



**NOTICE OF WORKSHOP AND SPECIAL MEETING OF THE
CITY COUNCIL OF THE CITY OF HARKER HEIGHTS,
TEXAS**

Notice is hereby given that, beginning at 3:00 p.m. on Tuesday, January 18, 2022, and continuing from day to day thereafter if necessary, the City Council of the City of Harker Heights, Texas, will hold a workshop and special meeting 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

I. ROLL CALL:

II. 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.

III. DISCUSSION ITEMS:

1. Receive and discuss a presentation from Texas House Representative Hugh D. Shine, District 55. (City Manager)
[Attachment - 1](#)
2. Receive and discuss a presentation regarding a review of a Citizen Survey. (City Manager)
[Attachment - 1](#)
[Attachment - 2](#)
3. Receive and discuss a presentation on the Proposed Amendment to Chapter 125 of the Harker Heights Code of Ordinances pertaining to Establishments not Licensed by the Texas Alcoholic Beverage Commission; deleting §125.42(B); amending §125.43 relating to Security of Premises; deleting §125.45; and deleting §125.46. (Planning and Development Director)
[Attachment - 1](#)
[Attachment - 2](#)

IV. ADJUORN INTO REGULAR MEETING

V. REGULAR BUSINESS:

1. Discuss and consider Impact Fee Calculations and recommendations relating to possible Adoption of Impact Fees for the 2022 Impact Fee Area, establish two Public Hearings Dates; and take the appropriate action. (Planning and Development Director)
[Attachment - 1](#)
[Attachment - 2](#)

VI. 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 14th day of January 2022, by 2:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Ursula Paddie
Assistant 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 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.



CITY COUNCIL MEMORANDUM

AGENDA ITEM #III-1

FROM: THE OFFICE OF THE CITY MANAGER

DATE: JANUARY 18, 2022

RECEIVE AND DISCUSS A PRESENTATION FROM TEXAS HOUSE REPRESENTATIVE HUGH D. SHINE, DISTRICT 55.

EXPLANATION:

With the growth of central Texas and with the 2020 census confirming those results, the State legislative lines have been redrawn. The City of Harker Heights has been moved from District #54 – Representative Brad Buckley to District #55 – Representative Hugh Shine.

Representative Shine visited with City Staff and the Mayor in early December. Rep. Shine is with us today to provide some insight on the key outcomes from the 87th legislative session and what he foresees with the upcoming 88th legislative session.

RECOMMENDATION:

None

ATTACHMENTS:

1. None



CITY COUNCIL MEMORANDUM

AGENDA ITEM #III-2

FROM: THE OFFICE OF THE CITY MANAGER

DATE: JANUARY 18, 2022

RECEIVE AND DISCUSS A PRESENTATION REGARDING A REVIEW OF A CITIZEN SURVEY.

EXPLANATION:

The City has secured the services of Dr. Thomas Longoria of Texas State University. These services are to assist in formulating, distributing, and guiding the City in the process of soliciting the opinions of our citizens.

The attached citizen survey is a draft for the Council's consideration. The survey's intent is to provide the City with input that will aid and enable our council to frame policies, evaluate programs, and assess and improve service delivery.

RECOMMENDATION:

None

ATTACHMENTS:

1. City of Harker Heights Citizen Survey - Draft

City of Harker Heights Resident Survey

This survey is being conducted by Texas State University on behalf of the City of Harker Heights. Your address has been randomly selected to receive this survey. Your responses are completely confidential and there are no risks associated with your participation. The survey will take approximately 20 minutes to complete. The information you provide will be stored electronically and in a file cabinet for three years. While participation is optional, your feedback is extremely important to the City for planning and decision-making purposes. Surveys may be mailed back to the **Center for Research, Public Policy and Training; Texas State University, UAC 355; 601 University Dr., San Marcos, TX 78666** or completed online by using the link provided below. The online code is used to ensure that survey results are not duplicated. Thank you in advance for your time. Please contact Dr. Thomas Longoria t128@txstate.edu with questions. If you have any concerns about this survey, contact Dr. Denise Gobert Texas State Institutional Review Board (IRB) Chair at 512-245-8351 or dgobert@txstate.edu or Monica Gonzales at meg201@txstate.edu

Please return this survey by April 1, 2022.

To complete online visit: <https://harkerheights.gov/2022survey> and **enter the number above your name on the mailing envelope when prompted.**

Please bubble in the response that best represents your opinion for each of the items below. Feel free to select N/A if you don't know, have no opinion or if the question does not apply.

1. In your opinion, which are the three most important services provided by the City of Harker Heights?

1. _____
2. _____
3. _____

2. Please rate the following elements of quality of life in Harker Heights.

	Excellent	Good	Fair	Poor	N/A
The city as a place to live	<input type="radio"/>				
A place to raise children	<input type="radio"/>				
A place to work	<input type="radio"/>				
A place to retire	<input type="radio"/>				
Overall quality of life	<input type="radio"/>				

3. Please rate the following characteristics of development in Harker Heights.

	Excellent	Good	Fair	Poor	N/A
Quality of new development	<input type="radio"/>				
Overall quality of businesses	<input type="radio"/>				
Employment opportunities	<input type="radio"/>				
Housing availability	<input type="radio"/>				
Retail options	<input type="radio"/>				

4. Please rate the quality of each of the following protective services in Harker Heights.

	Excellent	Good	Fair	Poor	N/A
Police services	<input type="radio"/>				
Fire and EMS services	<input type="radio"/>				
Municipal courts	<input type="radio"/>				
Traffic enforcement	<input type="radio"/>				
Code enforcement	<input type="radio"/>				
Animal control	<input type="radio"/>				
Emergency preparedness	<input type="radio"/>				

5. Please rate the quality of each of the following **public services** in Harker Heights.

	Excell -ent	Good	Fair	Poor	N/A
Street repair	<input type="radio"/>				
Street lighting	<input type="radio"/>				
Garbage collection service	<input type="radio"/>				
City trash drop site	<input type="radio"/>				
City water service	<input type="radio"/>				
City sewer service	<input type="radio"/>				
Permitting & inspection services	<input type="radio"/>				

6. Please rate the quality of each of the following **community services** in Harker Heights.

	Excellent	Good	Fair	Poor	N/A
City parks	<input type="radio"/>				
Recreation programs	<input type="radio"/>				
Services to seniors	<input type="radio"/>				
Services to youth	<input type="radio"/>				
Public library	<input type="radio"/>				
City beautification	<input type="radio"/>				

7. In the previous 12 months, how often have you or members of your family used the following services?

	Very Often	Often	Some -times	Rarely	Never
City library	<input type="radio"/>				
Recreation centers	<input type="radio"/>				
A city park	<input type="radio"/>				
City trash drop site	<input type="radio"/>				

8. In the previous 12 months, how often did you receive news about the City of Harker Heights from the following sources?

	Very Often	Often	Some -times	Rarely	Never
Harker Heights city website	<input type="radio"/>				
Utility bill	<input type="radio"/>				
City social media	<input type="radio"/>				
NextDoor posts	<input type="radio"/>				
Killeen Daily Herald	<input type="radio"/>				
Local TV Station	<input type="radio"/>				
Non-city-run social media	<input type="radio"/>				

9. From the list in Question 8, or some other media, what is your preferred method of receiving information from the city of Harker Heights?

Now we would like to ask you some questions about your satisfaction with contact with city employees.

10. Have you had any in-person, phone, email or social media contact with any employee of the City of Harker Heights within the last 12 months?

Yes	<input type="radio"/>	No	<input type="radio"/>
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11. If you answered **yes** to #10, which department(s) were contacted, and what was your overall impression?

	Excellent	Good	Fair	Poor	N/A
City Manager's Office	<input type="radio"/>				
City Clerk's Office	<input type="radio"/>				
Human Resources	<input type="radio"/>				
Finance	<input type="radio"/>				
Planning & Permitting	<input type="radio"/>				
Parks and Recreation	<input type="radio"/>				
Utility Billing	<input type="radio"/>				
Municipal Court	<input type="radio"/>				

11. Continued. **If you answered yes to #10**, which department(s) were contacted, and what was your overall impression?

	Excellent	Good	Fair	Poor	N/A
Library	<input type="radio"/>				
Police	<input type="radio"/>				
Animal Control	<input type="radio"/>				
Code Enforcement	<input type="radio"/>				
Streets and Drainage	<input type="radio"/>				
Water and Wastewater	<input type="radio"/>				

12. Please provide us with more information about your experience with contacting city employees.

13. Please rate safety in the following areas throughout the City.

	Excellent	Good	Fair	Poor	N/A
In your neighborhood (day)	<input type="radio"/>				
In your neighborhood (after dark)	<input type="radio"/>				
In city parks	<input type="radio"/>				
In shopping centers	<input type="radio"/>				
Drinking city water	<input type="radio"/>				
Traffic safety	<input type="radio"/>				

Now we would like your feedback on specific trash collection services. For your reference: The City of Harker Heights currently offers twice a week solid waste collection using 96-gallon polycarts for \$19.88 per month.

14. If added to current trash services, how often would you use the two options provided below?

	Frequently	Often	Rarely	Never
One time per month curbside bulky materials/brush collection	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Bi-weekly single-stream recycling collection	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

15. How strongly do you support the two options provided below? Note: all customers would be required to pay the additional proposed fees below

	Strongly Support	Support	Oppose	Strongly Oppose
Add 1 time per month curbside bulky materials/brush collection for a \$3 per month increase for all customers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Add bi-weekly single-stream recycling collection and 1 time per month curbside bulky materials/brush collection for a \$6 per month increase for all customers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Now we would like to ask you some questions about you and your household. Providing this information is voluntary. However, this information is important to help us better understand the perspectives of those who responded to the survey and to determine if the characteristics of the respondents approximate the characteristics of Harker Heights residents.

Please **circle** the responses that apply to the adults in your household

16. How many years have you lived in Harker Heights?

- [Less than 2] [2-5 years] [6-10 years]
[11-20 years] [More than 20 years]

17. Do you own or rent?

- [Own] [Rent] [Other]

18. What is your gender?

- [Male] [Female] [Other] [Prefer not to Say]

19. Which of the following options best describes your age category?

- [18-24] [24-34] [35-44] [45-54] [55-64] [65-74] [75 +]

20. Please select all that apply to you.

- [Full-Time Employee] [Unemployed] [Retired]
[Student] [Part-Time Employee] [Business Owner]
[Homemaker] [Work from Home]
[Other] _____

21. What is your race/ethnicity? (choose all that apply)

- [White] [Black or African American]
[Asian, Asian Indian, Pacific Islander]
[American Indian or Alaskan Native]
[Other] _____

22. What is your household income?

- [Less than \$25,000] [\$25,001 to \$50,000]
[\$50,001 to \$75,000] [\$75,001 to \$100,000]
[\$100,001 to \$150,000] [Over \$150,001]

23. What is the nearest **neighborhood intersection** near your home? (e.g., 1st and Main)

_____ and _____

24. How many adults (18 or older) live in your household? _____.

25. How many children (younger than 18) live in your household? _____

26. From your overall experience living in the City of Harker Heights, what would you say we do well?

27. What can the City of Harker Heights improve upon?

Thank you for participating in our survey! The City of Harker Heights values your opinions!

- Please follow the City of Harker Heights on Facebook, Twitter, and Nextdoor
- Visit the City's website at <https://harkerheights.gov> for information about the city



CITY COUNCIL MEMORANDUM

AGENDA ITEM #III-3

FROM: THE OFFICE OF THE CITY MANAGER

DATE: JANUARY 18, 2022

RECEIVE AND DISCUSS A PRESENTATION ON THE PROPOSED AMENDMENT TO CHAPTER 125 OF THE HARKER HEIGHTS CODE OF ORDINANCES PERTAINING TO ESTABLISHMENTS NOT LICENSED BY THE TEXAS ALCOHOLIC BEVERAGE COMMISSION; DELETING §125.42(B); AMENDING §125.43 RELATING TO SECURITY OF PREMISES; DELETING §125.45; AND DELETING §125.46.

EXPLANATION:

The City Attorney has reviewed Chapter 125: Establishments Not Licensed by The Texas Alcoholic Beverage Commission (TABC) of the Harker Heights Code of Ordinances, and made a determination that changes are necessary in order to provide for clarification and for compliance with TABC's regulatory authority.

ANALYSIS

As proposed, the ordinance amendment would clarify the requirements for the required site security plan. This provides for uniform submissions and formalizes what is expected to be included in the security plan.

ATTACHMENTS:

1. Amending Ordinance
2. Current Ordinance with Annotated Changes

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 125 OF THE HARKER HEIGHTS CODE OF ORDINANCES PERTAINING TO ESTABLISHMENTS NOT LICENSED BY THE TEXAS ALCOHOLIC BEVERAGE COMMISSION; DELETING §125.42(B); AMENDING §125.43 RELATING TO SECURITY OF PREMISES; DELETING §125.45; AND DELETING §125.46.

WHEREAS, the City Council (“*Council*”) of the City of Harker Heights (“*City*”) finds that it is necessary and desirable to amend the Code of Harker Heights (“*Code*”) as hereinafter provided in order to preserve the health, safety and general welfare of the residents of the City; 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:

SECTION 1: The City Council officially finds and declares that the facts and recitations set forth in the preamble to this ordinance are true and correct.

SECTION 2: Subsection 125.42(B) of the Code of Ordinances of the City of Harker Heights is deleted.

SECTION 3: Section 125.43 of the Code of Ordinances of the City of Harker Heights is hereby amended to read as follows:

125.43 Security of Premises.

- A. With its application for a permit, the Permit Holder must file a statement with the Director describing the actions the Permit Holder will take (1) to assure that no illegal activities will occur on its Premises, and (2) to prevent activities on the Premises from adversely affecting adjacent properties and business activities conducted on adjacent property. To maintain its permit, the Permit Holder must comply with the actions described in this statement. Permit Holder will file such a security statement annually, on or before the anniversary date of its permit.
- B. The Permit Holder shall post at least two conspicuous signs of at least eighteen inches (18”) by eighteen inches (18”) stating that no loitering is permitted on the Premises. At least one of these signs shall be posted on the exterior of the Premises and one on the interior.
- C. The Permit Holder shall designate one or more employees to monitor the activities of persons on the Premises by visually inspecting the Premises at least once every ninety minutes.
- D. The Permit Holder shall provide lighting in the interior of the Premises

of a sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five foot candles as measured at the floor level.

- E. Any video cameras or monitors used by the Permit Holder shall operate continuously at all times that the Premises are open for business and the operator shall record the video footage and maintain the footage for thirty (30) days after it is recorded.
- F. It shall be unlawful for a person having a duty under this section to knowingly or recklessly fail to fulfill that duty.

SECTION 5: Section 125.45 of the Code of Ordinances of the City of Harker Heights is deleted.

SECTION 5: Section 125.46 of the Code of Ordinances of the City of Harker Heights is deleted.

SECTION 5: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

SECTION 6: All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any city official or employee charged with the enforcement of this ordinance, acting for the City of Harker Heights in the discharge of official duties, shall not thereby become personally liable, and is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of said duties.

SECTION 7: 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 Tuesday, January 25, 2022.

Spencer H. Smith, Mayor

ATTEST:

Juliette Helsham, City Secretary

CHAPTER 125: ESTABLISHMENTS NOT LICENSED BY THE TEXAS ALCOHOLIC BEVERAGE COMMISSION

Section

General Provisions

- 125.01 Short title and purpose
- 125.02 Definitions
- 125.03 Applicability
- 125.04 Notice
- 125.05 Administrative rules

Permits

- 125.15 Permit required
- 125.16 Qualifications
- 125.17 Permit application
- 125.18 Permit approval or denial
- 125.19 Permit not transferable
- 125.20 Permit not a right
- 125.21 Permit expiration; renewal
- 125.22 Requirement to supplement information
- 125.23 Permit suspension
- 125.24 Permit revocation
- 125.25 Appeal

Regulations for Operation of a BYOB Establishment

- 125.35 Public place
 - 125.36 Permit posting required
 - 125.37 Manager required on premises
 - 125.38 Security plan implementation
 - 125.39 Minimum age for admittance and alcohol consumption
 - 125.40 Doors to remain unlocked
 - 125.41 Consent to inspection; immediate access required
 - 125.42 Hours of operation
 - 125.43 [Alcoholic beverage consumption areas Security of Premises](#)
 - 125.44 Parking area restrictions
 - 125.45 [Sale of alcoholic beverages prohibited Section deleted 01/25/2022](#)
 - 125.46 [Restriction on consumption and purchase of alcohol by permit holder and employees Section deleted 01/25/2022](#)
 - 125.47 Insurance requirement
 - 125.48 Compliance with other laws
 - 125.49 Crime prevention and reporting
- #### Enforcement
- 125.60 Criminal penalty
 - 125.61 Civil remedies

- 125.62 Cumulative remedies
- 125.63 Authority of City Attorney

GENERAL PROVISIONS

§ 125.01 SHORT TITLE AND PURPOSE.

(A) This chapter may be known and cited as "BYOB Businesses Regulation."

(B) The purpose of this chapter is to protect the welfare of the citizens of the City of Harker Heights by monitoring and regulating BYOB businesses. To this end, this chapter establishes a permit program for BYOB businesses, imposes regulations of business operations of BYOB businesses, and imposes civil and criminal penalties for violations of this chapter by BYOB businesses.

(Ord. 2020-10, passed 4-14-20)

§ 125.02 DEFINITIONS.

(A) It is a common practice for an establishment not licensed or permitted by the Texas Alcoholic Beverage Commission to sell or serve alcoholic beverages to allow its patrons to bring their own alcoholic beverages onto the premises for consumption. This practice is often referred to as "BYOB," an acronym for "bring your own bottle."

(B) In this chapter:

ALCOHOLIC BEVERAGE. Has the meaning assigned by the Texas Alcoholic Beverage Code.

BYOB PERMIT. A permit, issued pursuant to this chapter, to operate a BYOB venue.

BYOB VENUE OR EVENT. An establishment to which this chapter applies, as prescribed by § 125.03.

DEPARTMENT. The Planning and Development Department of the City of Harker Heights.

DIRECTOR. The Director of the Planning and Development Department.

PREMISES. The grounds and all buildings, vehicles, and appurtenances pertaining to the grounds, including any adjacent premises if they are directly or indirectly under the control of the same person.

PUBLIC PLACE. Any place accessible by the public, a business or public facility, a way or place, of whatever nature, opened to use of the public as a matter of right, or for purposes of vehicular travel as a street, or in the case of a sidewalk thereof, for pedestrian travel.

RESTAURANT. An establishment engaged in the preparation and retail sale of food and beverages for on-premise consumption or in a ready-to-consume state. To qualify as a restaurant under this chapter, the establishment must produce at least 80% of its total revenue, exclusive of tips and gratuities, from the provision of food service.

(Ord. 2020-10, passed 4-14-20; Am. Ord. 2021-19, passed 4-13-2021)

§ 125.03 APPLICABILITY.

(A) Except as provided in division (B), this chapter applies to an establishment that:

(1) Is not licensed or permitted by the Texas Alcoholic Beverage Commission to sell or serve alcoholic beverages; and

(2) Allows patrons to bring alcoholic beverages onto the premises for possession and consumption.

(B) This chapter does not apply to:

(1) A residence;

(2) An establishment operated by a governmental entity;

(3) A private club, as defined by the Texas Alcoholic Beverage Code;

(4) A fraternal or veteran's organization, as defined by the Texas Alcoholic Beverage Code;

(5) A college and university use;

(6) A religious assembly use;

(7) A restaurant; or

(8) A theater use.

(Ord. 2020-10, passed 4-14-20)

§ 125.04 NOTICE.

(A) Mailed notice is presumed received on the fifth day after it is mailed.

(B) Notice to a permit holder may be delivered to the manager at the BYOB venue and is effective on delivery.

(Ord. 2020-10, passed 4-14-20)

§ 125.05 ADMINISTRATIVE RULES.

The Director shall adopt administrative rules to implement, administer, and enforce this chapter.

(Ord. 2020-10, passed 4-14-20)

PERMITS

§ 125.15 PERMIT REQUIRED.

(A) A person shall obtain a BYOB permit issued by the Department before the person may operate a BYOB venue.

(B) A person must obtain a separate BYOB permit for each BYOB venue location.

(Ord. 2020-10, passed 4-14-20)

§ 125.16 QUALIFICATIONS.

(A) A person may not apply for or hold a permit under this chapter unless the person is at least 18 years of age.

(B) A person may not hold a BYOB permit under this chapter or manage a BYOB venue if the person has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities for operating a BYOB venue, and the conviction makes the person unfit to hold a permit or manage a BYOB venue.

(Ord. 2020-10, passed 4-14-20)

§ 125.17 PERMIT APPLICATION.

(A) A person who seeks a permit to operate a BYOB venue must submit an application to the Director on a form provided by the Director. The application must include:

- (1) The names, addresses, and birth dates of all persons who have an ownership interest in, or who will manage, the proposed BYOB venue;
- (2) Authorization for the city to conduct a criminal background check on each person described in division (A)(1);
- (3) The name of the BYOB venue and its physical address;
- (4) A registration certificate for the establishment from the Secretary of State, if registration is required by law;
- (5) Proof that the applicant has all other permits and approvals required to operate the establishment, including appropriate zoning;
- (6) A security plan that meets or exceeds the minimum standards established by administrative rule, as determined by the Police Chief;
- (7) Scale drawings of the site, including:
 - (a) All site improvements;
 - (b) The floor plan of each building; and
 - (c) A designation of the areas where the consumption of alcohol is to be allowed;
- (8) Information required by administrative rule;
- (9) Proof that the applicant has a commercial general liability insurance policy providing minimum premises/operations coverage of \$500,000 per occurrence and \$1,000,000 in the aggregate on an occurrence basis; and
- (10) Other information reasonably required by the Director.

(B) An applicant shall pay the non-refundable permit fee established by ordinance.

(C) A BYOB permit is void if the applicant obtains the BYOB permit by knowingly providing false information on the application.

(Ord. 2020-10, passed 4-14-20)

§ 125.18 PERMIT APPROVAL OR DENIAL.

(A) The Director shall approve a BYOB permit application if the Director determines that the applicant and the proposed BYOB venue meet the requirements of § 125.16 (Qualifications) and § 125.17 (Permit Application), and are not disqualified by divisions (B) and (C) of this section.

(B) The Director shall deny a BYOB permit application if the Director determines that:

- (1) The applicant is under the age of 18 years;
- (2) The BYOB venue as proposed would not comply with this chapter; or
- (3) The applicant had a BYOB permit required by this chapter revoked within the preceding 12-month period.

(C) The Director may deny a BYOB permit application if the Director determines if that:

- (1) The applicant provided incorrect or incomplete information on the application; or

(2) The person has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities for operating a BYOB venue, and the conviction makes the person unfit to hold a permit.

(D) If the Director does not approve or deny an application within 45 days of the date it is filed, the application is denied.

(E) The Director shall give written notice of a denial of an application to the applicant.

(F) An applicant may appeal to the Board of Adjustment a denial of a BYOB permit application in accordance with § 125.25 (Appeal).

(Ord. 2020-10, passed 4-14-20; Am. Ord. 2020-13, passed 4-28-20)

§ 125.19 PERMIT NOT TRANSFERABLE.

A BYOB permit issued under this chapter is not transferable to another person or venue.
(Ord. 2020-10, passed 4-14-20)

§ 125.20 PERMIT NOT A RIGHT.

A BYOB permit issued under this chapter is a grant of a privilege and is not a property right.

(Ord. 2020-10, passed 4-14-20)

§ 125.21 PERMIT EXPIRATION; RENEWAL.

A BYOB permit issued under this chapter expires one year after the date it is issued. A BYOB permit holder shall file an application for BYOB permit renewal not sooner than the ninetieth day and not later than the forty-fifth day before the BYOB permit expires. An application that is not filed within the described time period is a new application.

(Ord. 2020-10, passed 4-14-20)

§ 125.22 REQUIREMENT TO SUPPLEMENT INFORMATION.

While a BYOB permit application is pending or a BYOB permit is in effect, an applicant or permit holder shall immediately supplement the information provided to the Director in the BYOB permit application if the information is or becomes inaccurate, incomplete, or misleading.

(Ord. 2020-10, passed 4-14-20)

§ 125.23 PERMIT SUSPENSION.

(A) The Director may suspend a BYOB permit issued under this chapter without prior notice or hearing if the Director determines that:

(1) The BYOB permit holder, the manager, or an employee of the BYOB venue has violated a requirement of this chapter;

(2) The BYOB venue does not comply with this chapter; or

(3) The BYOB permit holder does not qualify for a permit under this chapter.

(B) If the Director suspends a BYOB permit:

(1) The Director shall give written notice to the BYOB permit holder that:

- (a) The BYOB permit is immediately suspended on receipt of the notice; and
 - (b) The BYOB permit holder may file a written request for a hearing not later than the tenth day after the date of receipt of notice of suspension; and
 - (2) The BYOB permit holder shall immediately close the BYOB venue.
 - (3) Any BYOB permit which has been suspended under this chapter shall be surrendered upon demand to the Director. At the end of the period of suspension, in the absence of further violations, the surrendered BYOB permit shall be returned to the BYOB permit holder and shall be valid under the provisions of this code. If the period of suspension extends beyond the normal expiration date of the BYOB permit, the BYOB permit holder shall pay all BYOB permit fees without proration in order to receive a valid BYOB permit.
 - (C) Suspension of a BYOB permit is effective on receipt of notice.
 - (D) A BYOB permit holder may file with the Director a written request for a hearing on a BYOB permit suspension. The request must be filed not later than the tenth day after the date of receipt of notice of suspension.
 - (E) If a BYOB permit holder timely files a hearing request:
 - (1) The Director shall hold a hearing on the permit suspension not later than the fourteenth day after the date the hearing request is filed. At such hearing, the BYOB permit holder may present information to the Director addressing the Director's suspension of a BYOB permit and reasons, if any, that the BYOB permit holder believes the suspension is not warranted; and
 - (2) A suspension is stayed pending the outcome of the hearing.
 - (F) If a hearing request is not timely filed, a suspension continues in effect.
 - (G) After hearing, the Director shall give written notice to the BYOB permit holder as to whether suspension is continued in effect after a hearing under division (E).
 - (H) The Director may reinstate a permit if the reason for suspension no longer exists.
- (Ord. 2020-10, passed 4-14-20)

§ 125.24 PERMIT REVOCATION.

- (A) The Director may revoke a BYOB permit issued under this chapter if the Director determines that:
 - (1) The permit holder, the manager, or an employee of the BYOB venue has engaged in serious or repeated violations of this chapter;
 - (2) The BYOB venue does not comply with this chapter; or
 - (3) The permit holder does not qualify for a permit under this chapter.
- (B) Before revoking a BYOB permit, the Director shall provide the BYOB permit holder with written notice of the pending permit revocation. The written notice shall include:
 - (1) The reason the BYOB permit is subject to revocation;
 - (2) The date on which the BYOB permit is scheduled to be revoked; and
 - (3) A statement that the BYOB permit will be revoked on the scheduled date unless the BYOB permit holder files a written request for a hearing with the Director not later than the tenth day after the date the notice is received.

(C) A BYOB permit revocation becomes effective on expiration of the time period prescribed by the notice if the BYOB permit holder does not file a written request for hearing with the Director not later than the tenth day after the notice is received.

(D) If a BYOB permit holder timely files a hearing request:

(1) The Director shall hold a hearing on the BYOB permit revocation not later than the fourteenth day after the date the hearing request is filed. At such hearing, the BYOB permit holder may present information to the Director addressing the Director's intent to revoke the BYOB permit and reasons, if any, that the BYOB permit holder believes the revocation is not warranted; and

(2) A revocation is stayed pending the outcome of the hearing.

(E) The Director shall give written notice to the BYOB permit holder of a decision regarding the revocation of the BYOB permit or a revocation that becomes effective under division (C).

(Ord. 2020-10, passed 4-14-20)

§ 125.25 APPEAL.

(A) An applicant or a permit holder may appeal to the Board of Adjustment a permit application denial, a permit suspension, or a permit revocation. To stay a suspension or revocation under this chapter, appeal to the Board of Adjustment must be made within ten days after the applicant/BYOB permit holder receives written notice of the decision that it is appealing.

(B) If the permit holder timely files a notice of appeal pursuant to division (A), a suspension, or revocation is stayed.

(Ord. 2020-10, passed 4-14-20)

REGULATIONS FOR OPERATION OF A BYOB ESTABLISHMENT

§ 125.35 PUBLIC PLACE.

A BYOB venue is a public place.

(Ord. 2020-10, passed 4-14-20)

§ 125.36 PERMIT POSTING REQUIRED.

A BYOB permit holder shall post the BYOB permit required by this chapter in a prominent public location at the BYOB venue.

(Ord. 2020-10, passed 4-14-20)

§ 125.37 MANAGER REQUIRED ON PREMISES.

A BYOB permit holder shall ensure that a qualified manager is continuously on the BYOB venue premises during the hours of operation. A BYOB permit holder may serve as the manager.

(Ord. 2020-10, passed 4-14-20)

§ 125.38 SECURITY PLAN IMPLEMENTATION.

(A) A person may not operate a BYOB venue without an approved security plan.

(B) A BYOB permit holder and a BYOB venue manager shall provide security for the BYOB venue in accordance with the security plan.

(Ord. 2020-10, passed 4-14-20)

§ 125.39 MINIMUM AGE FOR ADMITTANCE AND ALCOHOL CONSUMPTION.

(A) A BYOB permit holder, a manager, or an employee of a BYOB venue may not allow a person under the age of 18 years on the premises.

(B) A BYOB permit holder, a manager, or an employee of a BYOB venue may not allow a person under the age of 21 years to consume alcohol on the premises.

(Ord. 2020-10, passed 4-14-20)

§ 125.40 DOORS TO REMAIN UNLOCKED.

During the hours of operation, a person may not lock or obstruct:

(A) An exterior entrance door that is designated or available for use by patrons; or

(B) An interior door that provides access to a portion of the premises that is designated or available for use by patrons.

(Ord. 2020-10, passed 4-14-20)

§ 125.41 CONSENT TO INSPECTION; IMMEDIATE ACCESS REQUIRED.

(A) By accepting a BYOB permit under this chapter, the permit holder consents that the Director, the Director's representative, law enforcement personnel, code enforcement personnel, and other on-duty governmental personnel may enter the premises during the hours of operation to conduct an investigation or inspect the premises to determine compliance with this chapter.

(B) A BYOB permit holder, a manager, and an employee of a BYOB venue shall provide the Director, the Director's representative, law enforcement personnel, code enforcement personnel, and other on-duty governmental personnel with immediate access to all portions of the premises.

(Ord. 2020-10, passed 4-14-20)

§ 125.42 HOURS OF OPERATION.

(A) A BYOB permit holder, a manager, or an employee of a BYOB venue shall close a BYOB venue between 2:00 a.m. and 7:00 a.m. each day except Sunday, and between 2:00 a.m. and noon on Sunday. A patron who is on the premises at 2:00 a.m. may remain until not later than 2:15 a.m.

(B) ~~A person may not consume an alcoholic beverage on the premises of a BYOB venue between 2:15 a.m. and 7:00 a.m. each day except Sunday, or between 2:15 a.m. and noon on Sunday. Section deleted 01/25/2022~~

(C) A BYOB permit holder, a manager, or an employee of a BYOB venue may not allow a member of the public on its premises, including a parking area, between 2:30 a.m. and 7:00

a.m. each day except Sunday, or between 2:30 a.m. and noon on Sunday. This prohibition does not apply to a person who is providing a product or service directly to the BYOB venue.

(Ord. 2020-10, passed 4-14-20)

§ 125.43 ~~ALCOHOLIC BEVERAGE CONSUMPTION AREAS. SECURITY OF PREMISES.~~

~~(A) A permit holder shall designate, subject to the approval of the Director, the portions of the premises on which the consumption of alcoholic beverages is permitted. A designated area:~~

~~—(1) Must be located and designed to minimize adverse effects on adjacent property;~~

~~—(2) May include the interior of a building or a deck, patio, or garden; and~~

~~—(3) Must exclude parking areas.~~

~~—(B) A person may not consume, and a permit holder, a manager, or an employee of a BYOB venue may not allow the consumption of an alcoholic beverage outside of a designated area.~~

~~—(C) The BYOB permit holder shall indicate the portions of the premises on which the consumption of alcoholic beverages is permitted on the floor plan provided with the BYOB permit application. If the BYOB permit holder desires to change or modify the area where alcoholic beverages may be consumed, it must first provide a revised floor plan to the Director.~~

(A) With its application for a permit, the Permit Holder must file a statement with the Director describing the actions the Permit Holder will take (1) to assure that no illegal activities will occur on its Premises, and (2) to prevent activities on the Premises from adversely affecting adjacent properties and business activities conducted on adjacent property. To maintain its permit, the Permit Holder must comply with the actions described in this statement. Permit Holder will file such a security statement annually, on or before the anniversary date of its permit.

(B) The Permit Holder shall post at least two conspicuous signs of at least eighteen inches (18") by eighteen inches (18") stating that no loitering is permitted on the Premises. At least one of these signs shall be posted on the exterior of the Premises and one on the interior.

(C) The Permit Holder shall designate one or more employees to monitor the activities of persons on the Premises by visually inspecting the Premises at least once every ninety minutes.

(D) The Permit Holder shall provide lighting in the interior of the Premises of a sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five foot candles as measured at the floor level.

(E) Any video cameras or monitors used by the Permit Holder shall operate

continuously at all times that the Premises are open for business and the operator shall record the video footage and maintain the footage for thirty (30) days after it is recorded.

(F) It shall be unlawful for a person having a duty under this section to knowingly or recklessly fail to fulfill that duty.

(Ord. 2020-10, passed 4-14-20)

§ 125.44 PARKING AREA RESTRICTIONS.

(A) A BYOB permit holder, a manager, or an employee of a BYOB venue may not allow persons to congregate in a parking area.

(B) A BYOB permit holder, a manager, or an employee of a BYOB venue may not allow a person to consume an alcoholic beverage in a parking area.

(C) A BYOB permit holder shall post signs in each parking area stating that the consumption of an alcoholic beverage is prohibited.

(Ord. 2020-10, passed 4-14-20)

§ 125.45 ~~SALE OF ALCOHOLIC BEVERAGES PROHIBITED. SECTION DELETED 01/25/2022~~

~~—A person may not sell an alcoholic beverage at a BYOB venue.~~

~~(Ord. 2020-10, passed 4-14-20)~~

§ 125.46 ~~RESTRICTION ON CONSUMPTION AND PURCHASE OF ALCOHOL BY PERMIT HOLDER AND EMPLOYEES. SECTION DELETED 01/25/2022~~

~~—A BYOB permit holder, manager, or employee of a BYOB venue may not:~~

~~—(A) Consume an alcoholic beverage while on duty;~~

~~—(B) Purchase or otherwise acquire an alcoholic beverage for a patron; or~~

~~—(C) Give an alcoholic beverage to a patron.~~

~~(Ord. 2020-10, passed 4-14-20)~~

§ 125.47 INSURANCE REQUIREMENT.

A BYOB permit holder, a manager, or owner shall maintain a commercial general liability insurance policy providing minimum premises/operations coverage of \$500,000 per occurrence and \$1,000,000 in the aggregate on an occurrence basis. The policy must be provided by an insurer licensed by the Texas Department of Insurance, and must be endorsed to name as additional insured, the city. Prior to opening for business, the BYOB permit holder, manager, or owner shall deliver a certificate of insurance and copies of all endorsements for additional insured to the Director, and thereafter at least ten days prior to the expiration of such policies. The permit holder, manager, or owner shall prominently display a sign at the facility stating that the owner or operator has purchased liability insurance to cover activities at the facility.

(Ord. 2020-10, passed 4-14-20; Am. Ord. 2020-17, passed 5-12-20)

§ 125.48 COMPLIANCE WITH OTHER LAWS.

A BYOB permit holder, a manager, and an employee of a BYOB venue shall comply with the Texas Alcoholic Beverage Code and all applicable criminal, zoning, health, and safety laws relating to the operation of the BYOB venue.

(Ord. 2020-10, passed 4-14-20)

§ 125.49 CRIME PREVENTION AND REPORTING.

The BYOB permit holder, the manager, and the employees of a BYOB venue shall:

- (A) Take reasonable measures to prevent criminal activity on the premises; and
- (B) Immediately report to law enforcement personnel all suspected criminal activity on the premises or the surrounding areas that they observe or of which they otherwise become aware.

(Ord. 2020-10, passed 4-14-20)

ENFORCEMENT

§ 125.60 CRIMINAL PENALTY.

(A) A person commits a Class C misdemeanor if the person:

- (1) Operates a BYOB venue without a permit required by this chapter; or
- (2) Violates a provision of this chapter, other than § 125.45 (Sale of Alcoholic Beverages Prohibited) or § 125.48 (Compliance with Other Laws).

(B) Proof of a culpable mental state is not required to prove an offense under this chapter, except for § 125.42(B) (Hours of Operation).

(C) Each day that a violation occurs or continues is a separate offense.

(Ord. 2020-10, passed 4-14-20)

§ 125.61 CIVIL REMEDIES.

(A) The City Council has determined that this chapter is necessary to protect health, life, and property and to preserve the good government, order, and security of the city and its inhabitants.

(B) A person who continues to violate this chapter after being notified of the offense in writing by an authorized city representative is subject to a civil penalty not to exceed \$1,000 for each day or part of a day the violation occurs.

(C) The city may file suit to enforce this chapter to collect a civil penalty.

(D) The city may seek to enjoin violations of this chapter.

(Ord. 2020-10, passed 4-14-20)

§ 125.62 CUMULATIVE REMEDIES.

The remedies authorized under this subchapter are cumulative. If the city files a civil or criminal action, it is not precluded from pursuing any other action or remedy.

(Ord. 2020-10, passed 4-14-20)

§ 125.63 AUTHORITY OF CITY ATTORNEY.

The City Attorney may, without further authorization of the City Council, undertake the enforcement of this chapter by all legal means appropriate or necessary, including but not limited to: enforcement in municipal court, filing of appropriate criminal or civil actions in courts of appropriate jurisdiction, and to defend the city from suit if suit is taken to appeal any action of the city.

(Ord. 2020-10, passed 4-14-20)



CITY COUNCIL MEMORANDUM

CIAC-21-03

AGENDA ITEM #V-1

FROM: THE OFFICE OF THE CITY MANAGER

DATE: JANUARY 18, 2022

DISCUSS AND CONSIDER IMPACT FEE CALCULATIONS AND RECOMMENDATIONS RELATING TO POSSIBLE ADOPTION OF IMPACT FEES FOR THE 2022 IMPACT FEE AREA, ESTABLISH TWO PUBLIC HEARINGS DATES; AND TAKE THE APPROPRIATE ACTION.

EXPLANATION:

The City Council adopted the 2021 Land Use Plan on October 26, 2021, with only a few modifications since that time. The City's consultant, Ms. Jessica Vassar with Freese and Nichols, has evaluated the Land Use Plan, current development activity, and existing land uses with respect to their contribution to developing an impact fee.

RECOMMENDATION:

Staff recommended approval to the CIAC of the impact fee 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 impact fee calculations prior to adoption by the City Council. Staff recommends that the City Council establish the public hearing dates for the February 22, 2022, and March 08, 2022, City 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, Capital Improvement Advisory Committee (CIAC) serves as the advisory committee for the 2022 Wastewater Impact Fee study.

On January 12, 2022, the CIAC voted 7-0 to recommend approval of the impact fee calculations at the maximum allowable rate 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. Motion to establish the public hearing dates on the impact fee calculations relating to possible adoption of impact fees for the 2022 wastewater impact fee area for the February 22, 2022, and March 8, 2022, City Council meetings.
2. Any other action deemed necessary.

ATTACHMENTS:

1. Memo
2. Draft Impact Fee Report



TO: Mayor and City Council
FROM: Larry Robison, Chair, Capital Improvements Advisory Committee (CIAC)
DATE: January 12, 2022
SUBJECT: Impact Fee Program Recommendation

In accordance with Texas Local Government Code, the Harker Heights Capital Improvements Advisory Committee (CIAC), which consists of members from the Planning and Zoning Commission plus an ad hoc member for the ETJ, has been conducting public meetings with City staff and the City's consultants for the development of a wastewater impact fee program. Over the course of study, the CIAC has received data regarding Land Use Assumptions (2022-2032), impact fee Capital Improvement Plan and associated costs, and the resultant cost per service unit calculations for determining impact fees.

Chapter 395.056 of the Texas Local Government Code requires the CIAC to file its written comments on the proposed land use assumptions, capital improvements plan, and impact fees before the fifth business day before the date of the public hearing on the amendments. The scheduled public hearing dates February 22, 2022 and March 8, 2022.

After review and comment of the information, the CIAC recommends the following:

- Approval of the Land Use Assumptions and growth forecasts over the ten-year planning period 2022-2032,
- Approval of the impact fee Wastewater Capital Improvements Plans as presented in the Land Use Assumptions and Capital Improvements Plan submitted in September 2021, and approved in Public Hearings with the City Council on October 26 and November 9,
- Approval of the Calculated Cost per Service Unit for, and
- Approval of the maximum collection rate per service unit of \$6,133.

The CIAC believes that the implementation of a wastewater impact fee program will assist Harker Heights in the development and implementation of specific capital improvements to address growth needs and that the City Council consider a collection rate up to the maximum allowable under law.

Respectfully,

Harker Heights Capital Improvements Advisory Committee Members

Lawrence "Larry" Robison, Chairman
Robert "Rob" Robinson III, Vice Chairman
Natalie Austin, Member
Bary Heidtbrink, Member
Stephen Watford, Member
Joshua McCann, Member
Rodney Shine, Member
Jerry Bess, Member
Michael Stegmeyer, Member
Robert "Bobby" Hoxworth, ETJ Member

WASTEWATER IMPACT FEE STUDY REPORT

Prepared for:

City of Harker Heights

January 2022

Prepared by:

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

WASTEWATER IMPACT FEE STUDY REPORT

Prepared for:

City of Harker Heights



1/10/2022

Jessica B. Vassar

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

Prepared by:

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FNI Project No.: HAK21373

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Appendix A: Cost Estimates

1.0 EXECUTIVE SUMMARY

1.1 BACKGROUND

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 methodology 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 for the establishment of impact fees. The City does not currently charge wastewater impact fees to new developments.

1.2 LAND USE ASSUMPTIONS

Population and land use assumptions are important elements in the determination of needs for infrastructure systems. To assist in the determination of need and timing of capital improvements to serve future development, a reasonable estimation of future growth is required. Growth and future development projections were formulated based on the adopted future land uses within the community. These land use assumptions, which include growth projections for the ten-year planning period of 2022-2032, are the basis for the preparation of impact fee capital improvement plan (CIP).

1.3 WASTEWATER IMPACT FEE ANALYSIS

A wastewater impact fee CIP was developed for the City of Harker Heights based on the adopted land use assumptions and previously conducted studies. The recommended improvements will provide the required capacity to meet projected wastewater flows through 2032. **Table 1-1** displays the wastewater flow projections in terms of million gallons per day (MGD) for the study area.

Table 1-1: 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

Chapter 395 of the TLGC states that 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 impact fee eligibility period, less the credit to account for revenues used to finance these capital improvements. The total projected costs include the projected capital improvement costs to serve 10-year development, the projected finance cost for the capital improvements, and the consultant cost for preparing and updating the CIP. A 2.0% interest rate was used to calculate financing costs. **Table 1-2** displays a summary of the maximum allowable wastewater impact fee calculation.

Table 1-2: Maximum Wastewater Impact Fee Calculation

Total Eligible Capital Improvement Costs	\$15,758,705
Total Eligible Financing Costs	\$1,156,784
Total Eligible Impact Fee Costs	\$16,915,489
Growth in Service Units	1,379
Maximum Wastewater Impact Fee per Service Unit ⁽¹⁾	\$12,266
Impact Fee Credit per Service Unit ⁽²⁾	\$6,133
Maximum Allowable Wastewater Impact Fee per Service Unit ⁽³⁾	\$6,133

(1) Total Eligible Costs divided by the Growth in Service Units.

(2) Credit is 50% of Maximum Wastewater Impact Fee per Service Unit.

(3) Maximum Allowable Wastewater Impact Fee is Maximum Wastewater Impact Fee per service unit minus the Impact Fee Credit per Service Unit.

2.0 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 were used in the development and calculation of the maximum allowable 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.

2.1 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 improvement plan (CIP) and impact fee analysis
- 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. Once established, impact fees are required to be updated at least every five years.

2.2 METHODOLOGY

Wastewater impact fee capital improvement plan (CIP) projects were selected by FNI for the City based on the land use assumptions, input from City staff, and projects developed during 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 conducted workshops with the City's appointed Capital Improvements Advisory Committee (CIAC) and City Council. FNI calculated the maximum allowable impact fee utilizing the 50% credit methodology identified in TLGC Chapter 395. The CIAC's role included 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.

2.3 LIST OF ABBREVIATIONS

The list of abbreviations used in this report are presented in **Table 2-1**.

Table 2-1: List of Abbreviations

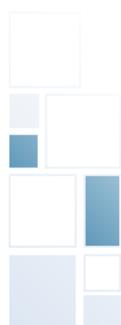
Abbreviation	Actual
AWWA	American Water Works Association
CIAC	Capital Improvement Advisory Committee
CIP	Capital Improvement Plan
FNI	Freese and Nichols, Inc.
MGD	Million Gallons per Day
TCE	Thonhoff Consulting Engineers, Inc.
TLGC	Texas Local Government Code

3.0 LAND USE ASSUMPTIONS

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.

3.1 SERVICE AREA

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 3-1**. The City recently adopted an updated future land use plan that was used for this study. The future land use for the service area is presented on **Figure 3-2**.



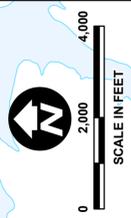
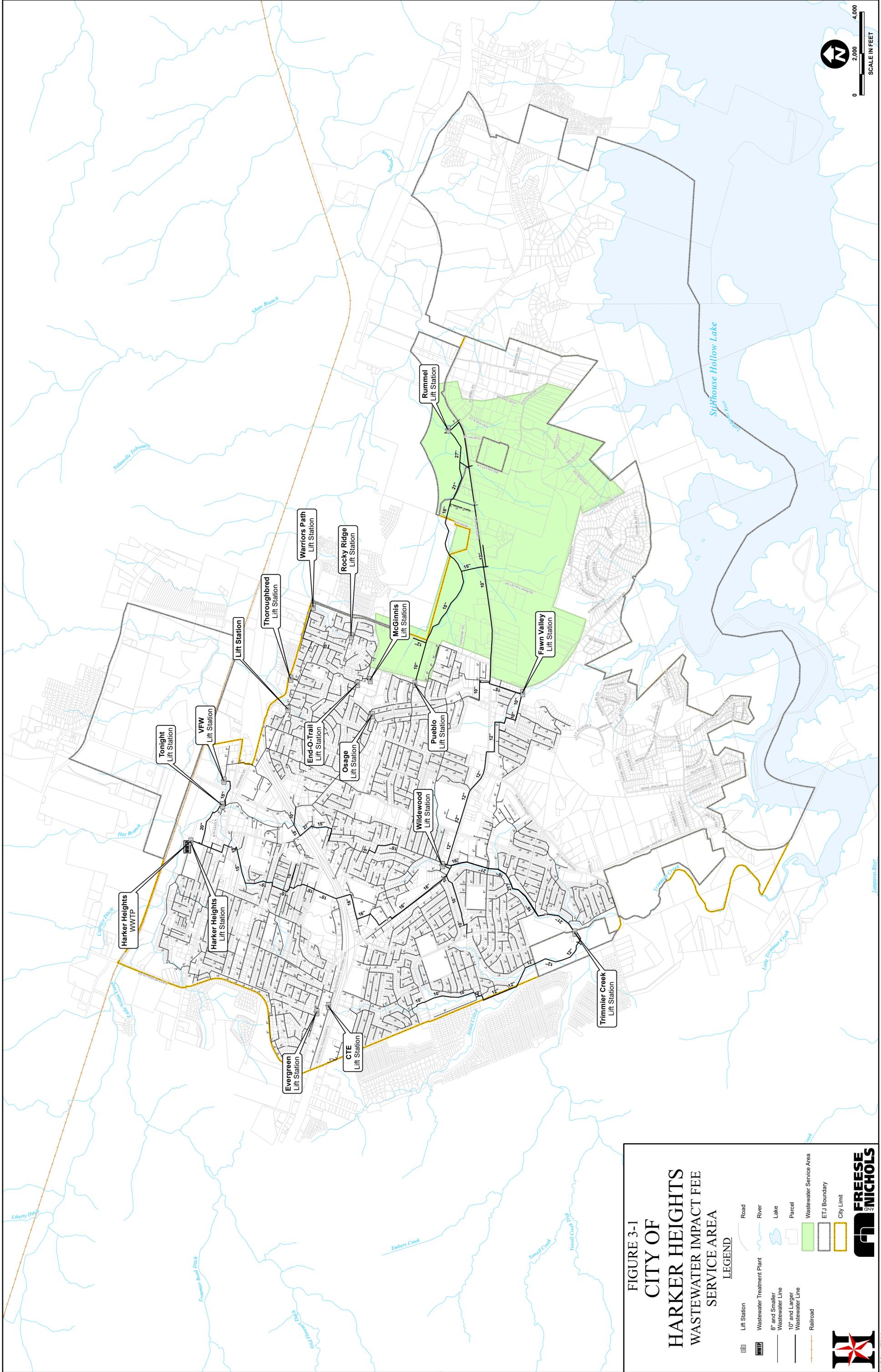
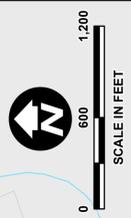
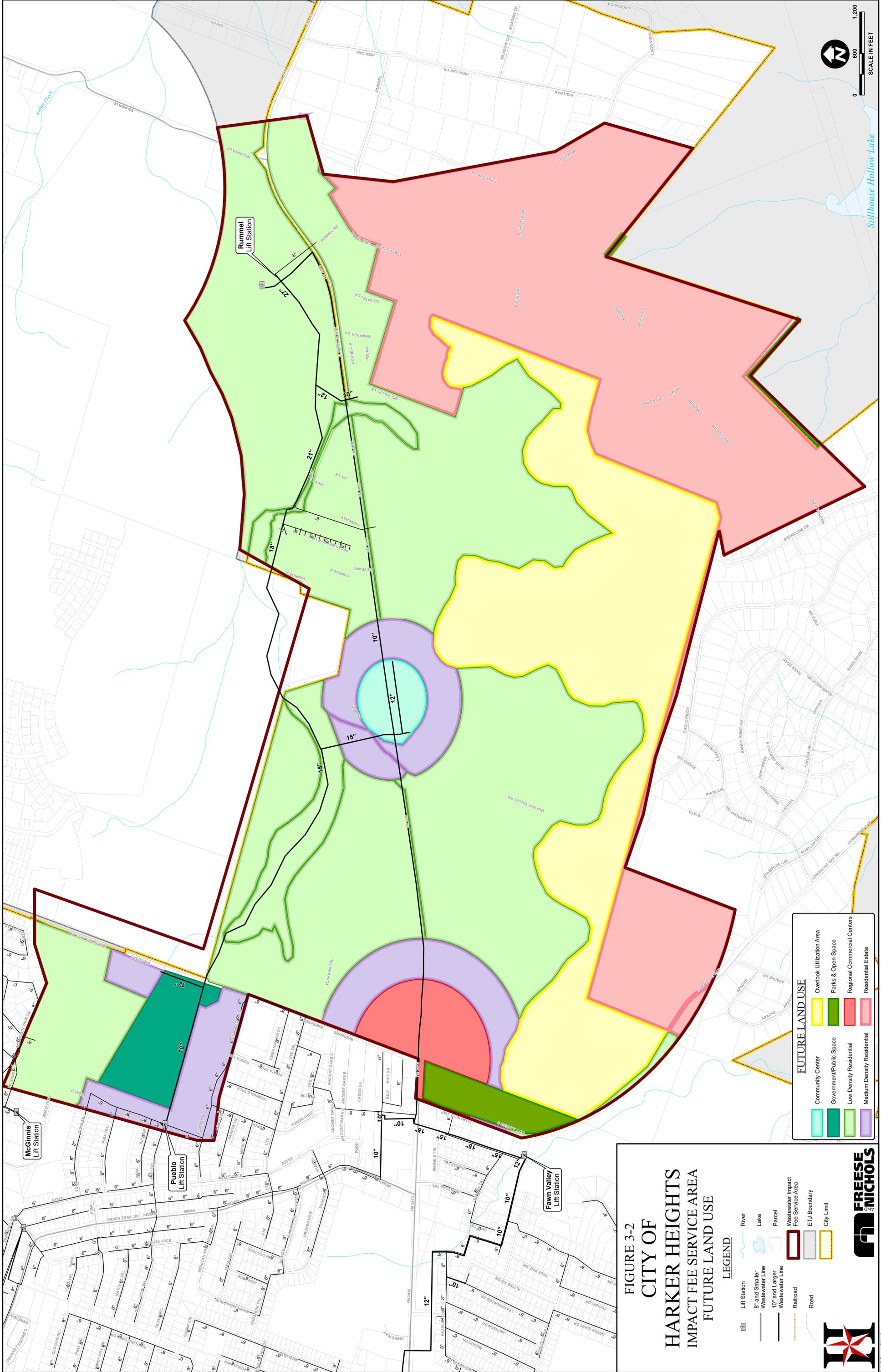


FIGURE 3-1
CITY OF
HARKER HEIGHTS
WASTEWATER IMPACT FEE
SERVICE AREA

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



Stillhouse Hollow Lake

FUTURE LAND USE

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

FIGURE 3-2
CITY OF
HARKER HEIGHTS
IMPACT FEE SERVICE AREA
FUTURE LAND USE

LEGEND

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

FREESE & NICHOLS

IN

3.2 HISTORICAL AND PROJECTED GROWTH

3.2.1 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 3-1**.

Table 3-1: 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%

3.2.2 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 3-2** presents the City’s projected growth for the 10-year planning period for the wastewater impact fee service area.

Table 3-2: Wastewater Impact Fee Service Area Growth

Year	Connections
2022	125
2032	1,500

4.0 WASTEWATER IMPACT FEE ANALYSIS

Wastewater 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.

4.1 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 4-1** presents the projected wastewater flows for the wastewater impact fee service area in million gallons per day (MGD).

Table 4-1: 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

4.2 WASTEWATER SYSTEM IMPROVEMENTS

The TCE 2021 *Wastewater Flow Capacity Analysis Report* included proposed wastewater system improvements. A summary of the costs for each of the projects required for the 10-year growth period used in the wastewater system impact fee analysis is shown in **Table 4-2**. Costs listed for the existing projects are based on actual design and construction cost data provided by the City. Detailed cost estimates for the proposed wastewater system projects were provided by TCE and are provided in **Appendix A**. **Table 4-2** shows a 2022 percent utilization, which is the portion of a project's capacity that is required to serve existing development. This portion of the project cost is not impact-fee-eligible. The 2032 percent utilization is the portion of the project's capacity that will be required to serve projected growth in the city in 2032. The 2022-2032 percent utilization is the portion of the project's capacity required to serve development from 2022 to 2032. The impact fee eligible cost for each project is calculated as the total capital cost multiplied by the 2022-2032 percent utilization. Only this portion of

the cost can be used to calculate maximum allowable impact fees. Proposed wastewater projects are shown on **Figure 4-1**.

Table 4-2: Wastewater Impact Fee Eligible Projects

No.	Description of Project	Percent Utilization			Costs Based on 2022 Dollars		
		2022 ⁽¹⁾	2032	2022 - 2032	Capital Cost	Impact Fee Eligible Cost	
Existing	A	Rummel Lift Station and Force Main	10%	100%	90%	\$1,116,502	\$1,004,851
	B	15/18/21/27" Gravity Line	10%	75%	65%	\$1,674,752	\$1,088,589
	C	Impact Fee Study	0%	100%	100%	\$64,000	\$64,000
	Existing Project Sub-total					\$2,855,254	\$2,157,440
Proposed	1	12" Force Main	0%	100%	100%	\$1,975,412	\$1,975,412
	2	Rummel Lift Station Expansion	0%	100%	100%	\$493,853	\$493,853
	3	Proposed Lift Station and 18" Force Main	0%	23%	23%	\$6,330,252	\$1,455,958
	4	24/27" Gravity Line	0%	23%	23%	\$10,569,748	\$2,431,042
	5	1.5 MGD Wastewater Treatment Plant Expansion	0%	23%	23%	\$31,500,000	\$7,245,000
	Proposed Project Sub-total					\$50,869,265	\$13,601,265
Total Capital Improvements Cost					\$53,724,519	\$15,758,705	

(1) Utilization in 2022 on proposed projects indicates a portion of the project that will be used to address deficiencies within the existing system, and therefore are not eligible for impact fee cost recovery for future growth.

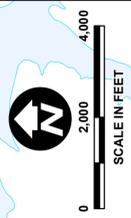
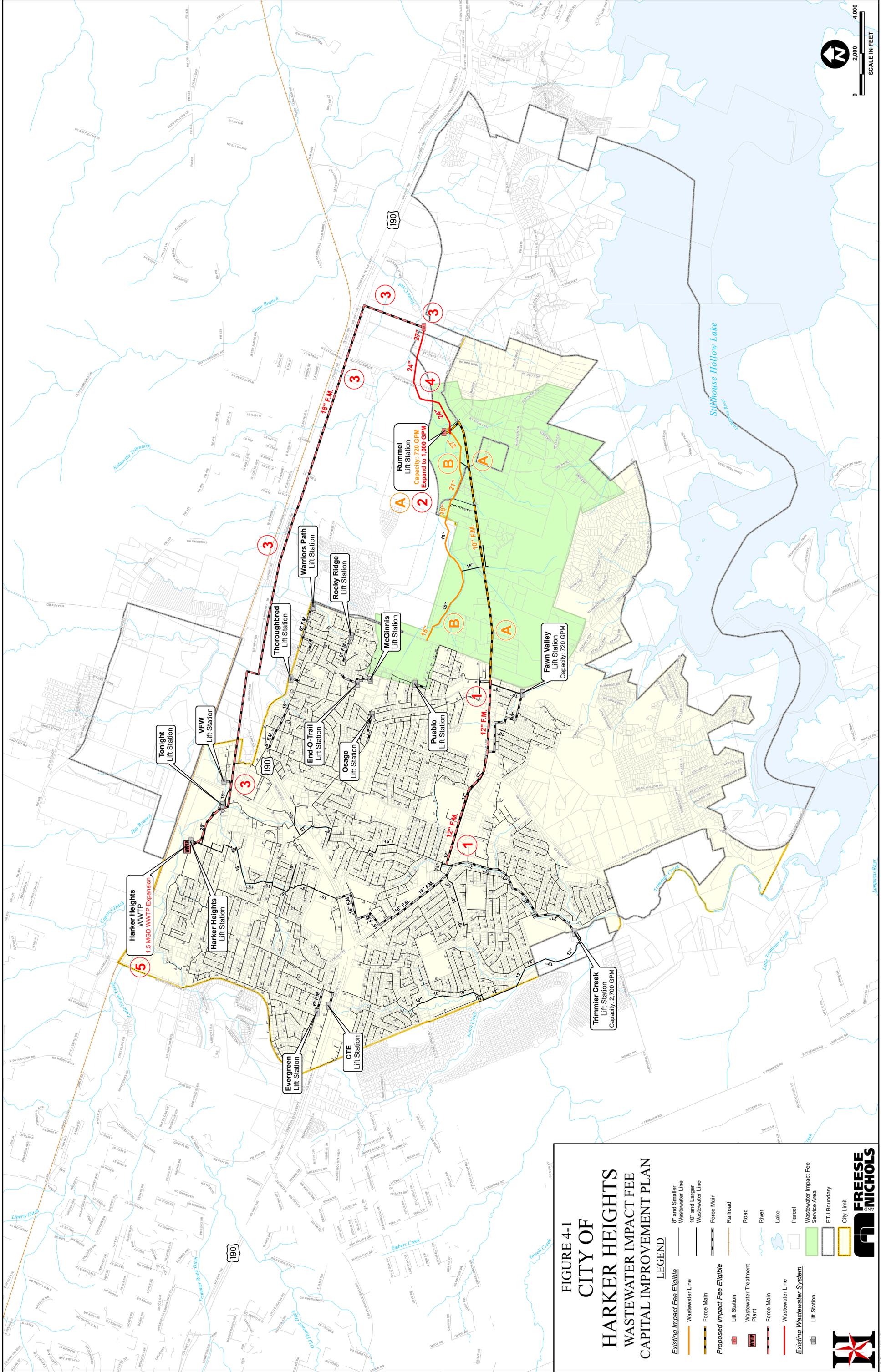


FIGURE 4-1
CITY OF
HARKER HEIGHTS
WASTEWATER IMPACT FEE
CAPITAL IMPROVEMENT PLAN

LEGEND

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

FRESE & NICHOLS

4.3 WASTEWATER IMPACT FEE ANALYSIS

The impact fee analysis involves determining the utilization of existing and proposed projects required as defined by the capital improvement plan to serve new development over the next 10-year period. For existing or proposed projects, the impact fee eligible cost is calculated as a percentage of the total project cost, based upon the percentage of the project’s capacity required to serve development projected to occur between 2022 and 2032. Capacity serving existing development and development projected to occur more than 10 years in the future cannot be included in the maximum allowable impact fee calculations.

4.3.1 Service Units

According to Chapter 395 of the TLGC, the maximum allowable impact fee may not exceed the amount determined by dividing the cost of required capital improvements by the total number of service units attributed to new development during the impact fee eligibility period. A service unit for wastewater is defined as the service equivalent to a water connection for a single-family residence.

Public, commercial, and industrial connections are converted into service units based upon the capacity of each 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 and C710 (Displacement Meters), C715 (Ultrasonic Meters), and C702 (Compound Meters) were used to determine the safe maximum operating capacity, as these meter types represent those in place and stocked by the City. The service unit equivalent for each meter size used by the City is listed in **Table 4-3**.

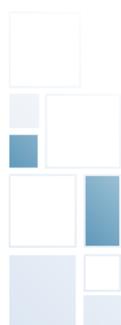


Table 4-3: Service Unit Equivalents

Meter Size	Type	Maximum Flow (gpm)	Service Unit Equivalents
3/4"	Displacement	25	1.0
1"	Displacement	40	1.6
1 1/2"	Displacement	50	2.0
2"	Ultrasonic	100	4.0
3"	Compound	320	12.8
4"	Compound	500	20.0
6"	Compound	1,000	40.0
8"	Compound	1,600	64.0

Typically, in Harker Heights, single-family residences are served with 3/4-inch water meters. Larger meters represent multi-family, public, commercial, and industrial water use. **Table 4-4** shows the service units by meter size for 2022 and the projected service units for 2032.

Table 4-4: Service Units

Meter Size	2022		2032		Growth in Service Units
	Number of Meters	Service Units	Number of Meters	Service Units	
3/4"	120	120	1,489	1,489	1,369
1"	5	8	10	16	8
1 1/2"	0	0	1	2	2
2"	0	0	0	0	0
3"	0	0	0	0	0
4"	0	0	0	0	0
6"	0	0	0	0	0
8"	0	0	0	0	0
Total	125	128	1,500	1,507	1,379

4.3.2 Maximum Impact Fee Calculations

TLGC Chapter 395 outlines the procedures and requirements for calculating maximum allowable impact fees to recover costs associated with capital improvement projects needed due to growth over a 10-year period. Chapter 395 also requires a plan that addresses possible duplication of payments for capital improvements. This plan can either provide a credit for the portion of revenues generated by new

development that is used for the payment of eligible improvements, including payment of debt, or reduce the total eligible project costs by 50 percent. The City of Harker Heights has selected to utilize the reduction of the total eligible project costs by 50 percent to determine the maximum allowable impact fees.

Chapter 395 of the TLGC states that 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 impact fee eligibility period less the credit to account for water and wastewater revenues used to finance these capital improvements.

The total projected costs include the projected capital improvement costs to serve 10-year development, the projected finance cost for the capital improvements, and the consultant cost for preparing and updating the CIP. A 2.0% interest rate was used to calculate financing costs. **Table 4-5** displays a summary of the maximum allowable wastewater impact fee calculation.

Table 4-5: Maximum Wastewater Impact Fee Calculation

Total Eligible Capital Improvement Costs	\$15,758,705
Total Eligible Financing Costs	\$1,156,784
Total Eligible Impact Fee Costs	\$16,915,489
Growth in Service Units	1,379
Maximum Wastewater Impact Fee per Service Unit ⁽¹⁾	\$12,266
Impact Fee Credit per Service Unit ⁽²⁾	\$6,133
Maximum Allowable Wastewater Impact Fee per Service Unit ⁽³⁾	\$6,133

(1) Total Eligible Costs divided by the Growth in Service Units.

(2) Credit is 50% of Maximum Wastewater Impact Fee per Service Unit.

(3) Maximum Allowable Wastewater Impact Fee is Maximum Wastewater Impact Fee per Service Unit minus the Impact Fee Credit per Service Unit.

Appendix A
Cost Estimates

**CITY OF HARKER HEIGHTS
Rummel Road Lift Station Upgrade
and 12-Inch Force Main Extension**

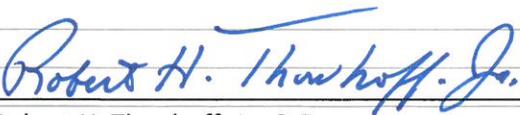
Bid Opening: January 5, 2022
2:00 PM

TCE Job # 21006.1.300

BIDDER	BASE BID AMOUNT	COMMENT
Blackrock Construction Mansfield TX	2,469,265.00	
Bell Contractors Belton, TX	2,530,098.11	

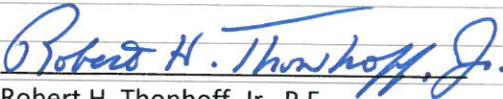
**City of Harker Heights
Phase 5 of FM 2410 Service Area Wastewater Trunk Line
and 4167 GPM Lift Station and 18-inch Force Main
Pumping Back to Existing WWTP Site**

**Update of Initial Engineering Estimate of Total Project Cost
December 6, 2021**

Construction Costs	
Original (11/03/2009) Phase 5 Wastewater Trunk Line Construction Cost Estimate: \$4,890,000	
Updated Construction Cost using ENR Index Est. 7767 (12/2021) ÷ Est. 5390 (11/2009) ≈ 1.44 x	\$7,046,499
Original (5/24/2011) 4167 GPM Lift Station Construction Cost Estimate: \$1,000,000	
Updated Construction Cost using ENR Index Est. 7767 (12/2021) ÷ Est. 5390 (11/2011) ≈ 1.44 x	\$1,441,002
Original (5/24/2011) 18-inch F.M. Construction Cost Estimate: \$1,939,800	
Updated Construction Cost using ENR Index Est. 7767 (12/2021) ÷ Est. 5390 (11/2011) ≈ 1.44 x	<u>\$2,795,255</u>
Construction Subtotal	\$11,282,756
Engineering Costs	
Turnkey Engineering Services at +/- 25%	<u>\$2,820,689</u>
Engineering Subtotal	\$2,820,689
TOTAL COST	\$14,103,445
Contingency at +/- 20%	<u>\$2,796,555</u>
UPDATE OF INITIAL ENGINEERING ESTIMATE OF TOTAL PROJECT COST	\$16,900,000
Prepared by: THONHOFF CONSULTING ENGINEERS, INC.	
 <u>Robert H. Thonhoff, Jr.</u> Robert H. Thonhoff, Jr., P.E.	

**City of Harker Heights
Wastewater Treatment Plant Expansion
From 3.0 MGD to 4.5 MGD**

**Initial Engineering Estimate of Total Project Cost
December 3, 2021**

Construction Costs	
Renovation of Existing 3.0 MGD Facility	
3,000,000 GPD x \$1/GPD	\$3,000,000
Expansion of 1.5 MGD Capacity	
1,500,000 GPD x \$14/GPD	<u>\$21,000,000</u>
Construction Subtotal	\$24,000,000
Engineering Costs	
Turnkey Engineering Services at +/- 25%	<u>\$6,000,000</u>
Engineering Subtotal	\$6,000,000
Total	\$30,000,000
Contingency at +/- 20%	<u>\$6,000,000</u>
INITIAL ENGINEERING ESTIMATE OF TOTAL PROJECT COST	\$36,000,000
Prepared by:	
THONHOFF CONSULTING ENGINEERS, INC.	
	
Robert H. Thonhoff, Jr., P.E.	