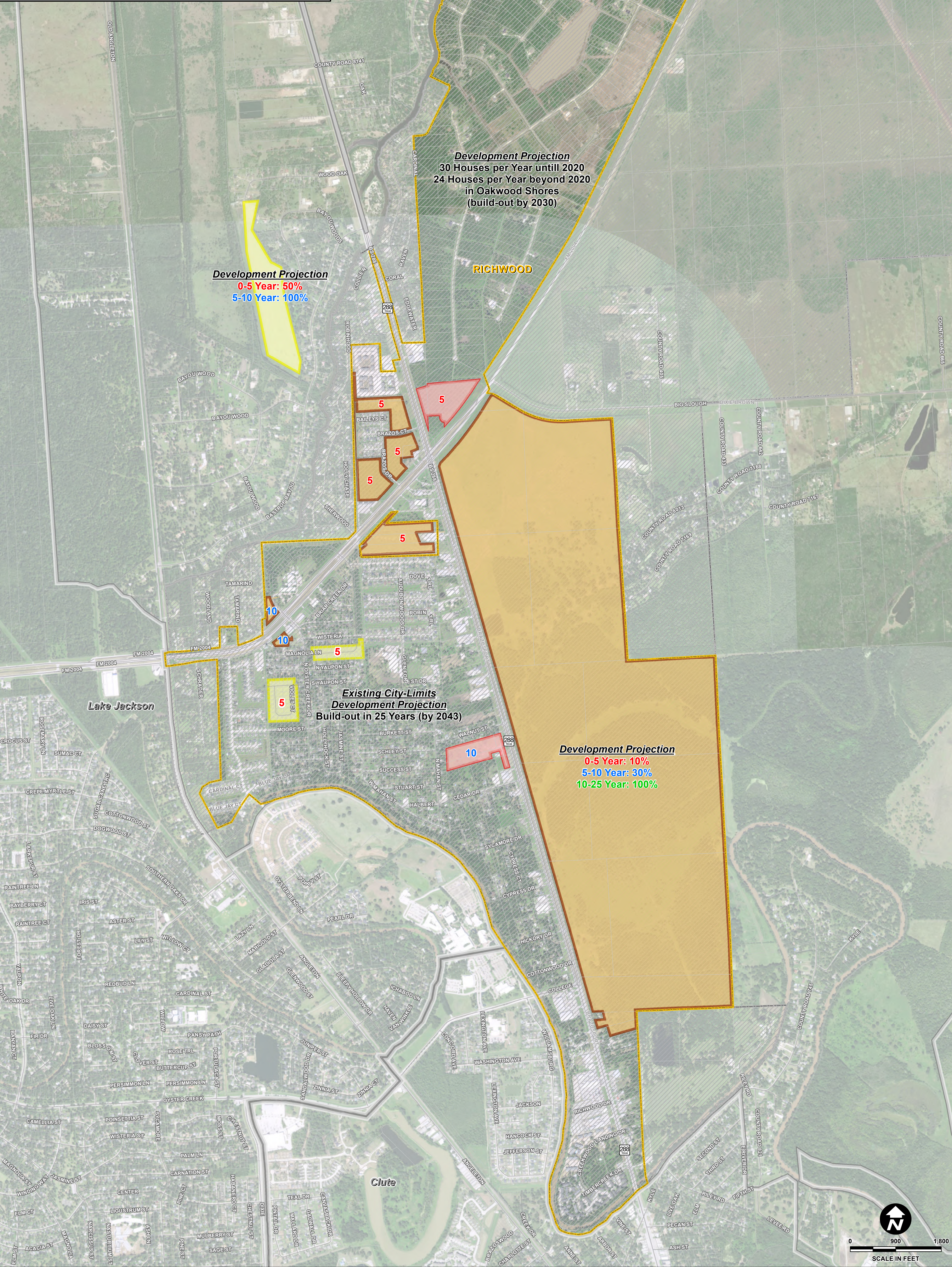
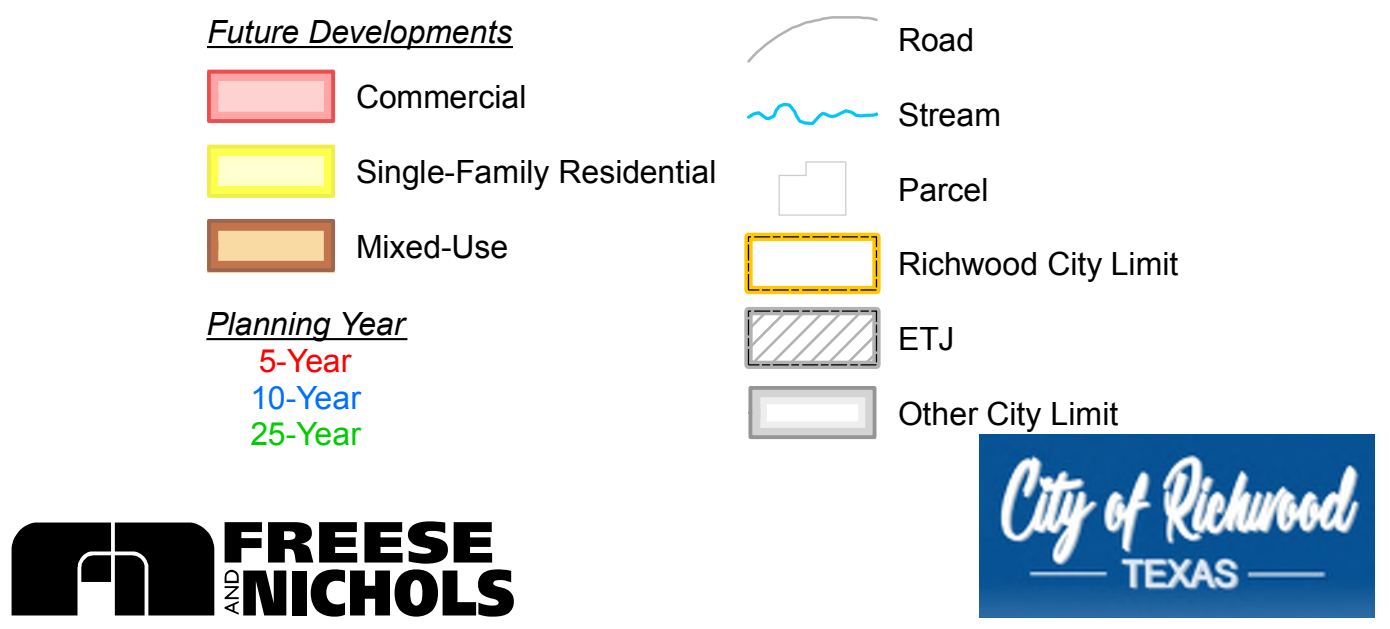
Abbreviation	Actual
BWA	Brazosport Water Authority
CIAC	Capital Improvement Advisory Committee
CIP	Capital Improvement Plan
EST	Elevated Storage Tank
ETJ	Extraterritorial Jurisdiction
FNI	Freese and Nichols, Inc.
MGD	Million Gallons per Day
OPCC	Opinion of Probable Construction Cost
SH	State Highway
SUE	Service Unit Equivalents
TLGC	Texas Local Government Code
WWTF	Wastewater Treatment Facility

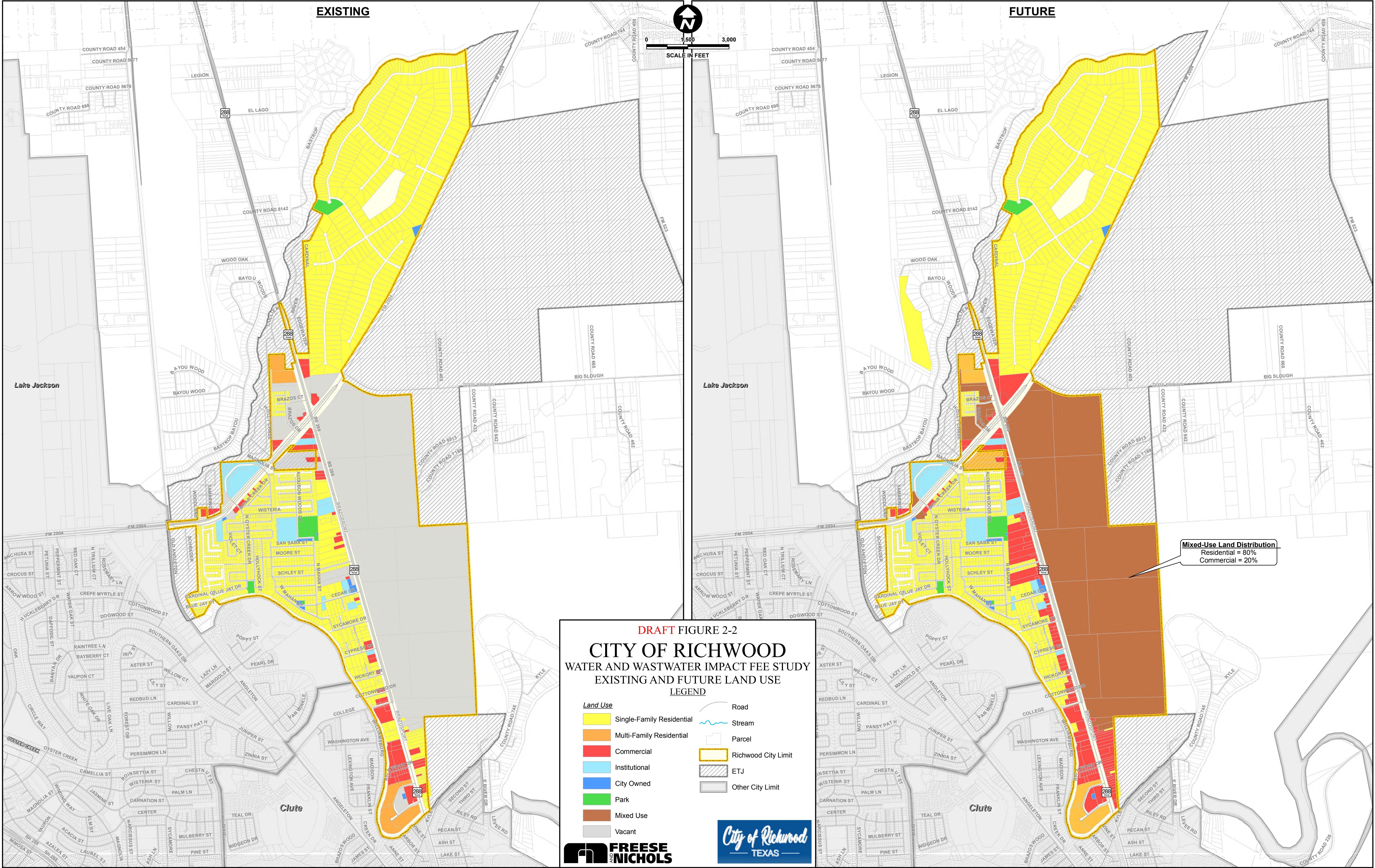
2.0 LAND USE ASSUMPTIONS

Population and projected land use are important elements in the analysis of water distribution and wastewater collection systems. To assist the City of Richwood in determining the need and timing of capital improvements to serve future development, a reasonable estimation of future growth is required. These assumptions will become the basis for the preparation of impact fee capital improvement plans for water and wastewater facilities.

FNI worked with City staff to develop population growth projections and land use assumptions for the City of Richwood during development of the *2019 Water and Wastewater Master Plan*. The City is anticipating future developments to the northwest of the City, east of SH 288B, and at various locations within the City as shown on **Figure 2-1**. The City is planning to provide water and wastewater services to these future developments. Richwood's existing and future land use are shown on **Figure 2-2**.

CITY OF RICHWOOD
WATER AND WASTEWATER IMPACT FEE STUDY
ANTICIPATED FUTURE DEVELOPMENTS





2.2 POPULATION

2.2.1 Historical Population

The City provided six years of historical population data based on water meter counts. This historical population information is presented in **Table 2-1**, along with US Census data for 2010 and interpolated values for 2011 and 2012.

Richwood's annual average growth rates have ranged from 0.9% to 30%. The City has experienced an increase in the population growth rate since 2014. The highest annual population growth was between 2016 -2017 (30%) as a result of the two new multi-family developments in the City. The average annual growth rate between 2010 – 2018 was approximately 7.2%.

Table 2-1: Historical Population

Year	Population	Average Annual Growth Rate (%)
2010 ⁽¹⁾	3,510	
2011 ⁽³⁾	3,540	0.9%
2012 ⁽³⁾	3,571	0.9%
2013 ⁽²⁾	3,602	0.9%
2014 ⁽²⁾	3,807	5.7%
2015 ⁽²⁾	4,002	5.1%
2016 ⁽²⁾	4,481	12.0%
2017 ⁽²⁾	5,830	30.1%
2018 ⁽⁴⁾	5,976	2.5%
Average		7.2%

(1) From US Census

(2) Data from City for July of respective year

(3) Estimated assuming steady 0.9% growth rate between 2011 and 2013

(4) Data from City for end of the year

2.2.2 Projected Population and Developments

The magnitude and distribution of the growth in population and commercial acreage will dictate where future water and wastewater infrastructure is required. It is important to note that projecting future population is challenging, especially for relatively small geographic areas such as individual cities, because

it can be difficult to predict how fast or slow development will occur when there are a variety of circumstances that can impact it.

FNI worked with the City to assign phasing to the anticipated developments for the 10-year planning period for the water and wastewater impact fees. The future development and land use assumptions were converted to population and commercial acreage projections for each planning period using the following assumptions and planning criteria as documented in the City's *2019 Water and Wastewater Master Plan*:

- Population density 2.63 people per unit per 2010 US Census
- In-city vacant residential, commercial and mixed-use land use type lots assumed to be buildout by 2044 at an uniform growth rate unless specified otherwise
- In-city single family connection density assumed to be 3 connections/acres
- Residential connection density for mixed-use type lots assumed to be 4 units/acre
- 90% occupancy rate for existing apartments, and no new apartment complexes between 2019 and 2044
- For future mixed-use land use type assumed 80% residential and 20% commercial type land use
- Oakwood Shores area projected to develop at a rate of 30 houses per year until 2020, and 24 houses per year beyond 2020
- Northwest area 40-acre residential tract projected to be buildout by 2029 with 50% full by 2024 with 4 units/acres density
- Eastern area 920-acre mixed-use type tract projected to grow 10% by 2024, 30% by 2029, 100% by 2044 at a 4 units/acres density

The resulting average annual population growth rate is projected to be 3.85% over the next 25 years. **Table 2-3** and **Table 2-4** present the City's projected population for the 10-year planning period for water and wastewater impact fees, respectively. The projected growth in commercial acreage is also included.

2.3 SERVICE UNITS

According to Chapter 395 of the Texas Local Government Code, the maximum impact fee may not exceed the amount determined by dividing the cost of capital improvements required by the total number of service units attributed to new development during the capital recovery fee eligibility period (2019 - 2029). A water service unit is defined as the service equivalent to a water connection for a single-family residence. This is also known as a service unit equivalent (SUE). The City of Richwood does not directly meter wastewater flows and bills for wastewater services based on the customer's water consumption.

Therefore, a wastewater service unit is defined as the wastewater service provided to a customer with a water connection for a single-family residence. Existing and future water and wastewater service area populations and service unit equivalents (SUEs) were developed based on City’s projected land use and existing water meter information.

The service associated with public, commercial, and industrial connections is converted into service units based upon the capacity of the meter used to provide service. The number of service units required to represent each meter size is based on the safe maximum operating capacity of the appropriate meter type. American Water Works Association (AWWA) standards C700 (Cold Water Meters – Displacement Type) and C702 (Cold Water Meters – Compound Type) were used to determine the safe maximum operating capacity. The service unit equivalent for each meter size utilized by the City of Richwood is listed in **Table 2-2**.

Table 2-2: Service Unit Equivalencies

Meter Size	Meter Type	AWWA Standard	Safe Maximum Operating Capacity (gpm)	Service Unit Equivalent
3/4"	Displacement	C700	30	1.0
1"	Displacement	C700	50	1.7
1 1/2"	Displacement	C700	100	3.3
2"	Displacement	C700	160	5.3
3"	Compound	C702	350	11.7
4"	Compound	C702	600	20.0
6"	Compound	C702	1,350	45.0

Richwood typically serves single-family residences with 3/4-inch water meters. Larger meters predominantly serve commercial properties or apartment complex. The City provided the meter size of each active water meter as of July 2018.

2.4 WATER IMPACT FEE SERVICE AREA

The water impact fee service area is defined by the Richwood City limits and the extraterritorial jurisdiction (ETJ), as shown on **Figure 3-1**. **Table 2-3** shows the projected population, non-residential acreage, and SUEs for the water impact fee service area.

Table 2-3: Water Impact Fee Service Area Population and SUEs

Year	Population	Commercial Acreage	SUEs ⁽¹⁾
2019	5,976	126	1,593
2029	9,522	260	3,300

- (1) The ~40-acres future development on the northwest part of the City was not included in the impact fee service area as it is currently out of the ETJ

2.5 WASTEWATER IMPACT FEE SERVICE AREA

The wastewater impact fee service area is defined by the City limits and ETJ, with the exception of Oakwood Shores, as shown on **Figure 2-4**. **Table 2-4** shows the projected population, non-residential acreage, and SUEs for the wastewater impact fee service area.

Table 2-4: Wastewater Impact Fee Service Area Population and SUEs

Year	Population	Non-Residential Acreage	SUEs ⁽¹⁾
2019	5,802	126	1,513
2029	8,685	260	2,905

- (1) The ~40 acres future development on the northwest part of the City was not included in the impact fee service area as it is currently out of the ETJ

3.0 CAPITAL IMPROVEMENTS PLAN

Water and wastewater capital improvement plans (CIPs) were developed for the City of Richwood as part of the City's *2019 Water and Wastewater Master Plan*. The recommended improvements will provide the required capacity and reliability to meet projected 25-year water demands and wastewater flows. The water and wastewater CIP projects that are required to serve growth within the next 10 years were identified for inclusion in the water and wastewater impact fee analysis.

3.1 WATER DEMAND AND WASTEWATER LOAD PROJECTIONS

Water demand and wastewater flow projections for 2019 and 2029 were developed in the *2019 Water and Wastewater Master Plan*. These projections were based on the water and wastewater planning criteria including average day per capita and per acre usage developed as part of the master plan. **Table 3-1** presents the projected water demands and **Table 3-2** presents the projected wastewater flows for the water and wastewater impact fee service areas in million gallons per day (MGD).

Table 3-1: Projected Water Demands

Year	Average Daily Demand ^{(a)(b)} (MGD)	Maximum Daily Demand ^(c) (MGD)
2019	0.59	1.47
2029	0.96	2.40

- (a) Water demand planning criteria: Residential = 90 gpcd; Commercial = 400 gpad
- (b) The ~40 acres future development on the northwest part of the City was not included in the impact fee service area as it is currently out of the ETJ
- (c) Maximum day to average day peaking factor = 2.5

Table 3-2: Projected Wastewater Flows

Year	Average Daily Flow ^{(a)(b)} (MGD)
2019	0.49
2029	0.75

- (a) Wastewater flow planning criteria: Residential = 70 gpcd; Commercial = 325 gpad
- (b) The ~40 acres future development on the northwest part of the City was not included in the impact fee service area as it is currently out of the ETJ

3.2 WATER AND WASTEWATER SYSTEM IMPROVEMENTS

The City's *2019 Water and Wastewater Master Plan* included proposed water and wastewater system projects and capital costs. A summary of the costs for each of the proposed projects serving growth in

the 10-year period used in the impact fee analysis is shown in **Table 3-3** and **Table 3-4**. Detailed water and wastewater project costs are Included in **Appendix B** and **Appendix C**, respectively. The proposed 10-year water system projects are shown on **Figure 3-1**. The proposed 10-year wastewater system projects are shown on **Figure 3-2**.

Table 3-3: Water Capital Improvements Plan Summary

Impact Fee Eligible CIP No.	Description of Project	Capital Cost (2019 Dollars)
PROPOSED		
1	Construct New Oakwood Shores Water Plant	\$4,049,800
2	Construct New 12-inch East Water Line Loop	\$2,457,800
3	Construct New 0.5 MG Ground Storage Tank at BWA Take Point	\$780,000
4	Construct New 0.5 MG Elevated Storage Tank (EST)	\$2,925,000
Proposed Water Project Total		\$10,212,600

Table 3-4: Wastewater Capital Improvements Plan Summary

Impact Fee Eligible CIP No.	Description of Project	Capital Cost (2019 Dollars)
PROPOSED		
1	New 1.5 MGD Lift Station No. 2A and 8-inch Force Main	\$2,614,600
2	New 2.6 MGD Lift Station No. 4A and 10-inch Force Main	\$3,379,000
3	New 1.0 MGD Wastewater Treatment Facility	\$13,260,000
4	New Wastewater Transfer System (Lift Station No. 6 to New WWTF)	\$3,381,700
Proposed Wastewater Project Total		\$22,635,300

Planning level capital cost estimates were calculated for the recommended improvements and do not include individual service connections or subdivision lines. The costs are provided as estimates based on previous similar engineering experience in 2019 dollars and include an allowance for engineering, surveying, and contingencies. Costs do not include easements or land acquisition, except where specifically noted.

CITY OF RICHWOOD
WATER AND WASTEWATER IMPACT FEE STUDY
WATER CAPITAL IMPROVEMENTS PLAN (CIP)

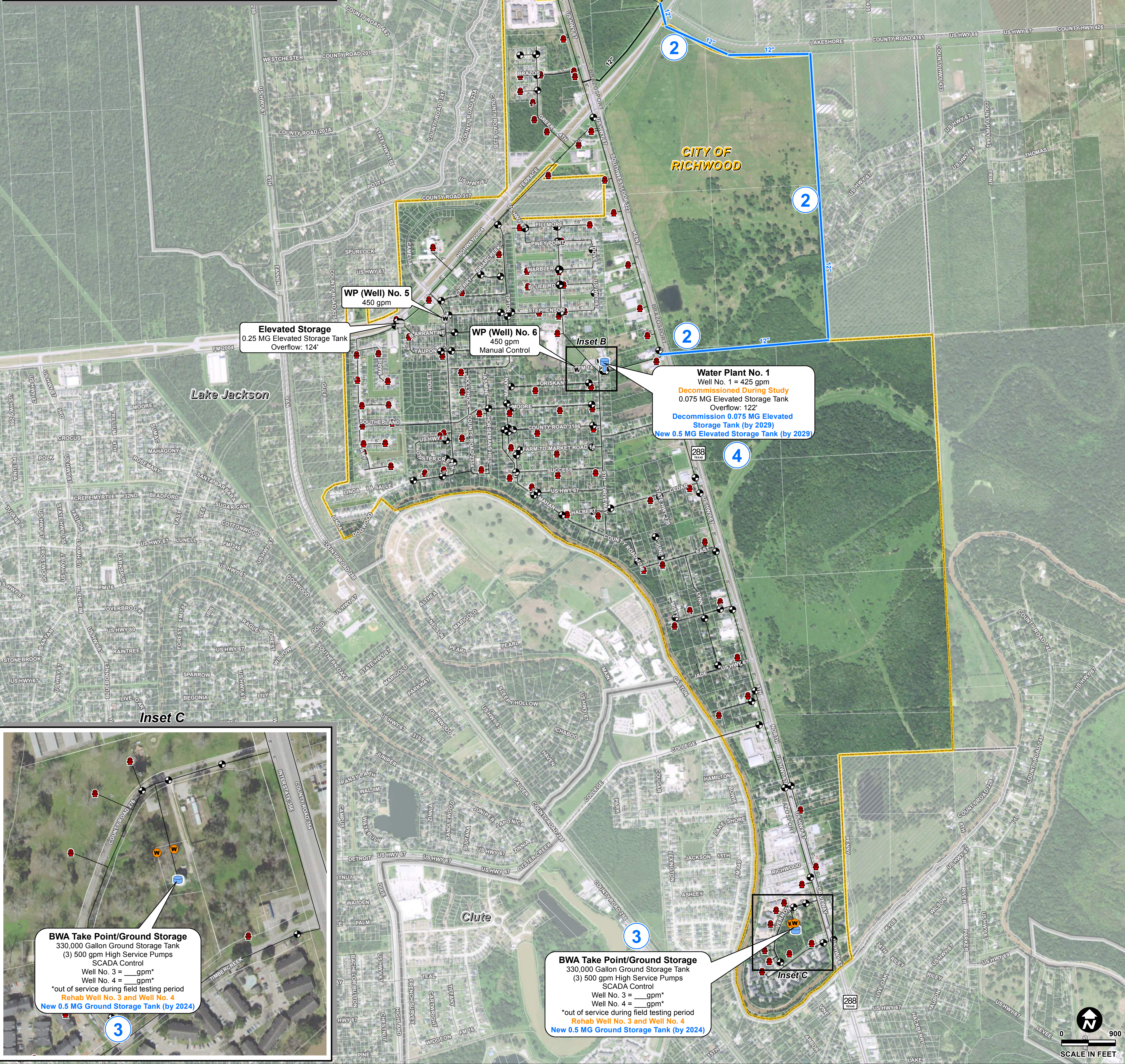
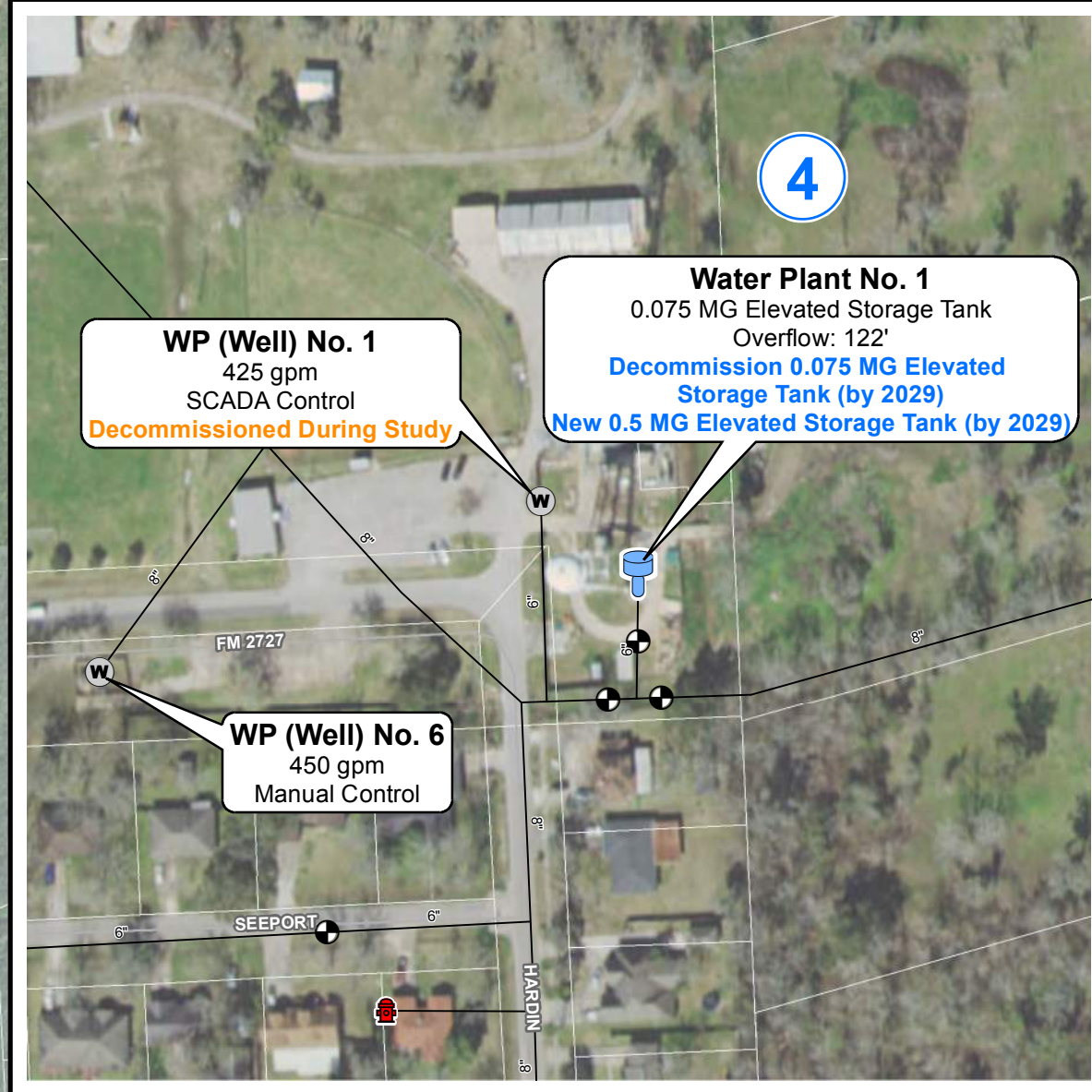
LEGEND

- IF Eligible CIP Water Plant (10 Year)
- IF Eligible CIP Well (10 Year)
- IF Eligible CIP Ground Storage Tank (10 Year)
- IF Eligible CIP Elevated Storage Tank (10 Year)
- IF Eligible CIP Water Line (10 Year)
- Well
- Valve
- Hydrant
- 8" and Smaller Water Line
- 10" and Larger Water Line
- Road
- Stream
- Parcel
- City Limit
- ETJ
- Other City Limit

FREESE
AND
NICHOLS



Inset B





DRAFT FIGURE 3-2

CITY OF RICHWOOD

WATER AND WASTEWATER IMPACT FEE STUDY

WASTEWATER CAPITAL IMPROVEMENTS PLAN (CIP)

LEGEND

	IF Eligible CIP Lift Station (10 Year)		Manhole		Road
	IF Eligible CIP Wastewater Treatment Facility (10 Year)		Private Lift Station		Stream
	IF Eligible CIP Wastewater Improvement Line (10 Year)		Lift Station		Parcel
	IF Eligible CIP Wastewater Force Main (10 Year)		8" and Smaller Wastewater Line		City Limit
	IF Eligible CIP Wastewater Force Main (10 Year)		10" and Larger Wastewater Line		ETJ
	IF Eligible CIP Wastewater Force Main (10 Year)		8" and Smaller Force Main		Other City Limit
	IF Eligible CIP Wastewater Force Main (10 Year)		10" and Larger Force Main		

**FREASE
AND
NICHOLS**

**City of Richwood
TEXAS**

APPENDIX A

Chapter 395, Texas Local Government Code

**CHAPTER 395. FINANCING CAPITAL IMPROVEMENTS REQUIRED BY NEW
DEVELOPMENT IN MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL
GOVERNMENTS**

SUBCHAPTER A. GENERAL PROVISIONS

§ 395.001. Definitions

In this chapter:

(1) "Capital improvement" means any of the following facilities that have a life expectancy of three or more years and are owned and operated by or on behalf of a political subdivision:

(A) water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; and storm water, drainage, and flood control facilities; whether or not they are located within the service area; and

(B) roadway facilities.

(2) "Capital improvements plan" means a plan required by this chapter that identifies capital improvements or facility expansions for which impact fees may be assessed.

(3) "Facility expansion" means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

(4) "Impact fee" means a charge or assessment imposed by a political subdivision 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 the new development. The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described by this definition. The term does not include:

(A) dedication of land for public parks or payment in lieu of the dedication to serve park needs;

(B) dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development;

(C) lot or acreage fees to be placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or

(D) other pro rata fees for reimbursement of water or sewer mains or lines extended by the political subdivision.

However, an item included in the capital improvements plan may not be required to be constructed except in accordance with Section 395.019(2), and an owner may not be required to construct or dedicate facilities and to pay impact fees for those facilities.

(5) "Land use assumptions" includes a description of the service area and projections of changes in land uses, densities, intensities, and population in the service area over at least a 10-year period.

(6) "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.

(7) "Political subdivision" means a municipality, a district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, or, for the purposes set forth by Section 395.079, certain counties described by that section.

(8) "Roadway facilities" means arterial or collector streets or roads that have been designated on an officially adopted roadway plan of the political subdivision, together with all necessary appurtenances. The term includes the political subdivision's share of costs for roadways and associated improvements designated on the federal or Texas highway system, including local matching funds and costs related to utility line relocation and the establishment of curbs, gutters, sidewalks, drainage appurtenances, and rights-of-way.

(9) "Service area" means the area within the corporate boundaries or extraterritorial jurisdiction, as determined under Chapter 42, of the political subdivision to be served by the capital improvements or facilities expansions specified in the capital improvements plan, except roadway facilities and storm water, drainage, and flood control facilities. The service area, for the purposes of this chapter, may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, except for roadway facilities and storm water, drainage, and flood control facilities. For roadway facilities, the service area is limited to an area within the corporate boundaries of the political subdivision and shall not exceed six miles. For storm water, drainage, and flood control facilities, the service area may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, but shall not exceed the area actually served by the storm water, drainage, and flood control facilities designated in the capital improvements plan and shall not extend across watershed boundaries.

(10) "Service unit" means a 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 and based on historical data and trends applicable to the political subdivision in which the individual unit of development is located during the previous 10 years.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 566, § 1(e), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 345, § 1, eff. Sept. 1, 2001.

SUBCHAPTER B. AUTHORIZATION OF IMPACT FEE

§ 395.011. Authorization of Fee

(a) Unless otherwise specifically authorized by state law or this chapter, a governmental entity or political subdivision may not enact or impose an impact fee.

(b) Political subdivisions may enact or impose impact fees on land within their corporate boundaries or extraterritorial jurisdictions only by complying with this chapter, except that impact fees may not be enacted or imposed in the extraterritorial jurisdiction for roadway facilities.

(c) A municipality may contract to provide capital improvements, except roadway facilities, to an area outside its corporate boundaries and extraterritorial jurisdiction and may charge an impact fee under the contract, but if an impact fee is charged in that area, the municipality must comply with this chapter.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.012. Items Payable by Fee

(a) An impact fee may be imposed only to pay the costs of constructing capital improvements or facility expansions, including and limited to the:

(1) construction contract price;

(2) surveying and engineering fees;

(3) land acquisition costs, including land purchases, court awards and costs, attorney's fees, and expert witness fees; and

(4) 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 political subdivision.

(b) Projected interest charges and other finance costs may be included in determining the amount of impact fees only if the impact fees are used for the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision to finance the capital improvements or facility expansions identified in the capital improvements plan and are not used to reimburse bond funds expended for facilities that are not identified in the capital improvements plan.

(c) Notwithstanding any other provision of this chapter, the Edwards Underground Water District or a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may use impact fees to pay a staff engineer who prepares or updates a capital improvements plan under this chapter.

(d) A municipality may pledge an impact fee as security for the payment of debt service on a bond, note, or other obligation issued to finance a capital improvement or public facility expansion if:

(1) the improvement or expansion is identified in a capital improvements plan; and

(2) at the time of the pledge, the governing body of the municipality certifies in a written order, ordinance, or resolution that none of the impact fee will be used or expended for an improvement or expansion not identified in the plan.

(e) A certification under Subsection (d)(2) is sufficient evidence that an impact fee pledged will not be used or expended for an improvement or expansion that is not identified in the capital improvements plan.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 90, § 1, eff. May 16, 1995.

§ 395.013. Items Not Payable by Fee

Impact fees may not be adopted or used to pay for:

(1) construction, acquisition, or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;

(2) repair, operation, or maintenance of existing or new capital improvements or facility expansions;

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

(4) upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;

(5) administrative and operating costs of the political subdivision, except the Edwards Underground Water District or a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may use impact fees to pay its administrative and operating costs;

(6) principal payments and interest or other finance charges on bonds or other indebtedness, except as allowed by Section 395.012.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.014. Capital Improvements Plan

(a) The political subdivision shall use qualified professionals to prepare the capital improvements plan and to calculate the impact fee. The capital improvements plan must contain specific enumeration of the following items:

(1) a description of the existing capital improvements within the service area and the costs to upgrade, update, improve, expand, or replace the improvements to meet existing needs and usage and stricter safety, efficiency, environmental, or regulatory standards, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(2) an analysis of the total capacity, the level of current usage, and commitments for usage of capacity of the existing capital improvements, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(3) a description of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, which shall be prepared by a qualified professional engineer licensed to perform the professional engineering services in this state;

(4) a definitive table establishing the specific level or quantity of use, consumption, generation, or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, and industrial;

(5) the total number of projected service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(6) the projected demand for capital improvements or facility expansions required by new service units projected over a reasonable period of time, not to exceed 10 years; and

(7) a plan for awarding:

(A) a credit for the portion of ad valorem tax and utility service revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan; or

(B) in the alternative, a credit equal to 50 percent of the total projected cost of implementing the capital improvements plan.

(b) The analysis required by Subsection (a)(3) may be prepared on a systemwide basis within the service area for each major category of capital improvement or facility expansion for the designated service area.

(c) The governing body of the political subdivision is responsible for supervising the implementation of the capital improvements plan in a timely manner.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 345, § 2, eff. Sept. 1, 2001.

§ 395.015. Maximum Fee Per Service Unit

(a) The impact fee per service unit may not exceed the amount determined by subtracting the amount in Section 395.014(a)(7) from the costs of the capital improvements described by Section 395.014(a)(3) and dividing that amount by the total number of projected service units described by Section 395.014(a)(5).

(b) If the number of new service units projected over a reasonable period of time is less than the total number of new service units shown by the approved land use assumptions at full development of the service area, the maximum impact fee per service unit shall be calculated by dividing the costs of the part of the capital improvements necessitated by and attributable to projected new service units described by Section 395.014(a)(6) by the projected new service units described in that section.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 345, § 3, eff. Sept. 1, 2001.

§ 395.016. Time for Assessment and Collection of Fee

(a) This subsection applies only to impact fees adopted and land platted before June 20, 1987. For land that has been platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision before June 20, 1987, or land on which new development occurs or is proposed without platting, the political subdivision may assess the impact fees at any time during the development approval and building process. Except as provided by Section 395.019, the political subdivision may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(b) This subsection applies only to impact fees adopted before June 20, 1987, and land platted after that date. For new development which is platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision after June 20, 1987, the political subdivision may assess the impact fees before or at the time of recordation. Except as provided by Section 395.019, the political subdivision may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(c) This subsection applies only to impact fees adopted after June 20, 1987. For new development which is platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision before the adoption of an impact fee, an impact fee may not be collected on any service unit for which a valid building permit is issued within one year after the date of adoption of the impact fee.

(d) This subsection applies only to land platted in accordance with Subchapter A, Chapter 212, or the subdivision or platting procedures of a political subdivision after adoption of an impact fee adopted after June 20, 1987. The political subdivision shall assess the impact fees before or at the time of recordation of a subdivision plat or other plat under Subchapter A, Chapter 212, or the subdivision or platting ordinance or procedures of any political subdivision in the official records of the county clerk of the county in which the tract is located. Except as provided by Section 395.019, if the political subdivision has water and wastewater capacity available:

(1) the political subdivision shall collect the fees at the time the political subdivision issues a building permit;

(2) for land platted outside the corporate boundaries of a municipality, the municipality shall collect the fees at the time an application for an individual meter connection to the municipality's water or wastewater system is filed; or

(3) a political subdivision that lacks authority to issue building permits in the area where the impact fee applies shall collect the fees at the time an application is filed for an individual meter connection to the political subdivision's water or wastewater system.

(e) For land on which new development occurs or is proposed to occur without platting, the political subdivision may assess the impact fees at any time during the development and building process and may collect the fees at either the time of recordation of the subdivision plat or connection to the political subdivision's water or sewer system or at the time the political subdivision issues either the building permit or the certificate of occupancy.

(f) An "assessment" means a determination of the amount of the impact fee in effect on the date of occurrence provided in this section and is the maximum amount that can be charged per service unit of such development. No specific act by the political subdivision is required.

(g) Notwithstanding Subsections (a)-(e) and Section 395.017, the political subdivision 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. If affordable housing as defined by 42 U.S.C. Section 12745, as amended, is not constructed, the political subdivision may reverse its decision to waive or reduce the impact fee, and the political subdivision may assess an impact fee at any time during the development approval or building process or after the building process if an impact fee was not already assessed.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 980, § 52, eff. Sept. 1, 1997.

Amended by Acts 2001, 77th Leg., ch. 345, § 4, eff. Sept. 1, 2001.

§ 395.017. Additional Fee Prohibited; Exception

After assessment of the impact fees attributable to the new development or execution of an agreement for payment of impact fees, additional impact fees or increases in fees may not be assessed against the tract for any reason 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.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.018. Agreement With Owner Regarding Payment

A political subdivision is authorized to enter into an agreement with the owner of a tract of land for which the plat has been recorded providing for the time and method of payment of the impact fees.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.019. Collection of Fees if Services Not Available

Except for roadway facilities, impact fees may be assessed but may not be collected in areas where services are not currently available unless:

(1) the collection is made to pay for a capital improvement or facility expansion that has been identified in the capital improvements plan and the political subdivision commits to commence construction within two years, under duly awarded and executed contracts or commitments of staff time covering substantially all of the work required to provide service, and to have the service available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in no event longer than five years;

(2) the political subdivision agrees that the owner of a new development may construct or finance the capital improvements or facility expansions and agrees that the costs incurred or funds advanced will be credited against the impact fees otherwise due from the new development or agrees to reimburse the owner for such costs from impact fees paid from other new developments that will use such capital improvements or facility expansions, which fees shall be collected and reimbursed to the owner at the time the other new development records its plat; or

(3) an owner voluntarily requests the political subdivision to reserve capacity to serve future development, and the political subdivision and owner enter into a valid written agreement.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.020. Entitlement to Services

Any new development for which an impact fee has been paid is entitled to the permanent use and benefit of the services for which the fee was exacted and is entitled to receive immediate service from any existing facilities with actual capacity to serve the new service units, subject to compliance with other valid regulations.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.021. Authority of Political Subdivisions to Spend Funds to Reduce Fees

Political subdivisions may spend funds from any lawful source to pay for all or a part of the capital improvements or facility expansions to reduce the amount of impact fees.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.022. Authority of Political Subdivision to Pay Fees

Political subdivisions and other governmental entities may pay impact fees imposed under this chapter.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.023. Credits Against Roadway Facilities Fees

Any construction of, contributions to, or dedications of off-site roadway facilities agreed to or required by a political subdivision as a condition of development approval shall be credited against roadway facilities impact fees otherwise due from the development.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.024. Accounting For Fees and Interest

(a) The order, ordinance, or resolution levying an impact fee must provide that all funds collected through the adoption of an impact fee shall be deposited in interest-bearing accounts clearly identifying the category of capital improvements or facility expansions within the service area for which the fee was adopted.

(b) Interest earned on impact fees is considered funds of the account on which it is earned and is subject to all restrictions placed on use of impact fees under this chapter.

(c) Impact fee funds may be spent only for the purposes for which the impact fee was imposed as shown by the capital improvements plan and as authorized by this chapter.

(d) The records of the accounts into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.025. Refunds

(a) On the request of an owner of the 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 payment under Section 395.019(1).

(b) Repealed by Acts 2001, 77th Leg., ch. 345, § 9, eff. Sept. 1, 2001.

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

(d) Any refund shall bear interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Section 302.002, Finance Code, or its successor statute.

(e) All refunds shall be made to the record owner of the property at the time the refund is paid. However, if the impact fees were paid by another political subdivision or governmental entity, payment shall be made to the political subdivision or governmental entity.

(f) The owner of the property on which an impact fee has been paid or another political subdivision or governmental entity that paid the impact fee has standing to sue for a refund under this section.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 1396, § 37, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 62, § 7.82, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 345, § 9, eff. Sept. 1, 2001.

SUBCHAPTER C. PROCEDURES FOR ADOPTION OF IMPACT FEE

§ 395.041. Compliance With Procedures Required

Except as otherwise provided by this chapter, a political subdivision must comply with this subchapter to levy an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.0411. Capital Improvements Plan

The political subdivision shall provide for a capital improvements plan to be developed by qualified professionals using generally accepted engineering and planning practices in accordance with Section 395.014.

Added by Acts 2001, 77th Leg., ch. 345, § 5, eff. Sept. 1, 2001.

§ 395.042. Hearing on Land Use Assumptions and Capital Improvements Plan

To impose an impact fee, a political subdivision must adopt an order, ordinance, or resolution establishing a public hearing date to consider the land use assumptions and capital improvements plan for the designated service area.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 345, § 5, eff. Sept. 1, 2001.

§ 395.043. Information About Land Use Assumptions and Capital Improvements Plan Available to Public

On or before the date of the first publication of the notice of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall make available to the public its land use assumptions, the time period of the projections, and a description of the capital improvement facilities that may be proposed.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 345, § 5, eff. Sept. 1, 2001.

§ 395.044. Notice of Hearing on Land Use Assumptions and Capital Improvements Plan

(a) Before the 30th day before the date of the hearing on the land use assumptions and capital improvements plan, the political subdivision shall send a notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of the hearing within two years preceding the date of adoption of the order, ordinance, or resolution setting the public hearing.

(b) The political subdivision shall publish notice of the hearing before the 30th day before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies.

(c) The notice must contain:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON LAND USE ASSUMPTIONS AND CAPITAL
IMPROVEMENTS PLAN RELATING TO POSSIBLE ADOPTION OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the land use assumptions and capital improvements plan under which an impact fee may be imposed; and

(4) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the land use assumptions and capital improvements plan.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 345, § 5, eff. Sept. 1, 2001.

§ 395.045. Approval of Land Use Assumptions and Capital Improvements Plan Required

(a) After the public hearing on the land use assumptions and capital improvements plan, the political subdivision shall determine whether to adopt or reject an ordinance, order, or resolution approving the land use assumptions and capital improvements plan.

(b) The political subdivision, within 30 days after the date of the public hearing, shall approve or disapprove the land use assumptions and capital improvements plan.

(c) An ordinance, order, or resolution approving the land use assumptions and capital improvements plan may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 345, § 5, eff. Sept. 1, 2001.

§ 395.0455. Systemwide Land Use Assumptions

(a) In lieu of adopting land use assumptions for each service area, a political subdivision may, except for storm water, drainage, flood control, and roadway facilities, adopt systemwide land use assumptions, which cover all of the area subject to the jurisdiction of the political subdivision for the purpose of imposing impact fees under this chapter.

(b) Prior to adopting systemwide land use assumptions, a political subdivision shall follow the public notice, hearing, and other requirements for adopting land use assumptions.

(c) After adoption of systemwide land use assumptions, a political subdivision is not required to adopt additional land use assumptions for a service area for water supply, treatment, and distribution facilities or wastewater collection and treatment facilities as a prerequisite to the adoption of a capital improvements plan or impact fee, provided the capital improvements plan and impact fee are consistent with the systemwide land use assumptions.

Added by Acts 1989, 71st Leg., ch. 566, § 1(b), eff. Aug. 28, 1989.

§ 395.047. Hearing on Impact Fee

On adoption of the land use assumptions and capital improvements plan, the governing body shall adopt an order or resolution setting a public hearing to discuss the imposition of the impact fee. The public hearing must be held by the governing body of the political subdivision to discuss the proposed ordinance, order, or resolution imposing an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 345, § 5, eff. Sept. 1, 2001.

§ 395.049. Notice of Hearing on Impact Fee

(a) Before the 30th day before the date of the hearing on the imposition of an impact fee, the political subdivision shall send a notice of the hearing by certified mail to any person who has given written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of the hearing within two years preceding the date of adoption of the order or resolution setting the public hearing.

(b) The political subdivision shall publish notice of the hearing before the 30th day before the date set for the hearing, in one or more newspapers of general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies.

(c) The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON ADOPTION OF IMPACT FEES"

- (2) the time, date, and location of the hearing;
- (3) a statement that the purpose of the hearing is to consider the adoption of an impact fee;
- (4) the amount of the proposed impact fee per service unit; and
- (5) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the plan and proposed fee.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 345, § 5, eff. Sept. 1, 2001.

§ 395.050. Advisory Committee Comments on Impact Fees

The advisory committee created under Section 395.058 shall file its written comments on the proposed impact fees before the fifth business day before the date of the public hearing on the imposition of the fees.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 345, § 5, eff. Sept. 1, 2001.

§ 395.051. Approval of Impact Fee Required

(a) The political subdivision, within 30 days after the date of the public hearing on the imposition of an impact fee, shall approve or disapprove the imposition of an impact fee.

(b) An ordinance, order, or resolution approving the imposition of an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 345, § 5, eff. Sept. 1, 2001.

§ 395.052. Periodic Update of Land Use Assumptions and Capital Improvements Plan Required

(a) A political subdivision imposing an impact fee shall update the land use assumptions and capital improvements plan at least every five years. The initial five-year period begins on the day the capital improvements plan is adopted.

(b) The political subdivision shall review and evaluate its current land use assumptions and shall cause an update of the capital improvements plan to be prepared in accordance with Subchapter B.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 345, § 6, eff. Sept. 1, 2001.

§ 395.053. Hearing on Updated Land Use Assumptions and Capital Improvements Plan

The governing body of the political subdivision shall, within 60 days after the date it receives the update of the land use assumptions and the capital improvements plan, adopt an order setting a public hearing to discuss and review the update and shall determine whether to amend the plan.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.054. Hearing on Amendments to Land Use Assumptions, Capital Improvements Plan, or Impact Fee

A public hearing must be held by the governing body of the political subdivision to discuss the proposed ordinance, order, or resolution amending land use assumptions, the capital improvements plan, or the impact fee. On or before the date of the first publication of the notice of the hearing on the amendments, the land use assumptions and the capital improvements plan, including the amount of any proposed amended impact fee per service unit, shall be made available to the public.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.055. Notice of Hearing on Amendments to Land Use Assumptions, Capital Improvements Plan, or Impact Fee

(a) The notice and hearing procedures prescribed by Sections 395.044(a) and (b) apply to a hearing on the amendment of land use assumptions, a capital improvements plan, or an impact fee.

(b) The notice of a hearing under this section must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON AMENDMENT OF IMPACT FEES"

(2) the time, date, and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the amendment of land use assumptions and a capital improvements plan and the imposition of an impact fee; and

(4) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the update.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 345, § 7, eff. Sept. 1, 2001.

§ 395.056. Advisory Committee Comments on Amendments

The advisory committee created under Section 395.058 shall file its written comments on the proposed amendments to the land use assumptions, capital improvements plan, and impact fee before the fifth business day before the date of the public hearing on the amendments.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.057. Approval of Amendments Required

(a) The political subdivision, within 30 days after the date of the public hearing on the amendments, shall approve or disapprove the amendments of the land use assumptions and the capital improvements plan and modification of an impact fee.

(b) An ordinance, order, or resolution approving the amendments to the land use assumptions, the capital improvements plan, and imposition of an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.0575. Determination That No Update of Land Use Assumptions, Capital Improvements Plan or Impact Fees is Needed

(a) If, at the time an update under Section 395.052 is required, the governing body determines that no change to the land use assumptions, capital improvements plan, or impact fee is needed, it may, as an alternative to the updating requirements of Sections 395.052-395.057, do the following:

(1) The governing body of the political subdivision shall, upon determining that an update is unnecessary and 60 days before publishing the final notice under this section, send notice of its determination not to update the land use assumptions, capital improvements plan, and impact fee by certified mail to any person who has, within two years preceding the date that the final notice of this matter is to be published, give written notice by certified or registered mail to the municipal secretary or other designated official of the political subdivision requesting notice of hearings related to impact fees. The notice must contain the information in Subsections (b)(2)-(5).

(2) The political subdivision shall publish notice of its determination once a week for three consecutive weeks in one or more newspapers with general circulation in each county in which the political subdivision lies. However, a river authority that is authorized elsewhere by state law to charge fees that function as impact fees may publish the required newspaper notice only in each county in which the service area lies. The notice of public hearing may not be in the part of the paper in which legal notices and classified ads appear and may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type.

(b) The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF DETERMINATION NOT TO UPDATE
LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS
PLAN, OR IMPACT FEES";

(2) a statement that the governing body of the political subdivision has determined that no change to the land use assumptions, capital improvements plan, or impact fee is necessary;

(3) an easily understandable description and a map of the service area in which the updating has been determined to be unnecessary;

(4) a statement that if, within a specified date, which date shall be at least 60 days after publication of the first notice, a person makes a written request to the designated official of the political subdivision requesting that the land use assumptions, capital improvements plan, or impact fee be updated, the governing body must comply with the request by following the requirements of Sections 395.052-395.057; and

(5) a statement identifying the name and mailing address of the official of the political subdivision to whom a request for an update should be sent.

(c) The advisory committee shall file its written comments on the need for updating the land use assumptions, capital improvements plans, and impact fee before the fifth business day before the earliest notice of the government's decision that no update is necessary is mailed or published.

(d) If, by the date specified in Subsection (b)(4), a person requests in writing that the land use assumptions, capital improvements plan, or impact fee be updated, the governing body shall cause an update of the land use assumptions and capital improvements plan to be prepared in accordance with Sections 395.052-395.057.

(e) An ordinance, order, or resolution determining the need for updating land use assumptions, a capital improvements plan, or an impact fee may not be adopted as an emergency measure.

Added by Acts 1989, 71st Leg., ch. 566, § 1(d), eff. Aug. 28, 1989.

§ 395.058. Advisory Committee

(a) On or before the date on which the order, ordinance, or resolution is adopted under Section 395.042, the political subdivision shall appoint a capital improvements advisory committee.

(b) The advisory committee is composed of not less than five members who shall be appointed by a majority vote of the governing body of the political subdivision. Not less than 40 percent of the membership of the advisory committee must be representatives of the real estate, development, or building industries who are not employees or officials of a political subdivision or governmental entity.

If the political subdivision has a planning and zoning commission, the commission may act as the advisory committee if the commission includes at least one representative of the real estate, development, or building industry who is not an employee or official of a political subdivision or governmental entity. If no such representative is a member of the planning and zoning commission, the commission may still act as the advisory committee if at least one such representative is appointed by the political subdivision as an ad hoc voting member of the planning and zoning commission when it acts as the advisory committee. If the impact fee is to be applied in the extraterritorial jurisdiction of the political subdivision, the membership must include a representative from that area.

(c) The advisory committee serves in an advisory capacity and is established to:

(1) advise and assist the political subdivision in adopting land use assumptions;

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

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

(4) file semiannual reports with respect to the progress of the capital improvements plan and report to the political subdivision any perceived inequities in implementing the plan or imposing the impact fee; and

(5) advise the political subdivision of the need to update or revise the land use assumptions, capital improvements plan, and impact fee.

(d) The political subdivision shall make available to the advisory committee any professional reports with respect to developing and implementing the capital improvements plan.

(e) The governing body of the political subdivision shall adopt procedural rules for the advisory committee to follow in carrying out its duties.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

SUBCHAPTER D. OTHER PROVISIONS

§ 395.071. Duties to be Performed Within Time Limits

If the governing body of the political subdivision does not perform a duty imposed under this chapter within the prescribed period, a person who has paid an impact fee or an owner of land on which an impact fee has been paid has the right to present a written request to the governing body of the political subdivision stating the nature of the unperformed duty and requesting that it be performed within 60 days after the date of the request. If the governing body of the political subdivision finds that the duty is required under this chapter and is late in being performed, it shall cause the duty to commence within 60 days after the date of the request and continue until completion.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.072. Records of Hearings

A record must be made of any public hearing provided for by this chapter. The record shall be maintained and be made available for public inspection by the political subdivision for at least 10 years after the date of the hearing.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.073. Cumulative Effect of State and Local Restrictions

Any state or local restrictions that apply to the imposition of an impact fee in a political subdivision where an impact fee is proposed are cumulative with the restrictions in this chapter.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.074. Prior Impact Fees Replaced by Fees Under This Chapter

An impact fee that is in place on June 20, 1987, must be replaced by an impact fee made under this chapter on or before June 20, 1990. However, any political subdivision having an impact fee that has not been replaced under this chapter on or before June 20, 1988, is liable to any party who, after June 20, 1988, pays an impact fee that exceeds the maximum permitted under Subchapter B by more than 10 percent for an amount equal to two times the difference between the maximum impact fee allowed and the actual impact fee imposed, plus reasonable attorney's fees and court costs.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.075. No Effect on Taxes or Other Charges

This chapter does not prohibit, affect, or regulate any tax, fee, charge, or assessment specifically authorized by state law.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.076. Moratorium on Development Prohibited

A moratorium may not be placed on new development for the purpose of awaiting the completion of all or any part of the process necessary to develop, adopt, or update land use assumptions, a capital improvements plan, or an impact fee.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 441, § 2, eff. Sept. 1, 2001.

§ 395.077. Appeals

(a) A person who has exhausted all administrative remedies within the political subdivision and who is aggrieved by a final decision is entitled to trial de novo under this chapter.

(b) A suit to contest an impact fee must be filed within 90 days after the date of adoption of the ordinance, order, or resolution establishing the impact fee.

(c) Except for roadway facilities, a person who has paid an impact fee or an owner of property on which an impact fee has been paid is entitled to specific performance of the services by the political subdivision for which the fee was paid.

(d) This section does not require construction of a specific facility to provide the services.

(e) Any suit must be filed in the county in which the major part of the land area of the political subdivision is located. A successful litigant shall be entitled to recover reasonable attorney's fees and court costs.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.078. Substantial Compliance With Notice Requirements

An impact fee may not be held invalid because the public notice requirements were not complied with if compliance was substantial and in good faith.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

§ 395.079. Impact Fee for Storm Water, Drainage, and Flood Control in Populous County

(a) Any county that has a population of 3.3 million or more or that borders a county with a population of 3.3 million or more, and any district or authority created under Article XVI, Section 59, of the Texas Constitution within any such county that is authorized to provide storm water, drainage, and flood control facilities, is authorized to impose impact fees to provide storm water, drainage, and flood control improvements necessary to accommodate new development.

(b) The imposition of impact fees authorized by Subsection (a) is exempt from the requirements of Sections 395.025, 395.052-395.057, and 395.074 unless the political subdivision proposes to increase the impact fee.

(c) Any political subdivision described by Subsection (a) is authorized to pledge or otherwise contractually obligate all or part of the impact fees to the payment of principal and interest on bonds, notes, or other obligations issued or incurred by or on behalf of the political subdivision and to the payment of any other contractual obligations.

(d) An impact fee adopted by a political subdivision under Subsection (a) may not be reduced if:

(1) the political subdivision has pledged or otherwise contractually obligated all or part of the impact fees to the payment of principal and interest on bonds, notes, or other obligations issued by or on behalf of the political subdivision; and

(2) the political subdivision agrees in the pledge or contract not to reduce the impact fees during the term of the bonds, notes, or other contractual obligations.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989.

Amended by Acts 2001, 77th Leg., ch. 669, § 107, eff. Sept. 1, 2001.

§ 395.080. Chapter Not Applicable to Certain Water-Related Special Districts

(a) This chapter does not apply to impact fees, charges, fees, assessments, or contributions:

(1) paid by or charged to a district created under Article XVI, Section 59, of the Texas Constitution to another district created under that constitutional provision if both districts are required by law to obtain approval of their bonds by the Texas Natural Resource Conservation Commission; or

(2) charged by an entity if the impact fees, charges, fees, assessments, or contributions are approved by the Texas Natural Resource Conservation Commission.

(b) Any district created under Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution may petition the Texas Natural Resource Conservation Commission for approval of any proposed impact fees, charges, fees, assessments, or contributions. The commission shall adopt rules for reviewing the petition and may charge the petitioner fees adequate to cover the cost of processing and considering the petition. The rules shall require notice substantially the same as that required by this chapter for the adoption of impact fees and shall afford opportunity for all affected parties to participate.

Added by Acts 1989, 71st Leg., ch. 1, § 82(a), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 76, § 11.257, eff. Sept. 1, 1995.

§ 395.081. Fees for Adjoining Landowners in Certain Municipalities

(a) This section applies only to a municipality with a population of 105,000 or less that constitutes more than three-fourths of the population of the county in which the majority of the area of the municipality is located.

(b) A municipality that has not adopted an impact fee under this chapter that is constructing a capital improvement, including sewer or waterline or drainage or roadway facilities, from the municipality to a development located within or outside the municipality's boundaries, in its discretion, may allow a landowner whose land adjoins the capital improvement or is within a specified distance from the capital improvement, as determined by the governing body of the municipality, to connect to the capital improvement if:

(1) the governing body of the municipality has adopted a finding under Subsection (c); and

(2) the landowner agrees to pay a proportional share of the cost of the capital improvement as determined by the governing body of the municipality and agreed to by the landowner.

(c) Before a municipality may allow a landowner to connect to a capital improvement under Subsection (b), the municipality shall adopt a finding that the municipality will benefit from allowing the landowner to connect to the capital improvement. The finding shall describe the benefit to be received by the municipality.

(d) A determination of the governing body of a municipality, or its officers or employees, under this section is a discretionary function of the municipality and the municipality and its officers or employees are not liable for a determination made under this section.

Added by Acts 1997, 75th Leg., ch. 1150, § 1, eff. June 19, 1997.

§ 395.082. Certification of Compliance Required

(a) A political subdivision that imposes an impact fee shall submit a written certification verifying compliance with this chapter to the attorney general each year not later than the last day of the political subdivision's fiscal year.

(b) The certification must be signed by the presiding officer of the governing body of a political subdivision and include a statement that reads substantially similar to the following: "This statement certifies compliance with Chapter 395, Local Government Code."

(c) A political subdivision that fails to submit a certification as required by this section is liable to the state for a civil penalty in an amount equal to 10 percent of the amount of the impact fees erroneously charged. The attorney general shall collect the civil penalty and deposit the amount collected to the credit of the housing trust fund.

Added by Acts 2001, 77th Leg., ch. 345, § 8, eff. Sept. 1, 2001.

APPENDIX B
Water System Impact Fee Eligible CIP
Planning Level Opinion of Probable Construction Cost (OPCC) Estimates

City of Richwood



DRAFT Capital Improvement Cost Estimate*

April 2, 2019

**Planning Level Costs in 2019 Dollars*

CIP Project Number:

1

Project Name: Construct New Oakwood Shores Water Plant

Detailed Description:

This project includes the construction of a new water plant in Oakwood Shores. This water plant includes a 450 gpm well*, 0.35 MG ground storage tank, and a 0.65 MGD pump station (firm capacity). Approximately 3,700 feet of 8-inch water line looping is also included in this project to improve fire flows in the Oakwood Shores area.

*It is recommended to drill a test well to verify available yield at the Oakwood Shores site.

Purpose:

This project will provide the Oakwood Shores portion of the water distribution system with the minimum pressures required by the Texas Commission on Environmental Quality (TCEQ). This project will also provide a portion of the additional water supply to be required based on the land use, population and water demand projections. The water quality in Oakwood Shores is also anticipated to be improved by this project.

Opinion of Probable Construction Cost

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
1	Pump Station - New 0.65 MGD	1	LS	\$ 900,000	\$ 900,000
2	0.35 MG Ground Storage Tank	1	LS	\$ 350,000	\$ 350,000
3	450 gpm (0.65 MGD) Groundwater Well	1	LS	\$ 1,050,000	\$ 1,050,000
4	8" Water Line & Appurtenances	3,700	LF	\$ 80	\$ 296,000
SUBTOTAL:					\$ 2,596,000
CONTINGENCY				30%	\$ 778,800
SUBTOTAL:					\$ 3,374,800
ENG/SURVEY				20%	\$ 675,000
SUBTOTAL:					\$ 4,049,800
Estimated Project Total:					\$ 4,049,800

City of Richwood



DRAFT Capital Improvement Cost Estimate*

April 2, 2019

**Planning Level Costs in 2019 Dollars*

CIP Project Number:

2

Project Name: Construct New 12-inch East Water Line Loop

Detailed Description:

This project includes the construction of a 12-inch water line loop southeast of FM 2004 and Hwy 288B.

Purpose:

The land use and water demand projections anticipate this portion of the 920-acre tract to begin developing within the next 5 years. This water line loop is sized to serve the projected 25-year development in this area. This project is also part of the 25-year plan to construct a 2nd water line from the BWA Take Point to the northern portion of the distribution system. This 2nd water line will be integral to distributing the projected 25-year water demands throughout the distribution system.

Opinion of Probable Construction Cost

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
1	12" Water Line & Appurtenances	11,600	LF	\$ 120	\$ 1,392,000
2	24" Boring and Casing	600	LF	\$ 420	\$ 252,000
SUBTOTAL:					\$ 1,644,000
CONTINGENCY				30%	\$ 493,200
SUBTOTAL:					\$ 2,137,200
ENG/SURVEY				15%	\$ 320,600
SUBTOTAL:					\$ 2,457,800
Estimated Project Total:					\$ 2,457,800

City of Richwood



DRAFT Capital Improvement Cost Estimate*

April 2, 2019

**Planning Level Costs in 2019 Dollars*

CIP Project Number:

3

Project Name: Construct New 0.5 MG Ground Storage Tank at BWA Take Point

Purpose:

This project includes the construction of a new 0.5 MG ground storage tank at the BWA Take Point.

Project Drivers:

It is recommended to have a minimum of 8 hours of storage at pumping facilities.

Opinion of Probable Construction Cost

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
1	0.5 MG Ground Storage Tank	1	LS	\$ 500,000	\$ 500,000
				SUBTOTAL:	\$ 500,000
				CONTINGENCY	30%
				SUBTOTAL:	\$ 650,000
				ENG/SURVEY	20%
				SUBTOTAL:	\$ 780,000
Estimated Project Total:					\$ 780,000

City of Richwood



DRAFT Capital Improvement Cost Estimate*

April 2, 2019

**Planning Level Costs in 2019 Dollars*

CIP Project Number:

4

Phase: By 2029

Project Name: Construct New 0.5 MG Elevated Storage Tank (EST)

Detailed Description:

This project includes the decommissioning of the existing 0.075 MG elevated storage tank and the construction of a new 0.5 MG elevated storage tank at an overflow elevation of approximately 159 feet (35 feet higher than the City's existing overflow elevation).

Purpose:

The City's projected water system connections will require additional elevated storage capacity within 10 years to comply with the Texas Commission on Environmental Quality (TCEQ) regulations set forth in the Texas Local government Code (TLGC) Chapter 290. This elevated storage tank is sized to serve the projected water system connections through 2043. Raising the overflow elevation of the City's elevated storage tanks will provide higher residual pressures throughout the water distribution system, providing a higher level of service to the City's customers.

Opinion of Probable Construction Cost

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
1	Commission Existing 0.075 MG Elevated Storage Tank	1	LS	\$ 75,000	\$ 75,000
2	0.50 MG Elevated Storage Tank	1	LS	\$ 1,800,000	\$ 1,800,000
				SUBTOTAL:	\$ 1,875,000
				CONTINGENCY	30%
					\$ 562,500
				SUBTOTAL:	\$ 2,437,500
				ENG/SURVEY	20%
					\$ 487,500
				SUBTOTAL:	\$ 2,925,000
Estimated Project Total:					\$ 2,925,000

APPENDIX C
Wastewater System Impact Fee Eligible CIP
Planning Level Opinion of Probable Construction Cost (OPCC) Estimates

CIP Project Number:

1

Phase: By 2024

Project Name: New 1.5 MGD Lift Station No. 2A and 8-inch Force Main

Detailed Description:

This project includes the decommissioning of Lift Station No. 1, the re-routing of gravity flows to Lift Station No. 2, the re-construction of Lift Station No. 2 at 1.5 MGD firm capacity to accommodate all wastewater flows for both existing lift stations, and the construction of a replacement 8-inch force main. The replacement Lift Station No. 2A is planned to pump to the same location where Lift Station No. 1 currently discharges.

Purpose:

The flow monitor and level-only data shows consistent surcharging at Lift Station No. 1, indicating the station does not have enough firm pumping capacity to convey the existing peak flows. This project will increase the firm pumping capacity of Lift Station No. 1 and consolidate Lift Stations No. 1 and No. 2 into a single lift station, thereby removing an aging lift station and its future O&M from the City's inventory.

Opinion of Probable Construction Cost

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
1	New 1.5 MGD LS No. 1	1	EA	\$ 1,067,200	\$ 1,067,200
2	8" Force Main < 8 feet deep	4,500	LF	\$ 80	\$ 360,000
3	15" Pipe 8- 16 feet deep	1,500	LF	\$ 135	\$ 202,500
4	48" Diameter Manhole (15' Depth)	5	EA	\$ 9,250	\$ 46,250
				SUBTOTAL:	\$ 1,676,000
				CONTINGENCY	30%
					\$ 502,800
				SUBTOTAL:	\$ 2,178,800
				ENG/SURVEY	20%
					\$ 435,800
				SUBTOTAL:	\$ 2,614,600
Estimated Project Total:					\$ 2,614,600

City of Richwood



DRAFT Capital Improvement Cost Estimate*

April 2, 2019

**Planning Level Costs in 2019 Dollars*

CIP Project Number:

2

Phase: By 2024

Project Name: New 2.6 MGD Lift Station No. 4A and 10-inch Force Main

Detailed Description:

This project includes the decommissioning of Lift Station No. 4, the construction of a larger Lift Station No. 4A (2.6 MGD firm capacity), and the construction of a new 10-inch force main on the east side of Highway 288B. This project also includes an allowance for land acquisition east of Highway 288B.

Purpose:

The level-only data shows consistent surcharging at Lift Station No. 4, indicating the station does not have enough firm pumping capacity to convey the existing peak flows. The future land use map and wastewater flow projections show additional future wastewater flows coming to this lift station. The new lift station is sized to convey the projected 25-year peak wastewater flows in its service area and is being re-located to accommodate future development east of Hwy 288B and south of FM 2004.

Opinion of Probable Construction Cost

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
1	New 2.6 MGD LS No. 4	1	EA	\$ 1,206,000	\$ 1,206,000
2	10" Force Main < 8 feet deep	6,200	LF	\$ 100	\$ 620,000
3	36" Boring and Casing	300	LF	\$ 630	\$ 189,000
4	24" Boring and Casing	300	LF	\$ 420	\$ 126,000
5	Land Acquisition	1	Ac	\$ 50,000	\$ 25,000
				SUBTOTAL:	\$ 2,166,000
				CONTINGENCY	30%
					\$ 649,800
				SUBTOTAL:	\$ 2,815,800
				ENG/SURVEY	20%
					\$ 563,200
				SUBTOTAL:	\$ 3,379,000
Estimated Project Total:					\$ 3,379,000

City of Richwood



DRAFT Capital Improvement Cost Estimate*

April 2, 2019

**Planning Level Costs in 2019 Dollars*

CIP Project Number:

3

Phase: By 2029

Project Name: **New 1.0 MGD Wastewater Treatment Facility**

Detailed Description:

This project includes the construction of a new wastewater treatment facility (WWTF) for the City of Richwood. This facility would be owned and operated by Richwood and would treat all of the City's wastewater flows. This project includes the purchase of approximately 10 acres of land for this future WWTF.

Purpose:

Richwood's average daily wastewater flows are projected to more than double based on this study's land use and wastewater flow projections. Richwood currently sends all of its wastewater flows to the jointly-owned Clute-Richwood WWTP and pays into operations and maintenance for the transmission line and WWTP. This new 1.0 MGD treatment facility would treat the City of Richwood's wastewater flows instead of sending them to Clute. This WWTF is sized to treat Richwood's projected wastewater flows for the next 10-15 years before an expansion would be required.

Opinion of Probable Construction Cost

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
1	New 1.0 MGD WWTF	1	LS	\$ 8,000,000	\$ 8,000,000
2	Land Acquisition	10	Ac	\$ 50,000	\$ 500,000
				SUBTOTAL:	\$ 8,500,000
				CONTINGENCY	30%
					\$ 2,550,000
				SUBTOTAL:	\$ 11,050,000
				ENG/SURVEY	20%
					\$ 2,210,000
				SUBTOTAL:	\$ 13,260,000
Estimated Project Total:					\$ 13,260,000

City of Richwood



DRAFT Capital Improvement Cost Estimate*

April 2, 2019

**Planning Level Costs in 2019 Dollars*

CIP Project Number:

4

Phase: By 2029

Project Name: New Wastewater Transfer System (Lift Station No. 6 to New WWTF)

Detailed Description:

This project includes the construction of a new 18-inch force main and 30-inch gravity line east of Hwy 288B.

Purpose:

This project will re-direct the Lift Station No. 6 flows from Clute to the New 1.0 MGD Richwood Wastewater Treatment Facility (WWTF). A new 18-inch force main will carry flows from the lift station northeast across Hwy 288B and discharge to a new 30-inch gravity line. The 30-inch gravity line is sized to convey the projected 25-year flows from Lift Station No. 6 as well as the acreage east of Highway 288B to the WWTF.

Opinion of Probable Construction Cost

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
1	18" Force Main < 8 feet deep	5,400	LF	\$ 180	\$ 972,000
2	30" Pipe > 16 feet deep	3,800	LF	\$ 300	\$ 1,140,000
3	72 Diameter Manhole (16' - 24')	6	EA	\$ 25,000	\$ 150,000
				SUBTOTAL:	\$ 2,262,000
				CONTINGENCY	30%
					\$ 678,600
				SUBTOTAL:	\$ 2,940,600
				ENG/SURVEY	15%
					\$ 441,100
				SUBTOTAL:	\$ 3,381,700
Estimated Project Total:					\$ 3,381,700

RESOLUTION NO. 19-R-07

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHWOOD,
TEXAS, SETTING A PUBLIC HEARING FOR JULY 8, 2019 AT 6:00 P.M.
REGARDING THE POSSIBLE ADOPTION OF IMPACT FEES.**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RICHWOOD, TEXAS:

Section 1. That the City Council, pursuant to Section 395.053 of the Local Government Code hereby schedules a public hearing for July 8, 2019 at 6:00 p.m. to discuss and review the adoption of Impact Fees.

Section 2. The public hearing will be conducted at 1800 Brazosport Blvd N in the City Council chambers of City Hall, and members of the public have the right to appear at the hearing to present evidence for or against the amendments.

PASSED AND APPROVED on this 28th day of May, 2019.

Steve Boykin, Mayor

ATTEST:

Giani Cantu
City Secretary

