

*The Bright Star Of  
Central Texas*

# Harker Heights



**OCTOBER 26, 2021**

**5:00 P.M.**

**CITY COUNCIL  
MEETING AGENDA**





**NOTICE OF MEETING OF THE CITY COUNCIL OF  
THE CITY OF HARKER HEIGHTS, TEXAS**

*The City Of Harker Heights*  
305 Miller's Crossing  
Harker Heights, Texas 76548  
Phone 254/953-5600  
Fax 254/953-5614

Notice is hereby given that, beginning at 5:00 p.m. on Tuesday, October 26, 2021, and continuing from day to day thereafter if necessary, the City Council of the City of Harker Heights, Texas, will hold a meeting in the in the Kitty Young Council Chamber at 305 Miller's Crossing, Harker Heights, Texas 76548. The subjects to be discussed are listed in the following agenda:

**MEETING AGENDA**

**Mayor**  
Spencer H. Smith

**Mayor Protem**  
Jennifer McCann

**City Council**  
Michael Blomquist  
Jackeline Soriano Fountain  
Lynda Nash  
Sam Halabi

**I. Invocation:**

**II. 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.

Honor the Texas Flag. I pledge allegiance to thee Texas; one State under God, one and indivisible.

**III. Roll Call:**

**IV. Consent Items:**

1. Discuss and consider approving the minutes of the meetings held on October 12, 2021 and take the appropriate action.

**V. Presentations by Citizens:**

Citizens who desire to address the Council on any matter may do so during this item. Please understand that while the Council appreciates hearing your comments, State law (Texas Gov't Code §551.042) prohibits them from: (1) engaging in discussion other than providing a statement of specific factual information or reciting existing City policy, and (2) taking action other than directing Staff to place the matter on a future agenda. Please state your name and address for the record and limit your comments to three minutes.

**VI. Public Hearing:**

1. Conduct a Public Hearing to discuss and consider approving an Ordinance amending Chapter 11 of the City's Code of Ordinances, establishing Section 11.1 Comprehensive Plan, and Adopting the 2007 Comprehensive Plan and the 2021 Land Use Plan for the City of Harker Heights, Texas, Pursuant to Chapter 213 of the Texas Local Government Code; establishing the relationship of the Land Use Plan and the Development Regulations; Providing for the Amendment of any existing Comprehensive Plan; and providing for the Amendment of any existing Land Use Plan; and take the appropriate action. (Planning and Development Director)
2. Conduct a Public Hearing to discuss and consider adoption of Land Use Assumptions and a Capital Improvements Plan relating to possible adoption of Impact Fees for the 2022 Impact Fee Area, and take the appropriate action. (Planning and Development Director)

**VII. Recess into Executive Session:**

1. Announce a closed meeting for the following purposes:
  - A) Pursuant to §551.074 of the Texas Government Code to deliberate the appointment of public officers to the Planning and Zoning Commission and Building Standards Commission.
  - B) Pursuant to §551.074 of the Texas Government Code to deliberate the appointment of public officers to the Board of Adjustment.

**VIII. Reconvene into Open Session:**

1. Take action, if any, on matters discussed in Executive Session.

**IX. Regular Business:**


1. Discuss and consider appointing members to the Parks & Recreation/Tree Advisory Board; Library Board; Public Safety Commission; Animal Advisory Committee; Economic Development Corporation; Harker Heights Arts Commission; and take the appropriate action. (City Secretary)
2. Discuss and consider approving a Resolution reappointing Jared Bryan as the City of Harker Heights Representative on the Board of Directors of the Tax Appraisal Board of Bell County, Texas, and take the appropriate action. (City Manager)
3. Discuss and consider approving a Resolution of the City Council of the City of Harker Heights, Texas, to participate in the Global Opioids Settlement; and take the appropriate action. (City Manager)
4. Receive and discuss the City Manager's Report. (City Manager)

**X. Items from Council and Announcements:**

1. Council member closing statements.
2. Updates and comments from the Mayor.

**XI. Adjournment:**

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Harker Heights, Texas, a place readily accessible to the general public at all times, on the 22<sup>nd</sup> day of October 2021, by 4:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.



Julie Helsham  
City Secretary

*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 254-953-5600, or FAX 254-953-5614, or email [jhelsham@harkerheights.gov](mailto:jhelsham@harkerheights.gov) for further information.*

*Pursuant to Chapter 551 of the Government Code the City Council reserves the right to go into Closed Meeting on any item listed above if deemed necessary.*

*Note: On occasion the City Council may consider agenda items out of order.*

Minutes of the City of Harker Heights Council Meeting held at 5:00 p.m. on Tuesday, October 12, 2021, in the Kitty Young Council Chamber at the Harker Heights City Hall at 305 Miller's Crossing, Harker Heights, Texas 76548:

**Roll Call:** Spencer H. Smith Mayor  
Michael Blomquist Councilmember Place 2  
Jackeline Soriano Fountain Councilmember Place 3  
Lynda Nash Councilmember Place 4  
Sam Halabi Councilmember Place 5

David Mitchell City Manager  
Julie Helsham City Secretary

**Absent:** Jennifer McCann Mayor Pro-tem

**Consent Items:**

1. Council discussed and considered approving the minutes of the meetings held on September 27, 2021, and September 28, 2021.

Fountain made the motion to approve the minutes of the meetings held on September 27, 2021 and September 28, 2021. Seconded by Nash. All in favor. Motion approved 4-0.

**Presentations by Citizens:**

1. Council received and discussed a presentation by John and Vicki Foster, 1908 N. 6<sup>th</sup> Street, Killeen, Texas, regarding the permanent foundation requirement for a single manufactured home placed on a single leased lot in a multi-use district.
2. Phillip Sueoka, 8899 Smith Dairy Road, Belton, Texas, spoke on the issue regarding his Car wash.

**Public Hearing:**

1. Council conducted a Public Hearing to discuss and consider approving an Ordinance of the City of Harker Heights, Texas, to change zoning designation from B-3 (Local Business District) to B-4 (Secondary and Highway Business District) on property described as Meadow Acres, Block 006, Lot Pt 7, 8, (E 14.5' of N 130' of 7 & W 85.5 of N 130' Of 8), generally located at 808, 810 & 812 S. Ann Blvd., Harker Heights, Bell County, Texas. Kristina Ramirez, Planning and Development Director, made the presentation.

Fountain made the motion to disapprove an Ordinance to change the zoning designation from B-3 (Local Business District) to B-4 (Secondary and Highway Business District) on property described as Meadow Acres, Block 006, Lot PT 7, 8, (E 14.5' of N 130' of 7 & W 85.5 of N 130' of 8), generally located at 808, 810 & 812 S. Ann Blvd., Harker Heights, Bell County, Texas, based on the following:

*The proposed use and rezoning is not compatible with existing uses in the neighborhood due to changes in the neighborhood in recent years.*

Seconded by Halabi. All in favor. Motion to disapprove approved 4-0.

2. Council conducted a Public Hearing to discuss and consider approving an Ordinance of the City of Harker Heights, Texas, amending §155.003 of the Harker Heights Code of Ordinances to clarify the Definition of Board of Adjustment. Kristina Ramirez, Planning and Development Director, made the presentation.

Blomquist made the motion to approve an Ordinance of the City of Harker Heights, Texas, amending Section 155.003 of the Harker Heights' Code of Ordinances to clarify the definition of Board of Adjustment, based upon staff's recommendation and findings. Seconded by Nash. All in favor. Motion approved 4-0.

### **Regular Business:**

1. Council discussed and considered approving an Appeal of the False Robbery Alarm Service Charge for Danny East at 211 Evergreen Drive, Harker Heights, Texas. Julie Helsham, City Secretary, made the presentation. Dwight Bond, 211 Evergreen Drive, Harker Heights, Texas, was present to represent the request.

Nash made the motion to approve the Appeal to dismiss the False Robbery Alarm Service Charge for Danny East at 211 Evergreen Drive, Harker Heights, Texas. Seconded by Blomquist. All in favor. Motion approved 4-0.

2. Council received and discussed the revised Lead and Copper Rule, and the Senate Bill 3, Emergency Preparedness Plan Updates. Mark Hyde, Public Works Director, made the presentation. No action taken.
3. Council received and discussed the City Manager's Report. David Mitchell, City Manager, made the presentation. No action taken.

### **Items from Council and Announcements:**

1. Council member closing statements.

Councilmember Blomquist stated that he attended the following events:

- September 29<sup>th</sup> and 30<sup>th</sup> – Bell County Health District Selection Board Interviews for the new Bell County Health District Director at Harker Heights City Hall
- October 2<sup>nd</sup> – Harker Heights Farmer's Market
- October 4<sup>th</sup> and 5<sup>th</sup> - Bell County Health District Selection Board Interviews for the new Bell County Health District Director at Harker Heights City Hall
- October 5<sup>th</sup> – Harker Heights National Night Out
- October 6<sup>th</sup> – 8<sup>th</sup> – Texas Municipal League Annual Conference in Houston, Texas
- October 9<sup>th</sup> – Harker Heights Farmer's Market
- October 9<sup>th</sup> – Harker Heights Pet Medical Center 20<sup>th</sup> Anniversary Event
- October 11<sup>th</sup> – Started the Harker Heights Citizen Police Academy Course

Councilmember Fountain stated that she attended the following events:

- October 2<sup>nd</sup> – Association of the United States Army Car Show
- October 5<sup>th</sup> – Harker Heights National Night Out
- October 6<sup>th</sup> – 8<sup>th</sup> – Texas Municipal League Annual Conference in Houston, Texas
- October 9<sup>th</sup> – Congressman Carter Veteran's Recognition Ceremony

Councilmember Nash stated that she attended most to same events and stated that on Saturday, October 16<sup>th</sup> the Harker Heights United Methodist Church will be hosting a Food Distribution event from 10:00 a.m. to 12:00 p.m.

2. Updates and comments from the Mayor.

Mayor Smith stated that he attended the following events:

- September 30<sup>th</sup> – Commanding General III Corps and Mayors Engagement Luncheon at Dead Fish Grill, Lake Belton.
- September 30<sup>th</sup> – III Corps and Fort Hood Domestic Violence Prevention Month Proclamation Ceremony.
- October 1<sup>st</sup> – Killeen Temple Metropolitan Planning Organization Leadership meeting at Harker Heights City Hall with Coryell County Judge Roger Miller and Director Uryan Nelson.
- October 2<sup>nd</sup> – Harker Heights Farmer’ Market.
- October 2<sup>nd</sup> – Association of the United States Army Car Show Judge at the Killeen Special Events Center.
- October 5<sup>th</sup> – Harker Heights National Night Out with City Council and City Staff.
- October 9<sup>th</sup> – Harker Heights Farmer’s Market.

**Adjournment:**

There being no further business the City of Harker Heights City Council Meeting was adjourned at 6:57 p.m.

**CITY OF HARKER HEIGHTS, TEXAS:**

---

Spencer H. Smith, Mayor

**ATTEST:**

---

Julie Helsham, City Secretary



## CITY COUNCIL MEMORANDUM

**Z21-23**

**AGENDA ITEM# VI-1**

**FROM: THE OFFICE OF THE CITY MANAGER**

**DATE: OCTOBER 26, 2021**

**CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER APPROVING AN ORDINANCE AMENDING CHAPTER 11 OF THE CITY'S CODE OF ORDINANCES, ESTABLISHING SECTION 11.1 COMPREHENSIVE PLAN, AND ADOPTING THE 2007 COMPREHENSIVE PLAN AND THE 2021 LAND USE PLAN FOR THE CITY OF HARKER HEIGHTS, TEXAS, PURSUANT TO CHAPTER 213 OF THE TEXAS LOCAL GOVERNMENT CODE; ESTABLISHING THE RELATIONSHIP OF THE LAND USE PLAN AND THE DEVELOPMENT REGULATIONS; PROVIDING FOR THE AMENDMENT OF ANY EXISTING COMPREHENSIVE PLAN; AND PROVIDING FOR THE AMENDMENT OF ANY EXISTING LAND USE PLAN; AND TAKE THE APPROPRIATE ACTION.**

**EXPLANATION:**

The City of Harker Heights Comprehensive Plan was approved in 2007 and included such components as the Thoroughfare Plan and Future Land Use Map (FLUM). The Planning and Zoning Commission (P&Z) is charged with recommending updates on the Comprehensive Plan to the City Council. The Planning and Development Staff in conjunction with the P&Z began working towards an update to the Comprehensive Plan in November 2020. This update will occur in sections and ultimately culminate in an update to the entire Comprehensive Plan.

The P&Z has held seven (7) extensive public workshops and one public hearing to discuss amendments to the 2007 FLUM. Additionally, a request for public comments on the proposed 2021 FLUM was placed on the City's P&Z website and in social media beginning on August 10, 2021. The City Council was briefed on the P&Z's recommendations in Council Workshops on September 7, 2021 and September 21, 2021, and received comments from the public on September 14, 2021, at the City Council meeting. The attached 2021 Land Use Map, also referred to as the 2021 Future Land Use Map, is a summary of the recommended changes that were a result of the P&Z and City Council Workshops and the public hearings.

**Notices:**

This public hearing item was published in the Killeen Daily Herald on Sunday, August 8, 2021. Additionally, a request for public comments on the proposed FLUM was placed on the City's P&Z website and social media beginning on August 10, 2021.



**RECOMMENDATION:**

Staff recommended approval to the Planning & Zoning Commission of an ordinance amending Chapter 11 of the City’s Code of Ordinances, establishing Section 11.1 Comprehensive Plan, and adopting the 2007 Comprehensive Plan and the 2021 Land Use Plan for the City of Harker Heights, Texas pursuant to Chapter 213 of the Texas Local Government Code; establishing the relationship of the Land Use Plan and the development regulations; providing for the amendment of any existing Comprehensive Plan; and providing for the amendment of any existing Land Use Plan.

**ACTION BY THE PLANNING AND ZONING COMMISSION:**

During the Planning & Zoning Commission meeting held on August 25, 2021, the Planning and Zoning Commission voted (6-0) to recommend approval of an ordinance amending Chapter 11 of the City’s Code of Ordinances, establishing Section 11.1 Comprehensive Plan, and adopting the 2007 Comprehensive Plan and the 2021 Land Use Plan for the City of Harker Heights, Texas pursuant to Chapter 213 of the Texas Local Government Code; establishing the relationship of the Land Use Plan and the development regulations; providing for the amendment of any existing Comprehensive Plan; and providing for the amendment of any existing Land Use Plan, based on staff’s recommendation and findings.

**ACTION BY CITY COUNCIL:**

1. Motion to APPROVE/DISAPPROVE an Ordinance amending Chapter 11 of the City’s Code of Ordinances, establishing Section 11.1 Comprehensive Plan, and adopting the 2007 Comprehensive Plan and the 2021 Land Use Plan for the City of Harker Heights, Texas pursuant to Chapter 213 of the Texas Local Government Code; establishing the relationship of the Land Use Plan and the development regulations; providing for the amendment of any existing Comprehensive Plan; and providing for the amendment of any existing Land Use Plan, based on staff’s recommendation and findings.
  
2. Any other action deemed necessary.

**ATTACHMENTS:**

1. Ordinance
2. Web Link to the Existing Comprehensive Plan
3. 2015 Thoroughfare Plan
4. Current Future Land Use Map
5. 2021 Future Land Use Map

**ORDINANCE NO. 2021-\_\_\_\_**

**AN ORDINANCE OF THE CITY OF HARKER HEIGHTS, TEXAS AMENDING CHAPTER 11 OF THE CITY'S CODE OF ORDINANCES, ESTABLISHING SECTION 11.1 COMPREHENSIVE PLAN, AND ADOPTING THE 2007 COMPREHENSIVE PLAN AND THE 2021 LAND USE PLAN FOR THE CITY OF HARKER HEIGHTS, TEXAS PURSUANT TO CHAPTER 213 OF THE TEXAS LOCAL GOVERNMENT CODE; ESTABLISHING THE RELATIONSHIP OF THE LAND USE PLAN AND THE DEVELOPMENT REGULATIONS; PROVIDING FOR THE AMENDMENT OF ANY EXISTING COMPREHENSIVE PLAN; AND PROVIDING FOR THE AMENDMENT OF ANY EXISTING LAND USE PLAN.**

**WHEREAS**, Chapter 213 of the Texas Local Government Code (LGC) provides municipal regulatory authority for the purpose of promoting sound development of municipalities and promoting public health, safety, and welfare; and

**WHEREAS**, Chapter 213 of the LGC also authorizes municipalities to adopt a comprehensive plan for the long-range development of a municipality; and

**WHEREAS**, it is the intent of the City Council of the City of Harker Heights to encourage sustainable growth, and redevelopment; and

**WHEREAS**, the City of Harker Heights has been required to address the damage caused to onsite utilities and its systems and to expend City funds to make repairs on damaged systems in the yard areas adjacent to City owned polling places; and

**WHEREAS**, the City Council and the Planning & Zoning Commission engaged the public at several workshops, meetings and public hearings; and

**WHEREAS**, the Planning & Zoning Commission reviewed and approved the City of Harker Heights' Comprehensive Plan and 2021 Land Use Map at their meeting on August 25, 2021; and

**WHEREAS**, the meeting at which this Ordinance was passed was open to the public, and notice of the time, place and purpose of said meeting was given as required by law, all in strict accordance with the requirements of the Texas Open Meetings Act;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS, TEXAS AS FOLLOWS:**

**Section 1.** The City Council finds that the recitations set forth above are true.

**Section 2.** A new Section 11.10 entitled “Comprehensive Plan” is added to the Code of Ordinances of the City of Harker Heights as follows:

**§ 11.10 COMPREHENSIVE PLAN**

**(A) Comprehensive Plan Adopted.**

- (1) The Comprehensive Plan, last revised January 23, 2007, is hereby adopted by reference as though fully copied herein and shall apply to all property under the jurisdiction of the city.
- (2) The Comprehensive Plan is adopted for the purposes of directing the City Council, staff and commissions in rendering actions and resolutions relating to the planning and development of the territorial limits of the City.

**(B) Land Use Plan Adopted.**

- (1) The Land Use Plan, last revised September 14, 2021, is hereby adopted by reference as though fully copied herein and shall apply to all property under the jurisdiction of the city.
- (2) The Land Use Plan is adopted for the purpose of directing the City Council, staff, and/or commissions in rendering actions and resolutions relating to the utilization of all of the available resources within the City and its Planning Area for the purpose of developing public and private land and serving that land with infrastructure systems.

**Section 3.** This ordinance shall be effective from and after its passage, and the City Clerk shall publish the caption or title of hereof within ten days as required by law.

**PASSED AND APPROVED** by the City Council of the City of Harker Heights on October 26, 2021.

---

Spencer H. Smith, Mayor

ATTEST:

---

Juliette Helsham, City Secretary

## CHAPTER 11: CITY STANDARDS

Section

### City Seal

11.01 City Secretary as custodian of Seal

### CITY SEAL

#### § 11.01 CITY SECRETARY AS CUSTODIAN OF SEAL.

The City Secretary shall be the custodian of the corporate seal, and when it is affixed to any instrument, shall be evidence of the authenticity of such instrument.

('60 Code, Ch. 12, Art. 128)

#### § 11.10 COMPREHENSIVE PLAN

##### **(A) Comprehensive Plan Adopted.**

- (1) The Comprehensive Plan, last revised January 23, 2007, is hereby adopted by reference as though fully copied herein and shall apply to all property under the jurisdiction of the city.
- (2) The Comprehensive Plan is adopted for the purposes of directing the City Council, staff and commissions in rendering actions and resolutions relating to the planning and development of the territorial limits of the City.

##### **(B) Land Use Plan Adopted.**

- (1) The Land Use Plan, last revised September 14, 2021, is hereby adopted by reference as though fully copied herein and shall apply to all property under the jurisdiction of the city.
- (2) The Land Use Plan is adopted for the purpose of directing the City Council, staff, and/or commissions in rendering actions and resolutions relating to the utilization of all of the available resources within the City and its Planning Area for the purpose of developing public and private land and serving that land with infrastructure systems.

## Comprehensive Plan

On January 23, 2007, the City Council adopted the City of Harker Heights Comprehensive Plan. The plan is intended to provide overall guidance to areas which are vacant as well as to areas which have already developed. The plan functions to direct the most appropriate land use for all areas of the city. The plan is implemented most directly at the time zonings are made.

The comprehensive plan is a working document utilized by the City of Harker Heights to guide it in its decision making processes. The comprehensive plan presents relevant historical data, inventories the current resources of the City, states clearly the City's goals and objectives for the future, and provides a framework for obtaining those goals and objectives. In other words, the comprehensive plan is like a road map which shows where the City is now and where the City would like to go. Harker Heights' comprehensive plan was developed with input from citizens, business leaders, and government agencies. The [City of Harker Heights' Comprehensive Plan](#) can be accessed by clicking the previous link.

### Quick Links

[Planning and Development](#)

[Planning and Zoning](#)

[Zoning Board of Adjustments](#)

[Capital Improvements Advisory Committee](#)

[Business Registration](#)

[Zoning](#)

[Platting](#)

[Applications](#)

[Public Infrastructure](#)

[Annexations](#)

[Code of Ordinances](#)

[Comprehensive Plan](#)

[Subdivision Ordinance](#)

[District 1 Overlay Manual](#)

[2021 Calendar](#)

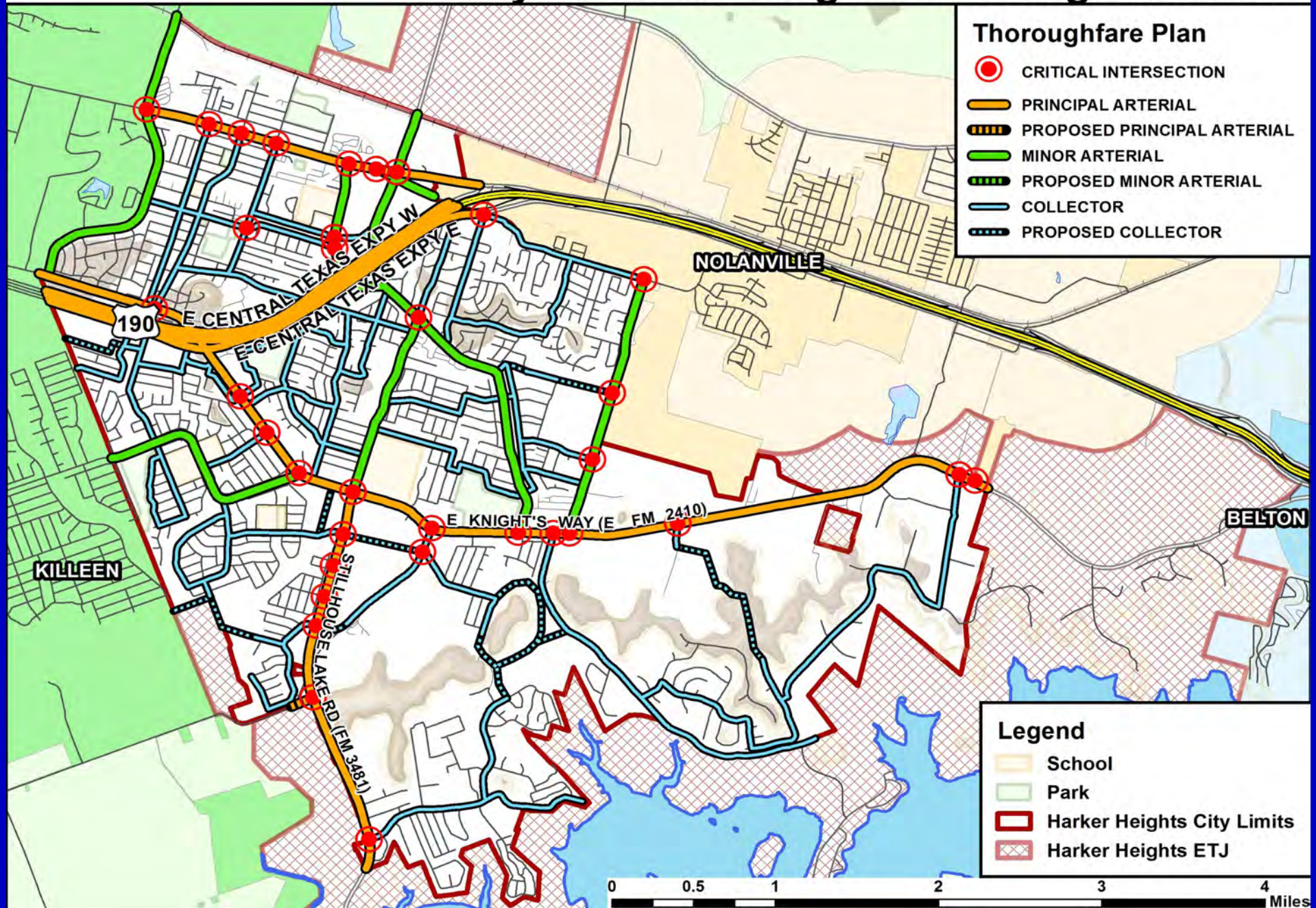
[Mobility 2030](#)

[My Government Online](#)

[GIS Map](#)

[Future Land Use Map](#)

# City of Harker Heights Thoroughfare Plan



# City of Harker Heights, Texas

**Future Land Use**

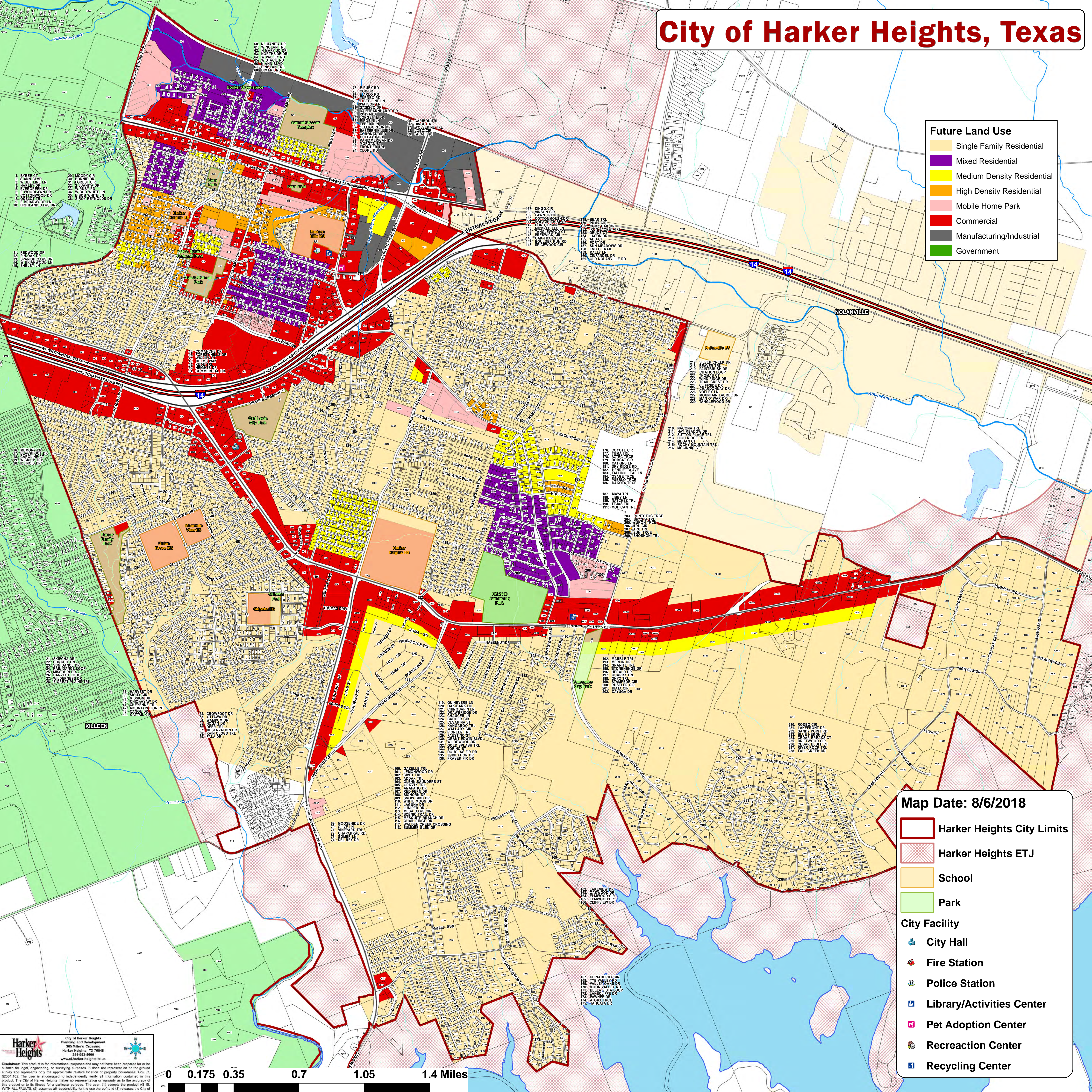
- Single Family Residential
- Mixed Residential
- Medium Density Residential
- High Density Residential
- Mobile Home Park
- Commercial
- Manufacturing/Industrial
- Government

**Map Date: 8/6/2018**

- Harker Heights City Limits
- Harker Heights ETJ
- School
- Park

**City Facility**

- City Hall
- Fire Station
- Police Station
- Library/Activities Center
- Pet Adoption Center
- Recreation Center
- Recycling Center

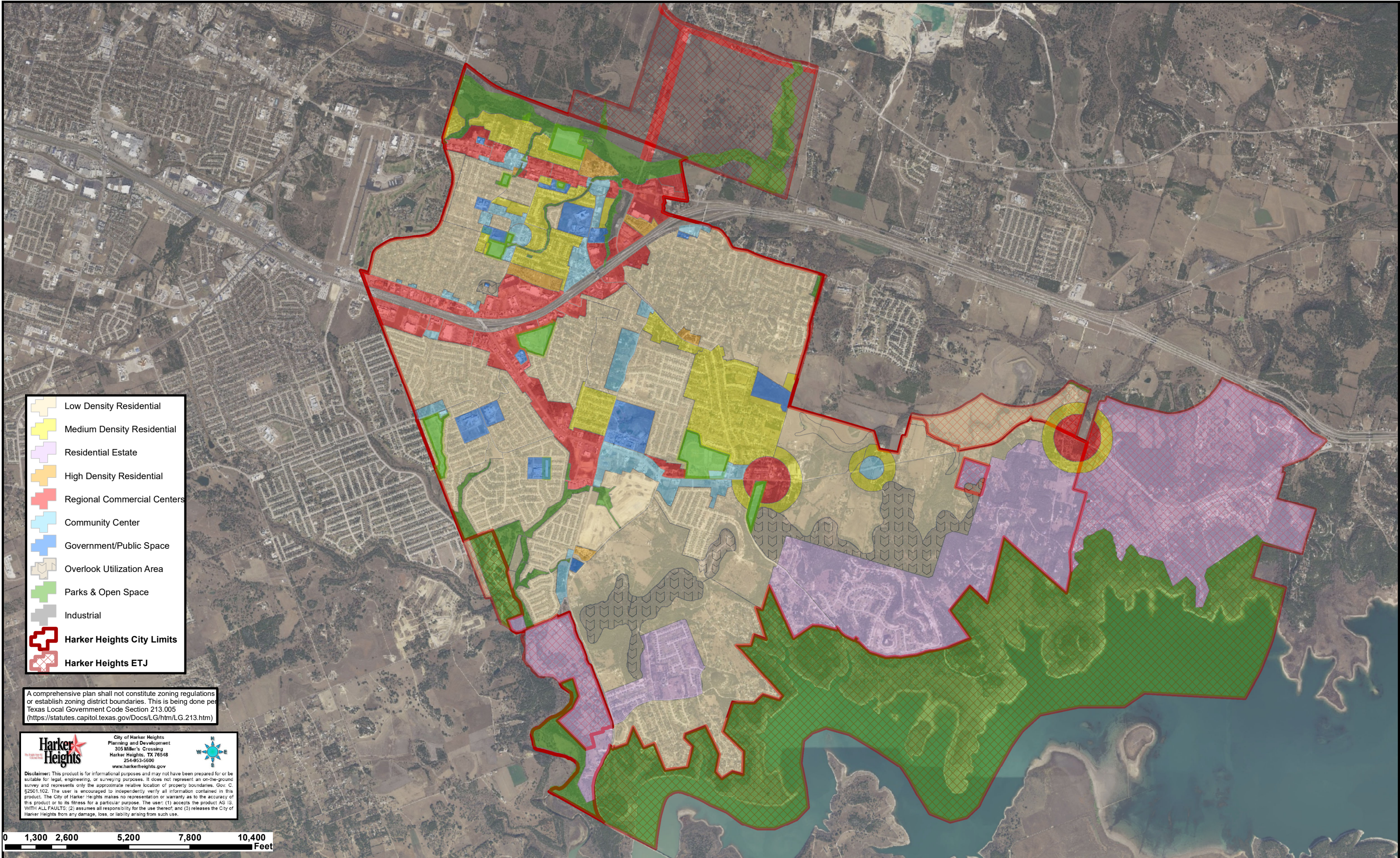


**Harker Heights** City of Harker Heights  
 Planning and Development  
 305 Miller's Crossing  
 Harker Heights, TX 76748  
 254-953-5600  
 www.ci.harkerheights.tx.us

Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Gov. C. §201.102. The user is encouraged to independently verify all information contained in this product. The City of Harker Heights makes no representation or warranty as to the accuracy of this product or to its fitness for a particular purpose. The user: (1) accepts the product AS IS, WITH ALL FAULTS; (2) assumes all responsibility for the use thereof; and (3) releases the City of Harker Heights from any damage, loss, or liability arising from such use.



# 2021 - Future Land Use Map - Revised Sept. 14 2021



- Low Density Residential
- Medium Density Residential
- Residential Estate
- High Density Residential
- Regional Commercial Centers
- Community Center
- Government/Public Space
- Overlook Utilization Area
- Parks & Open Space
- Industrial
- Harker Heights City Limits
- Harker Heights ETJ

A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries. This is being done per Texas Local Government Code Section 213.005 (<https://statutes.capitol.texas.gov/Docs/LG/htm/LG.213.htm>)

**City of Harker Heights**  
 Planning and Development  
 305 Miller's Crossing  
 Harker Heights, TX 76548  
 254-953-5600  
[www.harkerheights.gov](http://www.harkerheights.gov)

Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Gov. C. §2501.102. The user is encouraged to independently verify all information contained in this product. The City of Harker Heights makes no representation or warranty as to the accuracy of this product or to its fitness for a particular purpose. The user: (1) accepts the product AS IS, WITH ALL FAULTS; (2) assumes all responsibility for the use thereof; and (3) releases the City of Harker Heights from any damage, loss, or liability arising from such use.

0 1,300 2,600 5,200 7,800 10,400 Feet





## CITY COUNCIL MEMORANDUM

**CIAC-21-01**

**AGENDA ITEM # VI-2**

---

**FROM: THE OFFICE OF THE CITY MANAGER**

**DATE: OCTOBER 26, 2021**

**CONDUCT A PUBLIC HEARING TO DISCUSS AND CONSIDER ADOPTION OF LAND USE ASSUMPTIONS AND A CAPITAL IMPROVEMENTS PLAN RELATING TO POSSIBLE ADOPTION OF IMPACT FEES FOR THE 2022 IMPACT FEE AREA, AND TAKE THE APPROPRIATE ACTION.**

**EXPLANATION:**

The City adopted the current Future Land Use Map (FLUM) in 2007. Since November 2020, the Planning and Zoning Commission (P&Z) has received input and considered changes to the 2007 FLUM. On August 24, 2021, the P&Z voted 6-0 to recommend an updated Land Use Map to the City Council.

The City previously retained Thonhoff Consulting Engineers to evaluate the current wastewater capacity in the service basin along FM 2410 east of Warrior's Path. Mr. Thonhoff finished his report in February 2021 and determined that capital improvements to the City's wastewater system were needed in order to service that basin. The City then entered into an agreement with Freese and Nichols to develop a wastewater impact fee for the eastern service area.

The City's consultant, Ms. Jessica Vassar with Freese and Nichols, has evaluated the Thonhoff report, Planning & Zoning Commission's 2021 land use recommendations, current development activity, and the existing Future Land Use Map with respect to their contribution to developing an impact fee.

On September 14, 2021, the City Council voted to set two public hearing dates to consider the land use assumptions and capital improvements plan relating to possible adoption of impact fees for the 2022 wastewater impact fee area. This is the first of the two set public hearing dates.

**RECOMMENDATION:**

Staff recommended approval to the Capital Improvement Advisory Committee (CIAC) of land use assumptions and a capital improvements plan relating to possible adoption of impact fees for the 2022 wastewater impact fee area, as presented by Ms. Vassar. Texas Local Government Code (LGC) Section 395.042 requires municipalities to hold a public hearing on a capital improvements plan prior to adoption by the City Council. Staff recommends that the City Council establish the public hearing dates for the October 26, 2021, and November 9, 2021, Council Meetings. These two dates meet the LGC Sections 395.043 and 395.044 required timelines for public information availability and public notices.

**ACTION BY CAPITAL IMPROVEMENT ADVISORY COMMITTEE:**

According to Chapter 395 of the Texas Local Government Code, the Capital Improvement Advisory Committee (CIAC) serves as the advisory committee for the 2022 Wastewater Impact Fee study.

On August 25, 2021, the CIAC voted 6-0 to recommend approval of both the land use assumptions and a capital improvements plan relating to possible adoption of impact fees for the 2022 wastewater impact fee area, based on staff's recommendation and findings.

**ACTION BY CITY COUNCIL:**

1. Take no action and hold a second public meeting on this item on November 9, 2021.
2. Any other action deemed necessary.

**ATTACHMENTS:**

1. Land Use Assumptions and Capital Improvements Plan Report

**DRAFT**  
**WASTEWATER  
IMPACT FEE STUDY**  
**LAND USE ASSUMPTIONS AND  
CAPITAL IMPROVEMENTS PLAN REPORT**

Prepared for:

**City of Harker Heights**

August 2021

Prepared by:

**FREESE AND NICHOLS, INC.**  
10431 Morado Circle, Suite 300  
Austin, Texas 78759  
512-617-3100

**DRAFT**  
**WASTEWATER  
IMPACT FEE STUDY**  
**LAND USE ASSUMPTIONS AND  
CAPITAL IMPROVEMENTS PLAN REPORT**

Prepared for:

**City of Harker Heights**

**DRAFT**

THIS DOCUMENT IS RELEASED  
FOR THE PURPOSE OF INTERIM  
REVIEW UNDER THE AUTHORITY  
OF JESSICA VASSAR, P.E., TEXAS  
NO. 108934 ON 8/18/2021. IT IS  
NOT TO BE USED FOR  
CONSTRUCTION, BIDDING OR  
PERMIT PURPOSES.  
FREESE AND NICHOLS, INC.  
TEXAS REGISTERED ENGINEERING  
FIRM F-2144

Prepared by:

**FREESE AND NICHOLS, INC.**  
10431 Morado Circle, Suite 300  
Austin, Texas 78759  
512-617-3100

FNI Project No.: HAK21373

## TABLE OF CONTENTS

<b>1.0 BACKGROUND AND SCOPE</b> .....	<b>1-1</b>
1.1 Texas Local Government Code.....	1-1
1.2 Methodology .....	1-2
1.3 List of Abbreviations.....	1-3
<b>2.0 LAND USE ASSUMPTIONS</b> .....	<b>2-1</b>
2.1 Service Area.....	2-1
2.2 Historical and Projected Growth.....	2-4
2.2.1 Historical Population.....	2-4
2.2.2 Projected Growth .....	2-4
<b>3.0 CAPITAL IMPROVEMENTS PLAN</b> .....	<b>3-1</b>
3.1 Wastewater Load Projections .....	3-1
3.2 Wastewater System Improvements.....	3-1

### List of Figures

Figure 2-1: Impact Fee Service Area .....	2-2
Figure 2-2: Future Land Use.....	2-3
Figure 3-1: Wastewater Impact Fee Capital Improvements Plan.....	3-3

### List of Tables

Table 1-1: List of Abbreviations .....	1-3
Table 2-1: Historical Population within City Limits.....	2-4
Table 2-2: Wastewater Impact Fee Service Area Growth .....	2-4
Table 3-1: Impact Fee Service Area Wastewater Flow Projections.....	3-1
Table 3-2: Wastewater Impact Fee Capital Improvements Plan.....	3-2

## 1.0 BACKGROUND AND SCOPE

In April 2021, the City of Harker Heights, Texas (City) authorized Freese and Nichols, Inc. (FNI) to perform an impact fee analysis for the southeast portion of the City’s wastewater system. 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 wastewater impact fees for the City of Harker Heights. 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 does not currently charge wastewater impact fees to new developments.

### 1.1 TEXAS LOCAL GOVERNMENT CODE

Chapter 395 of the Texas Local Government Code 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 METHODOLOGY**

Wastewater impact fee capital improvements plan (CIP) projects were developed for the City based on the land use assumptions, input from City staff, and projects from previous studies. The recommended improvements will provide the required capacity to meet projected wastewater flows through year 2032. The projects identified are consistent with the Chapter 395 definition of impact fee eligible projects.

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 methodology identified in TLGC Chapter 395. The CIAC's role includes reviewing the land use assumptions and impact fee CIP 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**

<b>Abbreviation</b>	<b>Actual</b>
CIAC	Capital Improvement Advisory Committee
CIP	Capital Improvement Plan
FNI	Freese and Nichols, Inc.
MGD	Million Gallons per Day
TCE	Thonhoff Consulting Engineers, Inc.
TLGC	Texas Local Government Code



## 2.0 LAND USE ASSUMPTIONS

### 2.1 SERVICE AREA

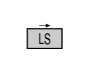

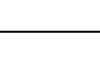
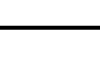



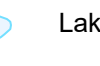




Projected land use is an important element in the analysis of wastewater collection and treatment systems. To assist the City in determining the need and timing of capital improvements to serve future development, a reasonable estimation of future growth is required. These assumptions will become the basis for the preparation of impact fee capital improvement plans for wastewater facilities.

FNI worked with City staff to develop growth projections and land use assumptions for the study area during the development of this report. The City is anticipating the majority of future developments to occur roughly within the southeast portion of the City, and therefore determined to set the wastewater impact fee service area to this boundary, shown on **Figure 2-1**. The future land use for the service area is presented on **Figure 2-2**.



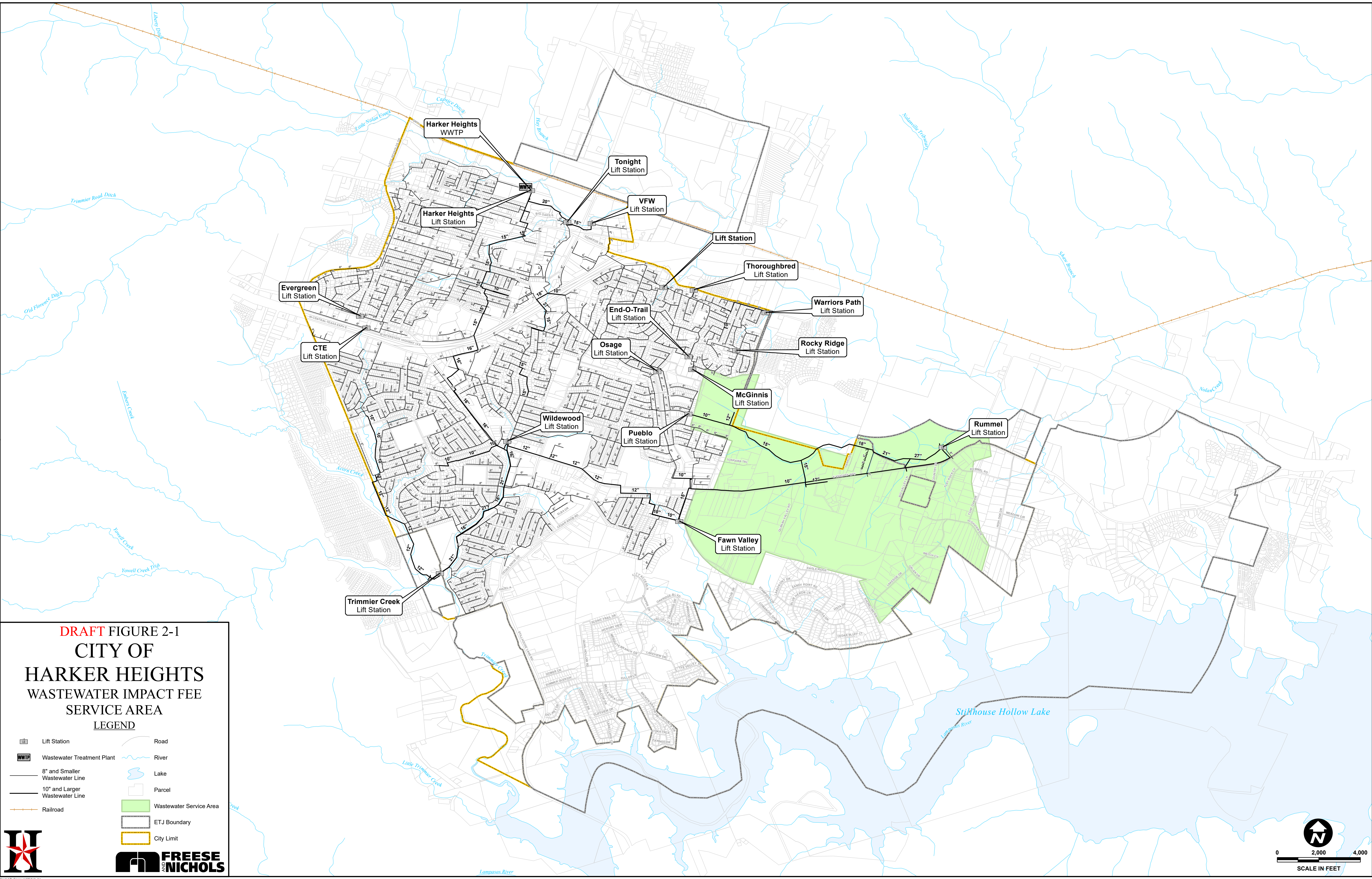
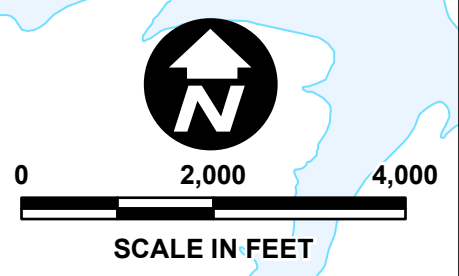
**DRAFT** FIGURE 2-1  
**CITY OF  
HARKER HEIGHTS  
WASTEWATER IMPACT FEE  
SERVICE AREA**

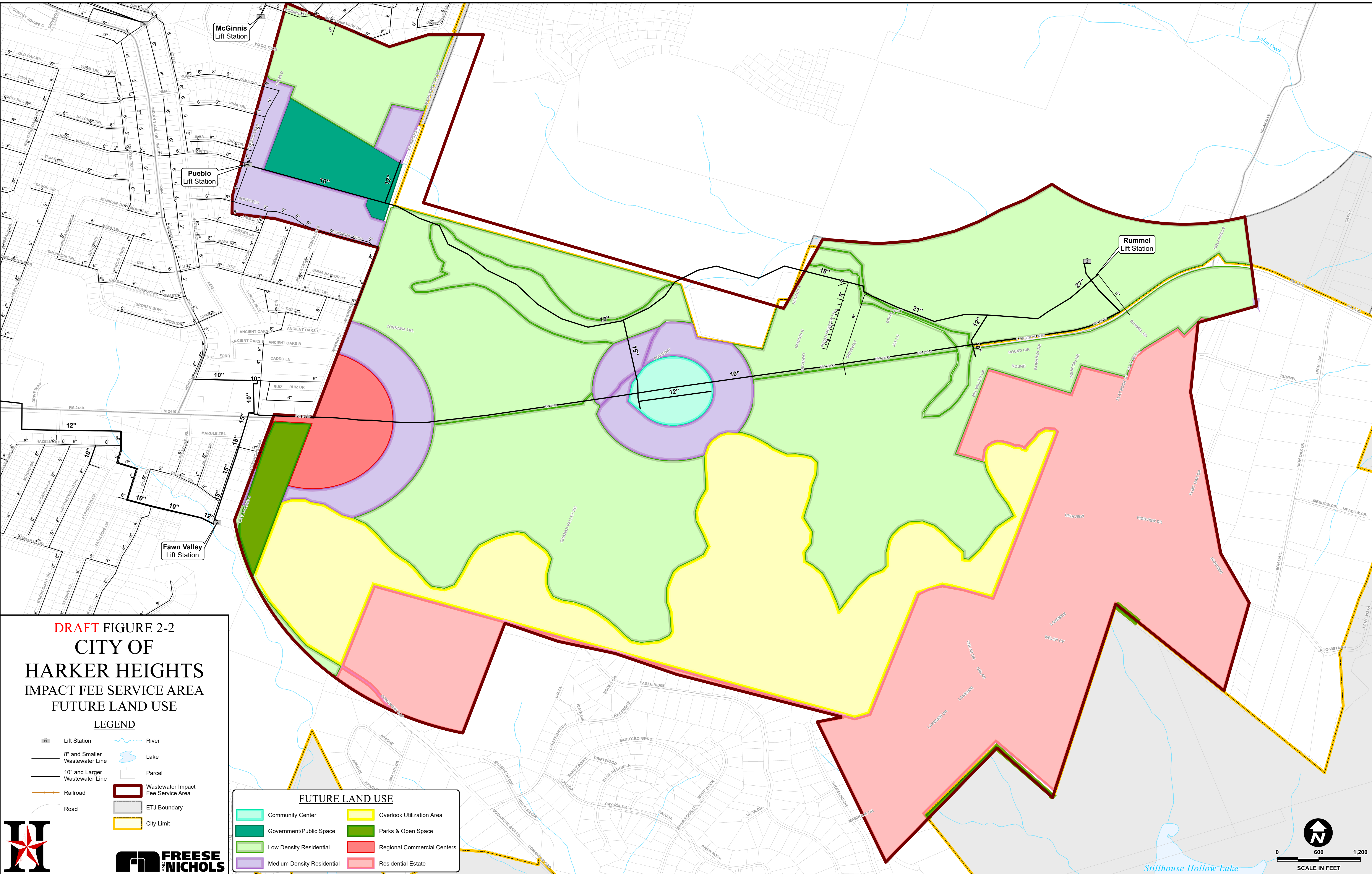
**LEGEND**

-  Lift Station
-  Wastewater Treatment Plant
-  8" and Smaller Wastewater Line
-  10" and Larger Wastewater Line
-  Railroad
-  Road
-  River
-  Lake
-  Parcel
-  Wastewater Service Area
-  ETJ Boundary
-  City Limit



Created by Freese and Nichols, Inc.  
Date: 10/15/2018  
Location: HARKER HEIGHTS, TEXAS  
Project: DELIVERABLES\EXISTING\_SYSTEM\figure\_1\Wastewater\_Impact\_Fee\_Service\_Area.mxd  
User: c2818





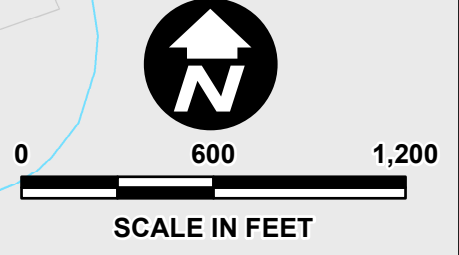
**DRAFT** FIGURE 2-2  
**CITY OF  
 HARKER HEIGHTS  
 IMPACT FEE SERVICE AREA  
 FUTURE LAND USE**

**LEGEND**

- Lift Station
- 8" and Smaller Wastewater Line
- 10" and Larger Wastewater Line
- Railroad
- Road
- River
- Lake
- Parcel
- Wastewater Impact Fee Service Area
- ETJ Boundary
- City Limit

**FUTURE LAND USE**

- Community Center
- Government/Public Space
- Low Density Residential
- Medium Density Residential
- Overlook Utilization Area
- Parks & Open Space
- Regional Commercial Centers
- Residential Estate



Created by Freese and Nichols, Inc.  
 File No. 1945232  
 Location: 11101 WYV PLANNING01\_DELIVERABLES02\_Land\_Use(Figure\_2-2)Service\_Area\_Land\_Use.mxd  
 Updated: 8/15/2023, August 15, 2023 10:25:04 AM  
 User Name: JBV

Stillhouse Hollow Lake

## 2.2 HISTORICAL AND PROJECTED GROWTH

### 2.2.1 Historical Population

Historical population data was provided in the February 2021 *Wastewater Flow Capacity Analysis Report* developed by Thonhoff Consulting Engineers, Inc. (TCE). The City had an average 2.2% annual growth rate over the past eight years. This historical population information is presented in **Table 2-1**.

**Table 2-1: Historical Population within City Limits**

Year	Population	Average Annual Growth Rate (%)
2012	27,894	
2013	28,563	2.4%
2014	29,233	2.3%
2015	29,903	2.3%
2016	30,573	2.2%
2017	31,243	2.2%
2018	31,913	2.1%
2019	32,583	2.1%
2020	33,253	2.1%
Average		2.2%

### 2.2.2 Projected Growth

The magnitude and distribution of the growth in the service area will dictate where future wastewater infrastructure is required. It is important to note that projecting future growth is challenging, especially for relatively small geographic areas such as individual cities or sections of 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. **Table 2-2** presents the City’s projected growth for the 10-year planning period for the wastewater impact fee service area.

**Table 2-2: Wastewater Impact Fee Service Area Growth**

Year	Connections
2022	125
2032	1,500

### 3.0 CAPITAL IMPROVEMENTS PLAN

Wastewater capital improvement plan (CIP) projects were developed for the City of Harker Heights in the February 2021 *Wastewater Flow Capacity Analysis Report* by TCE. The wastewater CIP projects that are required to serve growth within the next 10 years were identified for inclusion in the wastewater impact fee analysis.

#### 3.1 WASTEWATER LOAD PROJECTIONS

Wastewater flow projections for 2022 and 2032 were developed using criteria from the February 2021 *Wastewater Flow Capacity Analysis Report*. 2.97 people per connection and 76 gallons per capita per day were assumed for wastewater flow projections. A wet weather peaking factor of 4.0 was applied to calculate the peak wet weather flow. **Table 3-1** presents the projected wastewater flows for the wastewater impact fee service area in million gallons per day (MGD).

**Table 3-1: Impact Fee Service Area Wastewater Flow Projections**

Year	Average Daily Flow (MGD)	Peak Wet Weather Flow (MGD)
2022	0.03	0.11
2032	0.34	1.35

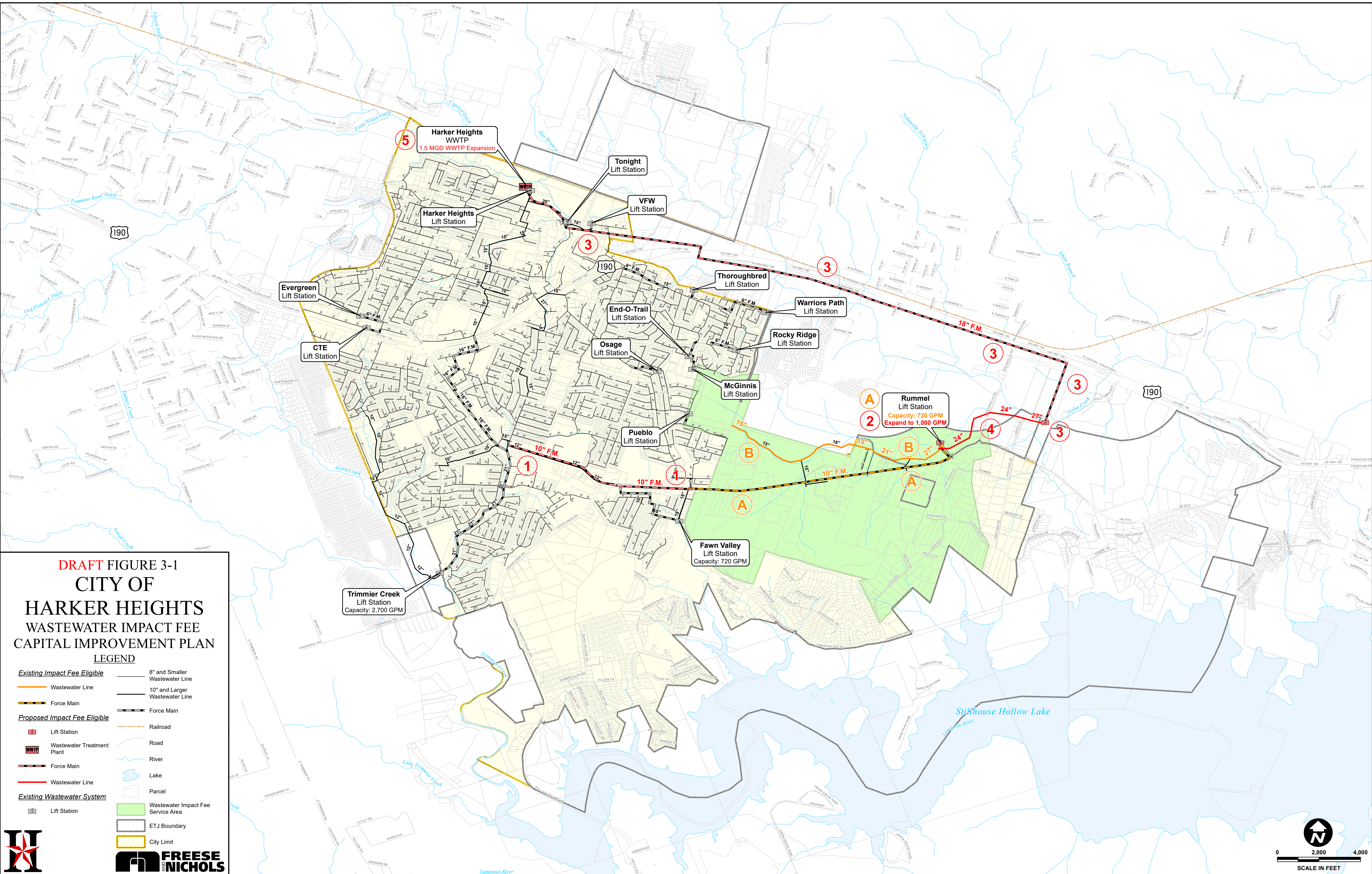
#### 3.2 WASTEWATER SYSTEM IMPROVEMENTS

The TCE 2021 *Wastewater Flow Capacity Analysis Report* included proposed wastewater system improvements. A summary of the proposed projects serving growth in the 10-year period used in the impact fee analysis is shown in **Table 3-2**. The proposed impact fee CIP projects are shown on **Figure 3-1**.



**Table 3-2: Wastewater Impact Fee Capital Improvements Plan**

<b>Project Number</b>	<b>Project Name</b>
EXISTING	
A	Rummel Lift Station and Force Main
B	15/18/21/27" Gravity Line
C	Impact Fee Study
PROPOSED	
1	10-inch Force Main
2	Rummel Lift Station Expansion
3	Proposed Lift Station and 18-inch Force Main
4	24/27" Gravity Line
5	1.5 MGD Wastewater Treatment Plant Expansion



**DRAFT** FIGURE 3-1  
**CITY OF**  
**HARKER HEIGHTS**  
 WASTEWATER IMPACT FEE  
 CAPITAL IMPROVEMENT PLAN

**LEGEND**

<b>Existing Impact Fee Eligible</b>	8" and Smaller Wastewater Line
Wastewater Line	10" and Larger Wastewater Line
Force Main	Force Main
<b>Proposed Impact Fee Eligible</b>	Railroad
Lift Station	Road
Wastewater Treatment Plant	River
Force Main	Lake
Wastewater Line	Parcel
<b>Existing Wastewater System</b>	Wastewater Impact Fee Service Area
Lift Station	ETJ Boundary
	City Limit



# CITY COUNCIL MEMORANDUM

## AGENDA ITEM # IX-1

**FROM: THE OFFICE OF THE CITY MANAGER**

**DATE: OCTOBER 26, 2021**

**DISCUSS AND CONSIDER APPOINTING MEMBERS TO THE PARKS & RECREATION/TREE ADVISORY BOARDS; LIBRARY BOARD; PUBLIC SAFETY COMMISSION; ANIMAL ADVISORY COMMITTEE; ECONOMIC DEVELOPMENT CORPORATION; HARKER HEIGHTS ARTS COMMISSION; AND TAKE THE APPROPRIATE ACTION.**

**BACKGROUND:**

Consider appointments to the following Boards/Commissions/Committees:

- A. PARKS & RECREATION/TREE ADVISORY BOARD
- B. LIBRARY BOARD
- C. PUBLIC SAFETY COMMISSION
- D. ANIMAL ADVISORY COMMITTEE
- E. ECONOMIC DEVELOPMENT CORPORATION
- F. HARKER HEIGHTS ARTS COMMISSION

**A. PARKS & RECREATION/TREE ADVISORY BOARD:**

Current Member	Position	Eligible for Reappointment?	Name of Reappointed Member or New Member
Eva Keagle	Member	No (Term limited)	
Angie Wilson	Member	Yes	
Alonzo Williams	Alternate #1	Yes	
Yomi Hardison	Alternate #2	Yes	

**ACTION BY THE CITY COUNCIL:**

1. Motion to appoint the members of the Parks & Recreation/Tree Advisory Board as listed to take effect on January 1, 2022.
2. Any action desired by the City Council

**B. LIBRARY BOARD:**

Current Member	Position	Eligible for Reappointment?	Name of Reappointed Member or New Member
Barbara Kelly	Member	Yes	
Julianna Greene	Member	No (Did not reapply)	
Ramona Rubedor	Member	No (Did not reapply)	
Vacant	Alternate #1	-	
Vacant	Alternate #2	-	

**ACTION BY THE CITY COUNCIL:**

1. Motion to appoint the members of the Library Board as listed to take effect on January 1, 2022.
2. Any action desired by the City Council



**C. PUBLIC SAFETY COMMISSION:**

Current Member	Position	Eligible for Reappointment?	Name of Reappointed Member or New Member
Dick Dwinell	Member	Yes	
Jeremy Hoffman	Alternate #1	Yes	
Yomi Hardison	Alternate #2	Yes	

**ACTION BY THE CITY COUNCIL:**

1. Motion to appoint the members of the Public Safety Commission as listed to take effect January 1, 2022.
2. Any action desired by the City Council

**D. ANIMAL ADVISORY COMMITTEE:**

Current Member	Position	Eligible for Reappointment?	Name of Reappointed Member or New Member
Finni Dirr	Alternate #1	Yes	
George Grammas	Alternate #2	Yes	
Karry Woods	Alternate #3	No (Did not reapply)	
Vacant	Alternate #4	-	

**ACTION BY THE CITY COUNCIL:**

1. Motion to appoint the members of the Animal Advisory Committee as listed to take effect on January 1, 2022.
2. Any action desired by the City Council

**E. HARKER HEIGHTS ECONOMIC DEVELOPMENT CORPORATION:**

Current Member	Position	Eligible for Reappointment?	Name of Reappointed Member or New Member
Hal Schiffman	Place 1	Yes	
Spencer H. Smith	Place 3	Yes	
Mike Aycock	Place 5	Yes	
David Mitchell	Place 7/Secretary	Yes	

**ACTION BY THE CITY COUNCIL:**

1. Motion to appoint the members of the Economic Development Corporation as listed.
2. Any action desired by the City Council

**F. ARTS COMMISSION:**

Current Member	Position	Name of Reappointed Member or New Member
New – 3 year term	Council Member	
New – 3 year term	Chamber Member	
New – 2 year term	Member	
New – 2 year term	Member	
New – 1 year term	Member	

**ACTION BY THE CITY COUNCIL:**

1. Motion to appoint the members of the Arts Commission as listed.
2. Any action desired by the City Council



## CITY COUNCIL MEMORANDUM

### AGENDA ITEM # IX-2

**FROM:** THE OFFICE OF THE CITY MANAGER

**DATE:** OCTOBER 26, 2021

**DISCUSS AND CONSIDER APPROVING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS, TEXAS, REAPPOINTING JARED BRYAN AS THE CITY OF HARKER HEIGHTS REPRESENTATIVE ON THE BOARD OF DIRECTORS OF THE TAX APPRAISAL BOARD OF BELL COUNTY, TEXAS, AND TAKE THE APPROPRIATE ACTION.**

**EXPLANATION:**

The Tax Appraisal District of Bell County is requesting the City of Harker Heights to adopt a resolution confirming the representative for the City of Harker Heights on the Tax Appraisal Board of Directors for a term of two years beginning on January 1, 2022.

Mr. Bryan has been our representative on this board for the last several years. He currently serves as the Chairman of the Tax Appraisal District Board of Bell County.

**RECOMMENDATION:**

Staff recommends approval.

**ACTION BY COUNCIL:**

1. Motion to APPROVE/DISAPPROVE a Resolution of the City Council of the City of Harker Heights, Texas, to reappoint Jared Bryan as the City of Harker Heights representative on the Board of Directors of the Tax Appraisal Board of Bell County, Texas.
2. Any other action desired.

**ATTACHMENTS:**

1. Letter from Chief Appraiser Billy White
2. Resolution

# Tax Appraisal District of Bell County

---



October 4, 2021

City of Harker Heights  
Spencer Smith, Mayor  
305 Miller's Crossing  
Harker Heights TX 76548

Dear Mayor Smith



Section 6.03(b) of the Tax Code states that members of the board of directors of the appraisal district serve two-year terms beginning on January 1 of even-numbered years.

In accordance with (Resolution NO. 01-2021) passed by the board of directors at their May 18, 2021 meeting, the selection process essentially is the same. Bell County, the City of Killeen, Killeen ISD, the City of Temple, and Temple ISD appoint one member each to the board of directors. The City of Belton and Belton ISD jointly appoint one member, and all other taxing units jointly appoint the seventh member.

Please have your governing body confirm **by resolution not later than November 2, 2021** their choice for appointment to the board of directors for a two year term beginning January 1, 2022.

If you have any questions please call.

Sincerely

A handwritten signature in blue ink, appearing to read 'Billy White', written over a circular blue ink scribble.

Billy White  
Chief Appraiser

BW/lh

RESOLUTION \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS, TEXAS, REAPPOINTING JARED BRYAN AS THE CITY OF HARKER HEIGHTS REPRESENTATIVE ON THE BOARD OF DIRECTORS OF THE TAX APPRAISAL BOARD OF BELL COUNTY, TEXAS.

WHEREAS, the Legislature of the State of Texas under the provisions of the Property Tax Code, Section 6.03(b), has provided that members of Board of Directors of the Tax appraisal District serve two-year terms beginning on January 1<sup>st</sup> of even numbered years; and

WHEREAS, the City of Harker Heights has a need for a representative on the Board of Directors; and

WHEREAS, Jared Bryan, has been the City of Harker Heights Representative on the Board of Directors of the Tax Appraisal Board of Bell County, Texas, and would do well continuing as the Harker Heights representative on the Board of Directors of the Tax Appraisal Board of Bell County.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Harker Heights, Texas, to:

1. Reappoint Jared Bryan as the City of Harker Heights representative on the Board of Directors of the Tax Appraisal Board of Bell County, Texas.

PASSED AND APPROVED this 26<sup>th</sup> day of October, 2021, at a meeting which the City Council finds to have been held in strict accordance with the requirements of the Texas Open Meetings Act.

CITY OF HARKER HEIGHTS, TEXAS:

\_\_\_\_\_  
Spencer H. Smith, Mayor

ATTEST:

\_\_\_\_\_  
Julie Helsham, City Secretary



## CITY COUNCIL MEMORANDUM

### AGENDA ITEM # IX-3

FROM: THE OFFICE OF THE CITY MANAGER

DATE: OCTOBER 26, 2021

**DISCUSS AND CONSIDER APPROVING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS, TEXAS, TO PARTICIPATE IN THE GLOBAL OPIOIDS SETTLEMENT; AND TAKE THE APPROPRIATE ACTION.**

#### **BACKGROUND:**

Texas, along with a broad coalition of states and subdivisions, has reached final agreements with four companies to resolve legal claims against them for their role in the opioid crisis. One agreement is with opioid manufacturer Johnson & Johnson (J&J). The other is with three major pharmaceutical distributors: AmerisourceBergen, Cardinal Health, and McKesson.

According to the Texas Attorney General's Office, the two agreements provide for \$26 billion in payments over 18 years, with \$23.9 billion available for opioid abatement and significant amounts front loaded. Funding will be distributed to states according to the allocation agreement reached among the Attorneys General. Subdivisions can only participate in the agreement if their state participates. Texas' combined share is almost \$1.5 billion: \$1.17 billion from the distributors and \$268 million from J&J. Distribution within Texas is handled through an intrastate agreement between the state and litigating subdivisions. The funding must be used to support any of a wide variety of strategies to fight the opioid crisis. Once the state agrees to participate, then the more subdivisions that join, the more money everyone in Texas will receive.

The City will have until January 2, 2022, to join the Texas Attorney General's Office in the Global Opioids Settlement.

#### **RECOMMENDATION:**

Staff recommends approval.

#### **ACTION BY CITY COUNCIL:**

1. Motion to APPROVE/DISAPPROVE a Resolution of the City Council of the City of Harker Heights, Texas, to participate in the Opioids Settlement.
2. Any other action desired.

#### **ATTACHMENTS:**

1. Attorney General of Texas Power Point
2. Proposed Resolution



KEN PAXTON  
ATTORNEY GENERAL *of* TEXAS

# Global Opioids Settlement

## What it means for Texas

This presentation is for informational purposes and does not constitute legal advice.

# Opioids Crisis Update

- In 2020, drug overdose deaths **rose nearly 30%** in the United States to a **record high** of 93,000.
- Opioid overdose deaths hit a **record 69,000** in the United States.
- In Texas, **drug overdose deaths also increased by 31.9%**, driven primarily by opioid overdose deaths.
- The opioid overdose death increase was driven by fentanyl and other synthetic opioids.
- Attorney General Paxton's [website](#) has information to protect Texans from the nation's opioid crisis by educating them about the dangers of misusing prescription opioids.

Sources:

"Provisional Drug Overdose Death Counts." Centers for Disease Control: National Center for Health Statistics (last accessed July 23, 2021),

<https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>

"U.S. Drug-Overdose Deaths Soared Nearly 30% in 2020, Driven by Synthetic Opioids." Betsy McKay, Wall Street Journal (July 14, 2021),

<https://www.wsj.com/articles/u-s-drug-overdose-deaths-soared-nearly-30-in-2020-11626271200>

# Opioids Settlements

- On **July 23, 2021**, Attorney General Paxton announced global settlements had been reached with the three major opioid distributors **McKesson**, **Cardinal Health**, and **Amerisource Bergen (ABDC)**, and opioid manufacturer **Johnson & Johnson (J&J)**.
  - Both settlements are a combined historic **\$26 billion**.
    - The distributors' settlement is for **\$21 billion**.
    - J&J's settlement is for **\$5 billion**.
  - The settlements include injunctive relief that changes the industry.



# Opioids Settlements

- Texas could receive as much as **\$1.17 billion from the distributors** and **\$268 million from J&J** for **almost \$1.5 billion**, most of which is targeted for opioid abatement.
  - The actual amount Texas receives will depend upon the participation of cities, counties, and other political subdivisions in the state.
  - Texas has 30 days to decide to join both settlements.

# Opioids Settlements

- Injunctive Relief in the Settlements:
  - J&J is enjoined from manufacturing, selling, and promoting opioids for 10 years.
  - Distributors must establish a centralized clearinghouse jointly overseen by states and distributors.
  - Distributors will be required to take certain measures to detect suspicious orders.

# Opioids Settlements

- Mechanics of the Monetary Settlement:
  - Texas's overall allocation is 6.29% of the Global Amount – potentially almost **\$1.5 billion** over 18 years from:
    - Distributors - **\$1.17 billion** over 18 years.
    - J&J - over **\$268 million** over 9 years.
  - Annual payments are split into base and incentive payments as follows:
    - Distributors - 55% base, 45% incentive
    - J&J - 45% base, 55% incentive
  - All incentive payments deal with preventing future litigation by subdivisions and incentivizing subdivision sign on.

# Offsets and Suspension of Payments

- If a subdivision who hasn't sued decides to sue later, there is a suspension of payments and a potential offset of those payments.
- Size of the suspension and a potential offset depend on several factors, but the distributors' deal applies a maximum offset in the amount of 67% against the suspension and/or future payments.
- If that lawsuit is resolved, suspended payments resume. If the lawsuit requires payment, the amounts held are used to offset the amount paid.

# Goal: Bring the Most Money to Texas

- There are a combination of approaches that Texas could take to maximize funds with the participation of litigating subdivisions and nonlitigating subdivisions.
- This can be obtained by getting releases for past and future claims from all litigating subdivisions and special districts, all general-purpose subdivisions over 10,000 population, and covered special districts.
- Texas has 128 litigating subdivisions:
  - 110 Counties.
  - 5 Cities.
  - 10 Hospital Districts.
  - 3 School Districts.
- Texas has 406 general purpose subdivisions with a population of over 10,000 (309 nonlitigating and 97 litigating).
- Currently, the best option for Texas to maximize incentive funds is through a partnership with political subdivisions, where a large percentage agree to release claims.

# How Settlement Dollars Flow into Texas

- By signing on to the Settlement and executing a release, you increase the funds coming into Texas and will be entitled to a portion of the funds that Texas receives.
  - Texas and Participating Subdivisions alike get direct payments under the settlement.
  - Cities and Counties will also get funding for abatement programs from the Opioid Council.
- Question: If my county signs up and executes a release, how do I get dollars to my county?
- Answer: SB 1827 (87R) and the Texas Term Sheet

# Texas Term Sheet and SB 1827

- Goal of the Texas Term Sheet: Provide Texans in **all 254 counties** with the opportunity for funding for education, prevention, and treatment of opioid abuse.
- SB 1827 (87R) codifies the Texas Term Sheet and establishes the **Texas Opioid Council (Council)** to ensure that the funds recovered by Texas are allocated fairly and spent to remediate the opioid crisis in Texas, using efficient and cost-effective methods that are directed to the hardest hit regions in Texas while also ensuring that all Texans benefit from prevention and recovery efforts.
- 85% of the funds under the Settlement will be deposited into the Opioids Abatement Trust Fund:
  - 15% to directly to subdivisions.
  - 70% share to abatement programs.

# Example Opioid Fund Allocations

*These amounts are estimates only based on maximum recoveries*

- Assuming (1) your subdivision executes a release and signs on to the Texas Term Sheet, and (2) Texas receives maximum funds from the distributors and J&J, what kind of funding does that mean for my subdivision?

- Example 1 – direct payments to cities and counties:

<b>Subdivision</b>	<b>Distributors</b>	<b>J&amp;J</b>	<b>Total</b>
Brazoria County	\$1,013,429.26	\$232,935.37	\$1,246,364.63
City of Edinburg	\$119,977.07	\$27,576.57	\$147,553.64
City of Houston	\$6,969,111.93	\$1,601,841.11	\$8,570,953.04
League City	\$300,149.11	\$68,988.87	\$369,137.98
City of Longview	\$478,635.88	\$110,013.82	\$588,649.71
City of McKinney	\$447,004.00	\$102,743.27	\$549,747.27
City of Odessa	\$554,967.87	\$127,558.63	\$682,526.50
City of Round Rock	\$472,420.87	\$108,585.31	\$581,006.17
Starr County	\$99,146.53	\$22,788.70	\$121,935.23
City of Waxahachie	\$150,952.91	\$34,696.33	\$185,649.24



# Example Opioid Fund Allocations

*These amounts are estimates only based on maximum recoveries*

- Assuming (1) your subdivision executes a release and signs on to the Texas Term Sheet, and (2) Texas receives maximum funds from the distributors and J&J, what kind of funding does that mean for my subdivision?

- Example 2 – Abatement allocations by Regions for Treatment Programs

Region	Distributors	J&J	Total
Region 3 (Austin, Calhoun, Chambers, Colorado, Fort Bend, Harris, Matagorda, Waller, Wharton)	\$121,270,842.23	\$27,873,941.89	\$149,144,784.13
Region 5 (Cameron, Hidalgo, Starr, Willacy)	\$17,664,324.97	\$4,060,121.61	\$21,724,446.58
Region 9 (Dallas, Kaufman)	\$66,659,834.77	\$15,321,674	\$81,981,509.18
Region 15 (El Paso, Hudspeth)	\$18,039,679.50	\$4,146,396.35	\$22,186,075.85

# Opioid Lawsuits Timeline (1 of 3)

- In **September 2017**, Attorney General Paxton and a **bipartisan coalition of 40 other states** served investigative subpoenas and additional requests on eight companies that manufacture or distribute highly addictive opioids to evaluate whether manufacturers and distributors engaged in unlawful practices in the marketing, sale, and distribution of opioids.
- **May 15, 2018**, Texas filed a **lawsuit against Purdue Pharma** for violating state laws against deceptive trade practices and misrepresenting the risk of addiction to patients and doctors.
- On **September 4, 2019**, Attorney General Paxton announced that a **civil Medicaid fraud lawsuit** had been filed against pharmaceutical manufacturer **Johnson & Johnson** for misrepresentations made to the Texas Medicaid program about their dangerous opioid drug, Duragesic.
- Purdue Pharma files for Chapter 11 Bankruptcy in **September 2019**.

# Opioid Lawsuits Timeline (2 of 3)

- In **February 2020**, Attorney General Paxton announced a global settlement framework between state attorneys general, local subdivisions, and Mallinckrodt (MKN). MKN is currently the largest generic opioid manufacturer in the United States. In the agreement, MKN agreed to pay **\$1.6 billion in cash** to a trust that will cover the costs of opioid addiction treatment and related efforts, with the potential for increased payment to the trust.
- On **May 13, 2020**, Attorney General Paxton reached a bipartisan agreement with Texas Counties and Cities in preparation for settlement with opioid defendants: **McKesson, Cardinal Health, ABDC, and Johnson & Johnson**. Texas is one of the lead states currently negotiating financial settlements with the nation's largest companies in the opioid supply chain.

# Opioid Lawsuits Timeline (3 of 3)

- In **February 2021**, Attorney General Paxton and 46 states entered into a settlement with McKinsey, a consulting firm that assisted Purdue and others with their marketing of prescription opioids, for **\$583 million and injunctive relief**. The funds are earmarked to remediate the harms caused by the opioid epidemic and to recover the costs incurred in investigating and pursuing these claims.
- On **July 23, 2021**, Attorney General Paxton announced the global settlement had been reached with opioid defendants **McKesson, Cardinal Health, ABDC, and Johnson & Johnson**.

# Next Steps

- To join the Settlement, Subdivisions need to:
  - Sign on the to settlement and execute releases; and
  - Execute the Texas Term Sheet.
- The deadline to sign on is approximately 120 days after the state sign-on period, estimated January 2, 2022.



**KEN PAXTON**  
ATTORNEY GENERAL *of* TEXAS

For more information, visit

[www.texasattorneygeneral.gov/globalopioidsettlement](http://www.texasattorneygeneral.gov/globalopioidsettlement)

Questions? Email [opioids@oag.texas.gov](mailto:opioids@oag.texas.gov)

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARKER HEIGHTS APPROVING PARTICIPATION IN THE OPIOIDS SETTLEMENT**

**WHEREAS**, City of Harker Heights, Texas obtained information indicating that certain drug companies and their corporate affiliates, parents, subsidiaries, and such other defendants as may be added to the litigation (collectively, “Defendants”) have engaged in fraudulent and/or reckless marketing and/or distribution of opioids that have resulted in addictions and overdoses; and

**WHEREAS**, these actions, conduct and misconduct have resulted in significant financial costs to the City; and

**WHEREAS**, on May 13, 2020, the State of Texas, through the Office of the Attorney General, and a negotiation group for Texas political subdivisions entered into an Agreement entitled Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet (hereafter, the Texas Term Sheet) approving the allocation of any and all opioid settlement funds within the State of Texas. The Texas Term Sheet is attached hereto as Exhibit “A”; and

**WHEREAS**, Special Counsel and the State of Texas have recommended that the City of Harker Heights City Council support the adoption and approval the Texas Term Sheet in its entirety.

**NOW, THEREFORE, BE IT RESOLVED** that we, the City Council of the City of Harker Heights:

1. Support the adoption and approval the Texas Term Sheet in its entirety; and

2. Finds as follows:

a. There is a substantial need for repayment of opioid-related expenditures and payment to abate opioid-related harms in and about the City of Harker Heights, Texas; and

b. The City Council supports in its entirety and hereby adopts the allocation method for opioid settlement proceeds as set forth in the STATE OF TEXAS AND TEXAS POLITICAL SUBDIVISIONS' OPIOID ABATEMENT FUND COUNCIL AND SETTLEMENT ALLOCATION TERM SHEET, attached hereto as Exhibit A. The City Council understands that the purpose of this Texas Term Sheet is to permit collaboration between the State of Texas and Political Subdivisions to explore and potentially effectuate resolution of the Opioid Litigation against Pharmaceutical Supply Chain Participants as defined therein. We also understand that an additional purpose is to create an effective means of distributing any potential settlement funds obtained under this Texas Term Sheet between the State of Texas and Political Subdivisions in a manner and means that would promote an effective and meaningful use of the funds in abating the opioid epidemic in this City and throughout Texas.

**PASSED AND APPROVED** by the City Council of the City of Harker Heights, Texas, this 26<sup>th</sup> day of October, 2021.

**CITY OF HARKER HEIGHTS, TEXAS:**

---

Spencer H. Smith, Mayor

**ATTEST:**

---

Julie Helsham, City Secretary  
City of Harker Heights