

STATE OF TEXAS

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEGUIN, TEXAS AMENDING THE SEGUIN CODE OF ORDINANCES, CHAPTER 102, UTILITIES, ARTICLE IX, CAPITAL RECOVERY FEES, TO CREATE A NEW DIVISION IV, CAPITAL RECOVERY FEE FOR ROADWAY FACILITIES; TO MAKE PROVISIONS FOR BOTH A MAXIMUM AND EFFECTIVE CAPITAL RECOVERY FEE; PROVIDING FOR PUBLICATION OF THIS ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND AUTHORIZING CITY STAFF TO PREPARE THIS ORDINANCE FOR SUBMISSION AS A SUPPLEMENT TO THE CODE OF ORDINANCES

WHEREAS, state law requires that all cities charging impact fees review their fees and corresponding land use assumptions every five years; and

WHEREAS, the City Council has adopted the Roadway Impact Fee Study on April 18, 2017; and

WHEREAS, under state law maximum impact fees (capital recovery fees) are assessed, and vested, at platting and paid at the time of application for building permits; and

WHEREAS, the City will be divided into four Roadway Service Areas, each with a different set of capital improvement projects funded by the capital recovery fee; and

WHEREAS, as a result of the way impact fees are assessed, and the need to maintain a list of fees assessed for various plats the fees and associated tables will be available on line or in the Department of Planning and Codes.

NOW THEREFORE BE IT ORDAINED by the City Council of Seguin, Texas:

SECTION ONE. The Seguin Code of Ordinances, Chapter 102, Utilities, Article IX, Capital Recovery Fees, Division 1, General Provisions, Section 102-354, Definitions, is amended as follows underlining indicates added text, ~~striketrough~~ indicates deleted text):

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

(1) *Assessment*. The determination of the amount of the maximum capital recovery fee per service unit which can be imposed on new development pursuant to this article.

(2) *Bedroom*. A private room planned and intended for sleeping, separable from other rooms by a door.

(3) *Building permit*. Written permission issued by the city for the construction, repair, alteration or addition to a structure.

(4) *Capital construction cost of service*. Costs of constructing capital improvements or facility expansions, including, and limited to, the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees, and expert witness fees), and the fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the city.

(5) *Capital improvements advisory committee (advisory committee)*. Advisory committee, appointed by the city council, consisting of at least five members which are not employees of the city, not less

than 40 percent of which shall be representatives of the real estate, development, or building industries, and, if capital recovery fees are to be applied within the extraterritorial jurisdiction of the city, including one member representing the extraterritorial jurisdiction; or consisting of the planning and zoning commission, including one regular or ad hoc member who is not an employee of the city and which is representative of the real estate, development, or building industry, and, if capital recovery fees are to be applied within the extraterritorial jurisdiction of the city, one representative of the extraterritorial jurisdiction area; which committee is appointed to regularly review and update the capital improvements program in accordance with the requirements of Chapter 395 of the Texas Local Government Code, and its successors.

(6) *Capital improvements program (CIP)*. Plan which identifies water, ~~and wastewater, and roadway~~ capital improvements or facility expansions pursuant to which capital recovery fees may be assessed.

(7) *Capital recovery fee*. Charge or assessment to be imposed by the city upon new development to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to new development. The term includes amortized charges, lump-sum charges, impact fees, contributions in aid of construction, and any other fee that functions as described by this definition. Capital recovery fees do not include dedication of rights-of-way or easements, or construction or dedication of site-related water distribution or wastewater collection facilities, or streets, sidewalks, or curbs if the dedication or construction is required by other valid ordinances of the City Code and is necessitated by and attributable to the new development; or lot or acreage fees placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines.

(8) *City*. City of Seguin.

(9) *City council (council)*. Governing body of the City of Seguin.

(10) *City engineer (engineer)*. City engineer of the City of Seguin.

(11) *City manager*. Chief executive officer of the city, appointed by the council.

(12) *Comprehensive plan*. The comprehensive long-range plan, adopted by the city council, which is intended to guide the growth and development of the city which includes analysis, recommendations and proposals for the city regarding such topics as population, economy, housing, transportation, community facilities and land use.

(13) *Conceptual service area*. Area within the corporate boundaries and within the extraterritorial jurisdiction as defined by the Municipal Annexation Act (Chapter 41, Section 4202, Local Government Code), to be served by the water or wastewater capital improvements or facilities expansions specified in the capital improvements program applicable to the conceptual service area. The conceptual service area represents the general geographic basis for planning the utility capital improvement programs, used to formulate the fees. The service area is conceptual in nature and does not necessarily represent a definitive commitment for service by the city; the conceptual service area boundary also does not necessarily represent limits to service potential or fee assessment. Service area for roadways shall be defined in Division IV of this Article.

(14) *Credit*. The amount of the reduction of a capital recovery fee for fees, payments or charges for the same type of capital improvements for which the fee has been assessed.

(15) *Duplex*. A structure on a single lot designed to accommodate two dwelling units, as authorized under the city's zoning regulations.

(16) *Dwelling unit*. A structure or portion of an overall structure in which a typical household or person or unrelated persons would reside together. A single dwelling unit would include a single family detached house or individual units of attached housing, i.e., one unit within a duplex, triplex, fourplex, or larger apartment building.

(17) *Effective capital recovery fee*. Amount of capital recovery fee collected per service unit, which may be equal to or less than the maximum capital recovery fees as set forth in exhibit "C" to this article.

(18) *Existing development*. All development within the conceptual service area which has a water or wastewater tap on the city's water or sewer system, as of the date of the adoption of this article.

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

(20) *Final subdivision plat (final plat)*. The map, drawing or chart on which is provided a subdivider's plan of a subdivision, and which has received final approval by the planning and zoning commission or city council and which is recorded with the office of the county clerk.

(21) *Growth-related costs*. Capital construction costs of service related to providing additional service units to new development, either from excess capacity in existing facilities, from facility expansions or from new capital facilities. Growth-related costs do not include:

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

- (b) Repair, operation, or maintenance of existing or new capital improvements or facility expansions;

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

- (d) Upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;

- (e) Administrative and operating costs of the city; and

- (f) Principal payments and interest or other finance charges on bonds or other indebtedness, except for such payments for growth-related facilities contained in the capital improvements program.

(22) *Irrigation meter*. Water meter used only for providing landscape irrigation water demand.

(23) *Land use assumptions*. Description of the conceptual service area, roadway service area, and projections of changes in land uses, densities, intensities, and population therein over at least a ten-year period, adopted by the city, as may be amended from time to time, upon which the capital improvement plan is based.

(24) *Living unit equivalent (LUE)*. Basis for establishing equivalency among and within various customer classes, based upon the relationship of the continuous duty flow rate in gallons per minute for a water meter of a given size and type compared to the continuous duty maximum flow rate in gallons per minute for a five-eighths-inch diameter simple water meter, using American Water Works Association C700-C703 standards. LUEs for water meters are shown below.

LUE Equivalencies for Various Types and Sizes of Water Meters

Meter Type	Meter Size (inches)	Continuous Duty Maximum Rate (gpm)	Ratio to 5/8 " Meter
Simple	5/8 x 3/4	10	1.0
Simple	3/4	15	1.5
Simple	1	25	2.5
Simple	1½	50	5.0
Simple	2	80	8.0
Compound	2	80	8.0
Turbine	2	100	10.0
Compound	3	160	16.0
Turbine	3	240	24.0
Compound	4	250	25.0
Turbine	4	420	42.0
Compound	6	500	50.0
Turbine	6	920	92.0

Compound	8	800	80.0
Turbine	8	1,600	160.0
Compound	10	1,150	115.0
Turbine	10	2,500	250.0
Turbine	12	3,300	330.0

Note— SOURCE: AWWA Standards C700, C701, C702, C703.

(25) *Multifamily development.* A single structure containing three or more dwelling units.

(26) *New development.* Subdivision of land; or the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units. New development includes the sale of water taps resulting from the conversion of an individual well to the city's water utility and the sale of wastewater taps resulting from the conversion of an individual septic or other individual waste disposal system to the city's wastewater utility.

(27) *Offset.* The amount of the reduction of a capital recovery fee designed to fairly reflect the value of system-related facilities, pursuant to rules herein established or administrative guidelines, provided and funded by a developer pursuant to the city's subdivision regulations or requirements.

(28) *Residential.* A lot developed for use and occupancy as a single-family residence or a duplex.

(29) Roadway means any freeway, expressway, principal or minor arterial or collector roadways designated in the city's adopted thoroughfare plan, as may be amended from time to time. "Roadway" does not include any roadway designated as a numbered highway on the official federal or Texas highway system.

(30) Roadway expansion means the expansion of the capacity of an existing roadway in the city, but does not include the repair, maintenance, modernization, or expansion of an existing roadway to better serve existing development.

(31) Roadway facility means an improvement or appurtenance to a roadway which includes, but is not limited to, rights-of-way, whether conveyed by deed or easement; intersection improvements; traffic signals; turn lanes; drainage facilities associated with the roadway; street lighting or curbs. "Roadway facility" also includes any improvement or appurtenance to an intersection with a roadway officially enumerated in the federal or Texas highway system. "Roadway facility" excludes those improvements or appurtenances to a roadway which are site-related facilities.

(329) *Service unit*. Standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements or facility expansions expressed in living units equivalent. For roadway facilities a vehicle mile in peak hour, use or generation attributable to the new unit of development as determined by an approved traffic impact study, and shall be equivalent to living units equivalent for water or wastewater facilities..

(330) *Single-family residence*. Single-family dwelling unit, as authorized under the city's zoning regulations.

(34 1) *Site-related facility*. Improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of water or wastewater facilities to serve the new development, and which is not included in the capital improvements plan, and for which the developer or property owner is solely responsible under subdivision and other applicable regulations.

(35 2) *System-related facility*. A capital improvement or facility expansion which is designated in the capital improvements plan and which is not a site-related facility. A system-related facility may include a capital improvement which is located offsite, within or on the perimeter of the development site.

(36 3) *Tap purchase*. The filing with the city of a written application for a water or wastewater tap and the acceptance of applicable fees by the city. The term "tap purchase" shall not be applicable to a master water meter or master wastewater connection purchased from the city by a wholesale customer such as a water district, political subdivision of the State of Texas, or other wholesale utility customer; nor shall it be applicable to a meter purchased for and exclusively dedicated to fire protection.

(37) *Roadway capital improvement plan* means the adopted plan, as may be amended from time to time, which identifies the roadway facilities or roadway expansions and their costs for each road service area, which are necessitated by and which are attributable to new development, for a period not to exceed ten (10) years, which are to be financed in whole or in part through the imposition of road facilities fees pursuant to this division.

(38 4) *Triplex*. A structure on a single lot designed to accommodate three dwelling units, as authorized under the city's zoning regulations.

(39 5) *Wastewater facility*. Improvement for providing wastewater service, including, but not limited to, land or easements, treatment facilities, lift stations, or interceptor mains. Wastewater facility excludes wastewater lines or mains which are constructed by developers, the costs of which are reimbursed from charges paid by subsequent users of the facilities and which are maintained in dedicated trusts. Wastewater facilities also exclude dedication of rights-of-way or easements or construction or dedication of on-site wastewater collection facilities required by valid ordinances of the city and necessitated by and attributable to the new development.

(40 36) *Wastewater facility expansion*. Expansion of the capacity of any existing wastewater improvement for the purpose of serving new development, not including the repair, maintenance, modernization or expansion of an existing wastewater facility to serve existing development.

(41 37) *Wastewater improvements plan (wastewater CIP)*. Portion of the CIP, as may be amended from time to time, which identifies the wastewater facilities or wastewater facility expansions and

their associated growth-related costs which are necessitated by and which are attributable to new development, for a period not to exceed ten years, which are to be financed in whole or in part through the imposition of wastewater capital recovery fees pursuant to this article.

~~(42 38)~~ *Water facility*. Improvement for providing water service, including, but not limited to, land or easements, water supply facilities, treatment facilities, pumping facilities, storage facilities, or transmission mains. Water facility excludes water lines or mains which are constructed by developers, the costs of which are reimbursed from charges paid by subsequent users of the facilities and which are maintained in dedicated trusts. Water facilities also exclude dedication of rights-of-way or easements or construction or dedication of on-site water distribution facilities required by valid ordinances of the city and necessitated by and attributable to the new development.

~~(439)~~ *Water facility expansion*. Expansion of the capacity of any existing water improvement for the purpose of serving new development, not including the repair, maintenance, modernization or expansion of an existing water facility to serve existing development.

~~(440)~~ *Water improvements plan (water CIP)*. Portion of the CIP, as may be amended from time-to-time, which identifies the water facilities or water facility expansions and their associated growth-related costs which are necessitated by and which are attributable to new development, for a period not to exceed ten years, which are to be financed in whole or in part through the imposition of water capital recovery fees pursuant to this article.

~~(45 41)~~ *Wholesale customer*. Water or wastewater customer of the city's utilities which purchases utility service at wholesale rates for resale to their retail customers.

b. If the director determines that the number of vehicle miles to be generated by the new development during the p.m. peak hour is substantially different from that stated for such development in the land use equivalency table, the director may establish the number of vehicle miles based upon his interpretation of a traffic impact study prepared in accordance with city standards.

SECTION TWO. The Seguin Code of Ordinances, Chapter 102, Utilities, Article IX, Capital Recovery Fees, Division 1, General Provisions, Section 102-355, Applicability of capital recovery fees, shall be amended as follows underlining indicates added text, strikethrough indicates deleted text):

(a) This article shall be uniformly applicable to new development which occurs within the water, ~~and~~ wastewater and roadway conceptual service areas.

(b) No new development shall be exempt from the assessment of capital recovery fees as defined in this article.

SECTION THREE. The Seguin Code of Ordinances, Chapter 102, Utilities, Article IX, Capital Recovery Fees, Division 1, General Provisions, Section 102-359 shall be amended as follows underlining indicates added text, strikethrough indicates deleted text):

(a) Service units are established in accordance with generally accepted engineering and planning standards.

(b) Service units shall be calculated based on living units equivalent (or vehicle miles for roadway facilities as set forth in Division IV) as determined by the size of the water meter(s) for the development, the levy shall be based on the number of units; or alternatively, as approved the city engineer as a result of an engineering report prepared by a qualified professional engineer licensed to perform such professional engineering services in the State of Texas, which demonstrates that the number of LUEs of service for the new development will be different than those indicated by the size of the water meter.

(c) If the engineer determines that the water pressure in the city's transmission main is significantly higher or lower than standard pressure such that the size of the water meter is not indicative of actual service demand, the engineer may adjust the number of LUEs based on a smaller or larger sized meter which more accurately reflects the flow rate and the system pressure conditions.

(d) Upon wastewater tap purchase for lots for which no water meter has been purchased, service units shall be established by a professional engineer licensed in the State of Texas, shall be reviewed by the city engineer and shall be presented to council, which shall designate the appropriate number of service units.

(e) If the City engineer determines that the number of vehicle miles to be generated by the new development during the p.m. peak hour is substantially different from that stated for such development in the land use equivalency table, the City engineer may establish the number of vehicle miles based upon his interpretation of a traffic impact study prepared in accordance with city standards.

~~(f)~~ The city council may revise the service units designation according to the procedure set forth in Chapter 395 of the Texas Local Government Code and its successors.

SECTION FOUR. The Seguin Code of Ordinances, Chapter 102, Utilities, Article IX, Capital Recovery Fees, is hereby amended by the creation of a new Division IV, Roadway Facilities, to read as follows:

DIVISION IV. Roadway Facility Capital Recovery Fees

Section 102-380. Procedures.

Except as set forth below, the general procedures set forth in Division I of this Article are applicable to the calculation, imposition and collection of Roadway Capital Recovery Fees.

Section 102-381. Roadway facilities and fees

(a) Roadway service areas. Service areas for roadway facilities shall be those last updated in accordance with the roadway service area map kept in the Planning Department, and the City website. The boundaries of roadway service areas may be amended from time to time, or new roadway service areas may be delineated, pursuant to the procedures set forth in this division.

(b) Road way capital improvements plan. The official roadway capital improvements plan for the city shall be that last updated in accordance with the procedures set forth in this division. The roadway capital improvements plan may be amended from time to time, or new land use assumptions may be adopted.

(c) Roadway facilities impact fees.

(1) The maximum capital recovery fee per service unit for roadway facilities, which are to be assessed against each new development, shall be available online and at the Planning Department in a document known as “Schedule 1 – Maximum Assessable Impact Fees.”

(2) The capital recovery fees per service unit for roadway facilities, which are to be paid by each new development, shall be available online and at the Planning Department in document known as “Schedule 2 – Impact fee Collection Rate.”

(3) Schedule 2 may be amended, from time to time, by action of the City Council, but said rate shall not exceed the maximum capital recovery fee set forth in Schedule 1.

SECTION FIVE. The maximum Roadway Capital Recovery Fee per service unit shall be established by service area in the table below.

Service Area	Maximum Fee \$/Vehicle-Mile
A	\$993
B	\$432
C	\$546
D	\$441

The elected reduced adopted fee per service unit (vehicle-mile) shall be \$273/vehicle mile in all service areas.

SECTION SIX. If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

SECTION SEVEN. City staff is authorized to prepare this Ordinance for submission as a supplement to the Seguin Code of Ordinances.

SECTION EIGHT. In accordance with Section 3.10 of the Seguin City Charter, this Ordinance shall become effective upon ten (10) days following passage on second reading and shall be published in a newspaper of general circulation.

PASSED AND APPROVED on first reading this the 2nd day of May, 2017.

PASSED AND APPROVED on second reading this 16th day of May 2017.

DON KEIL, Mayor

ATTEST:

Naomi Manski, City Secretary

