

ORDINANCE NO. 2008-O-08D

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MARBLE FALLS, TEXAS, DIVISION 26, ARTICLE V, DIVISION 3, "WATER AND SEWER IMPACT FEES"; SETTING WATER AND SEWER IMPACT FEES; PROVIDING FOR SAVINGS CLAUSE, SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Marble Falls considering adopting a water and sewer impact fee in accordance with Division 395 of the Texas Local Government Code; and

WHEREAS, the City is required to adopt land use assumptions and a capital improvements plan that will be used to calculate the maximum possible impact fees that the City may impose; and

WHEREAS, the City engaged the professional services of Wilbur Smith and Associates, who are registered professional engineers and land planners, to prepare a capital improvements plan and land use assumptions; and

WHEREAS, the City appointed an Impact Fee Advisory Committee to advise the City Council concerning the preparation of the Capital Improvements Plan, Land Use Assumptions, and the impact fee; and

WHEREAS, the Land Use Assumptions and Capital Improvements Plan were developed and calculated in accordance with Division 395 of the Texas Local Government Code; and

WHEREAS, notice of a public hearing on the Capital Improvements Plan and Land Use Assumptions was published in the official newspaper of the City of Marble Falls, Texas on June 24, 2008; and

WHEREAS, a public hearing on the Land Use Assumptions and the Capital Improvements Plan was held on July 28, 2008;

WHEREAS, the City Council adopted the Land Use Assumptions and the Capital Improvements Plan on July 28, 2008, after the public hearing on the same;

WHEREAS, a public hearing on the impact fee was held on September 8, 2008; and

SCANNED

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

SECTION I. PREAMBLE. All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Marble Falls and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

SECTION II. AMENDMENT TO THE CODE OF ORDINANCES OF THE CITY OF MARBLE FALLS, TEXAS, DIVISION 26, ARTICLE II, DIVISION 3, "WATER AND SEWER IMPACT FEES". That Division 26, Article V, Division 2, "Water and Sewer Impact Fees" of the Code of Ordinances, City of Marble Falls, Texas is hereby amended to read as follows:

DIVISION 3. WATER AND SEWER IMPACT FEES

Sec. 26-151. Short title.

This division shall be known and cited as the Marble Falls Impact Fee Regulations.

Sec. 26-152. Purpose.

This division is intended to assure the provision of adequate public facilities to serve new development in the city by requiring each development to pay its share of the costs of such improvements necessitated by and attributable to such new development.

Sec. 26-153. Authority.

This division is adopted pursuant to V.T.C.A., Local Government Code ch. 395 and the city Charter. The provisions of this division shall not be construed to limit the power of the city to utilize other methods authorized under state law or pursuant to other city powers to accomplish the purposes set forth herein, either in substitution or in conjunction with this division. Guidelines may be developed by ordinance, resolution, or otherwise to implement and administer this division.

Sec. 26-154. Definitions.

Assessment means the determination of the amount of the maximum impact fee per service unit which can be imposed on new development pursuant to this division.

Capital improvement means either a water facility or a wastewater facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the city.

Capital improvements advisory committee means the city's planning and zoning commission, together with such ad hoc representatives as may be appointed from time to time to fulfill the composition requirements mandated by V.T.C.A., Local Government Code § 395.058.

City means the City of Marble Falls, Texas.

Credit means the amount of the reduction of an impact fee for fees, payments or charges for the same type of capital improvements for which the fee has been assessed.

Exempt development means new development that does not request and does not require water or wastewater service from the City, is exempted under V.T.C.A. Local Government Code § 395.022(b), or that receives a final plat before September 8, 2009.

Facilities expansion means either a water facility expansion or a wastewater facility expansion.

Final plat approval or approval of a final plat means the point at which the applicant has complied with all conditions of approval and the plat has been released for filing with the county.

Impact fee means either a fee for water facilities or a fee for wastewater facilities imposed on new development by the city pursuant to this division in order to generate revenue to fund or recoup all or part of the costs of capital improvements or facility expansion necessitated by and attributable to such new development. Impact fees do not include the dedication of rights-of-way or easements for such facilities, or the construction of such improvements, imposed pursuant to the city's zoning or subdivision regulations, nor do impact fees include fees placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or wastewater mains, or pro rata fees for reimbursement of the city's costs for extending water or wastewater mains. Impact fees also do not include charges for water or wastewater services to a wholesale customer such as a water district, political subdivision of the state, or other wholesale utility customer.

Impact fee capital improvements plan means either a water improvements plan or a wastewater improvements plan adopted or revised pursuant to these impact fee regulations.

Land use assumptions means the projections of population and employment growth and associated changes in land uses, densities and intensities adopted by the city, as may be amended from time to time, upon which the impact fee capital improvements plans are based.

New development means a project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of the use of land, which has the effect of increasing the requirements for capital improvements or facility expansions, measured by the number of service units to be generated by such activity, and which requires either the approval and filing with the county of a plat pursuant to the city's subdivision regulations, the issuance of a building permit, or connection to the city's water or wastewater system, and which has not been exempted from these regulations by provisions herein.

Non-exempt development means all new development that is not defined herein as exempt development.

Offset means the amount of the reduction of an impact fee designed to fairly reflect the value of system facilities pursuant to rules herein established or council-approved administrative guidelines, provided by a developer pursuant to the city's subdivision regulations or requirements.

Plat has the meaning given the term in the city's subdivision regulations. "Plat" includes replat.

Property owner means any person, corporation, legal entity or agent thereof having a legal or equitable interest in the land for which an impact fee becomes due. "Property owner" includes the developer for the new development.

Recoupment means the imposition of an impact fee to reimburse the city for capital improvements which the city has previously oversized to serve new development.

Service area means either a water service area or a wastewater service area as identified in Figure 2 of the City's Development Impact Fee Study and within the city limits and extraterritorial jurisdiction of the City, within which impact fees for capital improvements or facility expansion may be collected for new development occurring within such area and within which fees so collected will be expended for those types of improvements or expansions identified in the type of capital improvements plan applicable to the service area.

Service unit means, for water or wastewater facilities, a living unit equivalent based upon a three-quarter-inch positive displacement water meter, which serves as the standardized measure of consumption, use or generation attributable to the new unit of development.

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

System facility means a capital improvement or facility expansion which is designated in the impact fee capital improvements plan and which is not a site-related facility. System facility may include a capital improvement which is located offsite, or within or on the perimeter of the development site.

Water facility means a water transmission line or main, pump station, storage tank, water supply facility, treatment facility or other facility included within and comprising an integral component of the city's water storage or distribution system. Water facility includes land, easements or structures associated with such facilities. Water facility excludes site-related facilities.

Water facility expansion means the expansion of the capacity of any existing water facility for the purpose of serving new development, but does not include the repair, maintenance, modernization, or expansion of an existing water improvement to serve existing development.

Water improvements plan means the adopted plan, as may be amended from time to time, which identifies the water facilities or water expansions and their associated costs which are necessitated by and which are attributable to new development, for a period not to exceed ten years, and which are to be financed in whole or in part through the imposition of water facilities impact fees pursuant to this division.

Water meter means a device for measuring the flow of water to a development, whether for domestic or for irrigation purposes.

Wastewater facility means a wastewater interceptor or main, lift station, treatment facility or other facility included within and comprising an integral component of the city's collection and transmission system for wastewater. Wastewater facility includes land, easements or structures associated with such facilities. Wastewater facility excludes a site-related facility.

Wastewater facility expansion means the expansion of the capacity of any existing wastewater improvement for the purpose of serving new development, but does not include the repair, maintenance, modernization, or expansion of an existing sewer facility to serve existing development.

Wastewater improvements plan means the adopted plan, as may be amended from time to time, which identifies the wastewater facilities or wastewater expansions and their associated costs which are necessitated by and which are attributable to new development, for a period not to exceed ten years, and which are to be financed in whole or in part through the imposition of wastewater facilities fees pursuant to this division.

Exhibit 1 is the Development Impact Fee Study, which contains the adopted land use assumptions and the water and wastewater capital improvement plans, and is adopted by reference.

Sec. 26-155. Applicability.

The provisions of this division concerning water and wastewater impact fees apply to all new, non-exempt development within the corporate boundaries of the city and within its extraterritorial jurisdiction. The provisions of this division apply uniformly within water and wastewater service areas.

Sec. 26-156. Impact fee as condition of development approval.

No application for new development shall be approved within the city without assessment of an impact fee pursuant to this division, and no building permit shall be issued unless the applicant has paid the impact fee imposed by and calculated hereinunder, unless a different time and/or method of payment has been authorized by agreement between the city and the property owner.

Sec. 26-157. Assessment of impact fees.

(a) Assessment of the impact fee for any new development shall be made as follows:

(1) For new development which has received a final plan prior to the effective date of the ordinance from which this section derives, and for which no valid building permit is issued on or before the one year anniversary of such date, the impact fee shall be assessed at the time application is made for the building permit or utility connection, whichever comes first.

(2) For land which is unplatted at the time of application for a building permit or utility connection, and for which no replatting is necessary pursuant to the city's subdivision regulations prior to development, assessment of impact fees shall occur at the time application is made for the building permit or utility connection, whichever first occurs.

(3) For a new development which is submitted for approval pursuant to the city's subdivision regulations on or after the effective date of the ordinance from which this section derives, or for which replatting results in an

increase in the number of service units after such date, assessment of impact fees shall be at the time of final plat approval.

(b) Following assessment of the impact fee pursuant to subsection (a), the amount of the impact fee assessment per service unit for that development cannot be increased, unless the owner proposes to change the approved development by the submission of a new application for final plat approval or other development application that results in approval of additional service units.

(c) Following the vacating of any plat or submittal of any replat, a new assessment must be made in accordance with subsection (a)(2) of this section.

(d) Approval of an amended plat pursuant to Tex. Loc. Gov't Code, section 212.016 and the city's subdivision regulations is not subject to reassessment for an impact fee.

Sec. 26-158. Computation of impact fee; Payment and collection of impact fees.

(a) Impact fees shall be collected at the time the city issues a building permit for land within the corporate limits, or at the time an application for an individual water meter connection to the city's water or wastewater system is filed, for land located outside the corporate limits of the city.

(b) The city may enter into an agreement with a developer for a different time and manner of payment of impact fees, in which case the agreement shall determine the time and manner of payment.

(c) The city shall compute the impact fees for the new development in the following manner:

(1) The number of service units shall be calculated based upon the size of meter using Table 1 below.

Table 1 – Service Unit Equivalency Table

Meter Size (1)	Maximum Continuous Operating Capacity (GPM) (2)	Service Unit Equivalent
¾" PD (3)	15	1.0
1" PD	25	1.7
1 ½" PD	50	3.3
2" PD	80	5.3
2" Compound	80	5.3
2" Turbine	100	6.7
3" Compound	160	10.7

3" Turbine	240	16.0
4" Compound	250	16.7
4" Turbine	420	28.0
6" Compound	500	33.3
6" Turbine	920	61.3
8" Compound	800	53.3
8" Turbine	1,600	106.7
10" Turbine	2,500	166.7

(1) PD = Positive Displacement Meter

(2) Operating Capacities per American Water Works Association C-700-02

(3) Typical SF Residential Meter, City of Marble Falls

(2) The amount of each impact fee shall be determined by multiplying the number of service units generated by the new development by the impact fee per service unit for the service area.

(3) The amount of each impact fee shall be reduced by any allowable offsets or credits for that category of capital improvements, in the manner provided in section 26-159.

(4) The total amount of the impact fees for the new development shall be calculated and attached to the development application or request for connection as a condition of approval.

(d) The amount of each impact fee for a new development shall not exceed an amount computed by multiplying the fee assessed per service unit pursuant to section 26-157 by the number of service units generated by the development.

(e) If the building permit for which an impact fee has been paid has expired, and a new application is thereafter filed, the impact fees shall be computed with credits for previous payment of fees being applied against the new fees due.

(f) Whenever the property owner proposes to increase the number of service units for a development, the additional impact fees collected for such new service units shall be determined as provided in this section, and such additional fee shall be collected at the times prescribed by this section.

(g) Notwithstanding other provisions of this section, no impact fee may be collected for a new development which was platted prior to the effective date of these regulations and for which a building permit was issued prior to such effective date or within one year thereof; provided that a building permit that expires or is withdrawn for such development shall be subject to collection of impact fees in accordance with this section.

(h) Notwithstanding other provisions of this section, no impact fees may be charged within the service area identified in Figure 2 of Exhibit 1 that is located outside the corporate limits or extraterritorial jurisdiction of the City unless the property owner and the city agree to the imposition of such a charge by contract in accordance with V.T.C.A., Local Government Code § 395.011(c).

(i) For purposes of determining water impact fees, no additional service units are attributable to the addition of a separate irrigation meter if the irrigation meter is the same size as or smaller than the existing meter. If a larger irrigation is installed, the water meter shall be the difference between that of the existing meter and that of the irrigation meter.

(j) In determining the number of service units for wastewater impact fees, no service units will be attributed to irrigation meters.

(k) No fee shall be assessed or collected for the water meters used exclusively for interior sprinkler systems used for fire safety measures.

Sec. 26-159. Offsets and credits against impact fees.

(a) If the City requires, as a condition of development approval, or otherwise enters into an agreement with a developer, to have the developer construct, fund, or otherwise contribute towards the cost of a capital improvement or facility expansion included in the adopted water or wastewater capital improvements plan, the City shall provide for reimbursement in the form of credits against impact fees that would otherwise be due from the development. Such credits shall run with the land and shall be used to reduce the amount of the impact fee that would otherwise be owed at the time of collection of impact fees.

(b) All offsets or credits against impact fees shall be based upon standards promulgated by the city, which may be adopted as administrative guidelines, including the following standards:

(1) No offset or credit shall be given for the dedication or construction of site-related facilities.

(2) No offset or credit shall be given for an oversized facility which is not identified within the applicable impact fees capital improvements plan, unless the city agrees that such improvement supplies capacity to new developments other than the development paying the impact fee and provisions for offsets or credits are incorporated in an agreement for capital improvements pursuant to section 26-167.

(3) In no event will the city reimburse the property owner or developer for an offset or credit when no impact fees for the new development

can be collected pursuant to these impact fee regulations or for any amount exceeding the total impact fees due for the development for that category of capital improvements, unless expressly agreed to by the city in writing.

(4) The city may participate in the costs of a system improvement to be dedicated to the city, including costs that exceed the amount of the impact fees due for the development for that category of capital improvements, in accordance with policies and rules established under the city's subdivision regulations. The amount of any offset shall not include the amount of the city's participation.

(c) Offsets or credits created after the effective date of this division shall expire within ten years from the date the offset or credit was created. Offsets or credits arising prior to such effective date shall expire ten years from such effective date.

(d) Unless an agreement for capital improvements is executed providing for a different manner of offsetting or crediting impact fees due, an offset or credit shall be applied to reduce an impact fee at the time the impact fee is collected.

Sec. 26-160. Establishment of accounts.

(a) The city's finance department shall establish an account to which interest is allocated for each service area for each category of capital facility for which an impact fee is imposed pursuant to this division. Each impact fee collected within the service area shall be deposited in such account.

(b) Interest earned on the account into which the impact fees are deposited shall be considered funds of the account and shall be used solely for the purposes authorized in section 26-161.

(c) The city's finance department shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the account are utilized solely for the purposes authorized in section 26-161. Disbursement of funds shall be authorized by the city at such times as are reasonably necessary to carry out the purposes and intent of this division; provided, however, that any fee paid shall be expended within a reasonable period of time, but not to exceed ten years from the date the fee is deposited into the account.

(d) The city's finance department shall maintain and keep financial records for impact fees, which shall show the source and disbursement of all fees collected in or expended from each service area. The records of the account into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours. The city may establish a fee for copying services.

(e) The finance department shall maintain and keep adequate financial records for said account which shall show the source and disbursement of all funds placed in or expended by such account.

Sec. 26-161. Use of proceeds of impact fee accounts.

(a) The impact fees collected for each service area pursuant to these regulations may be used to finance or to recoup the costs of any capital improvements or facility expansion identified in the applicable capital improvements plan for the service area, including but not limited to the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees, and expert witness fees). Impact fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the city to finance such capital improvements or facility expansions. Impact fees also may be used to pay fees actually contracted to be paid to an independent qualified engineer or financial consultant for preparation of or updating the impact fee capital improvements plan.

(b) Impact fees collected pursuant to this division shall not be used to pay for any of the following expenses:

(1) Construction, acquisition or expansion of capital improvements or assets other than those identified in the applicable capital improvements plan;

(2) Repair, operation, or maintenance of existing or new capital improvements or facility expansion;

(3) Upgrade, expansion or replacement of existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;

(4) Upgrade, expansion, or replacement of existing capital improvements to serve existing development to meet stricter safety, efficiency, environmental, or regulatory standards; provided, however, that impact fees may be used to pay the costs of upgrading, expanding or replacing existing capital improvements in order to meet the need for new capital improvements generated by new development; or

(5) Administrative and operating costs of the city.

Sec. 26-162. Appeals.

(a) The property owner or applicant for new development may appeal the following administrative decisions to the city council:

- (1) The applicability of an impact fee to the development;
- (2) The amount of the impact fee due;
- (3) The availability of, the amount of, or the expiration of an offset or credit;
- (4) The application of an offset or credit against an impact fee due;
- (5) The amount of the impact fee in proportion to the benefit received by the new development; or
- (6) The amount of a refund due, if any.

(b) The burden of proof shall be on the appellant to demonstrate that the amount of the fee or the amount of the offset or credit was not calculated according to the applicable schedule of impact fees or the guidelines established for determining offsets or credits.

(c) The appellant must file a written notice of appeal with the city within 30 days following the decision. If the notice of appeal is accompanied by a payment or other security satisfactory to the city attorney in an amount equal to the original determination of the impact fee due, the development application may be processed while the appeal is pending.

Sec. 26-163. Refunds.

(a) Upon application, any impact fee or portion thereof collected pursuant to these regulations, which has not been expended within the service area within ten years from the date of payment, shall be refunded to the record owner of the property for which the impact fee was paid or, if the impact fee was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of collection to the date of refund at the statutory rate as set forth in V.T.C.A., Finance Code § 302.002, or its successor statute. The application for refund pursuant to this section shall be submitted within 60 days after the expiration of the ten-year period for expenditure of the fee. An impact fee shall be considered expended on a first-in, first out basis.

(b) An impact fee collected pursuant to these regulations shall also be considered expended if the total expenditures for capital improvements or facility expansion authorized in section 26-161 within the service area within ten years following the date of payment exceeds the total fees collected within the service area for such improvements or expansions during such period.

(c) Upon application, any impact fee or portion thereof collected pursuant to these regulations shall be refunded if:

(1) Existing service is available and service is denied;

(2) Service was not available when the fee was collected and the city has failed to commence construction of facilities to provide service within two years of fee payment; or

(3) Service was not available when the fee was collected and has not subsequently been made available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in any event later than five years from the date of fee payment.

(d) If a refund is due pursuant to subsections (a), (b) or (c), the city shall divide the difference between the amount of expenditures and the amount of the fees collected by the total number of service units assumed within the service area for the period to determine the refund due per service unit. The refund to the record owner shall be calculated by multiplying the refund due per service unit by the number of service units for the development for which the fee was paid, and interest due shall be calculated upon that amount.

Sec. 26-164. Rebates.

(a) If a tract of land for which an impact fee has been paid is replatted, resulting in a reduction in the number of service units, and the new impact fee to be collected is less than that paid, the city shall rebate the difference, provided that water meters to serve the development have not been installed.

(b) If the building permit for a new development for which an impact fee has been paid has expired, no tap purchases for that category of capital improvements have been made to the development, and a modified or new application has not been filed within six months of such expiration, the city shall, upon written application, rebate the amount of the impact fee to the record owner of the property for which the impact fee was paid. If no application for rebate pursuant to this subsection has been filed within this period, no rebate shall become due.

Sec. 26-16. Updates to plans and revision of fees.

(a) The city shall update its land use assumptions and capital improvements plans at least every five years, commencing from the date of adoption of such plans, and shall recalculate the impact fees based thereon in accordance with the procedures set forth in V.T.C.A., Local Government Code ch. 395, or in any successor statute. If, at the time an update is required pursuant to subsection (a), the city council determines that no change to the land use assumptions, capital improvements plan or impact fee is needed, it may

dispense with such update by following the procedures in V.T.C.A., Local Government Code § 395.0575.

(b) The city may review its land use assumptions, impact fees, capital improvements plans and other factors such as market conditions more frequently than provided in subsection (a) to determine whether the land use assumptions and capital improvements plans should be updated and the impact fee recalculated accordingly.

Sec. 26-166. Functions of capital improvements advisory committee.

(a) The capital improvements advisory committee shall perform the following functions:

(1) Advise and assist the city in adopting land use assumptions;

(2) Review the capital improvements plans and file written comments on impact fees;

(3) Monitor and evaluate implementation of the capital improvements plans;

(4) Advise the city of the need to update or revise the land use assumptions, capital improvements plans and impact fees; and

(5) File a semiannual report evaluating the progress of the capital improvements plans and identifying perceived inequities in implementing the plans or administering the impact fees.

(b) The city shall make available to the capital improvements advisory committee any professional reports prepared in the development or implementation of the capital improvements plans.

(c) The capital improvements advisory committee shall follow the procedural rules applicable to the City's planning and zoning commission in carrying out its duties and any procedural requirements described in V.T.C.A., Local Government Code ch. 395 applicable to the committee.

Sec. 26-167. Agreement for capital improvements.

(a) An owner of a new development may construct or finance a capital improvement or facility expansion designated in the impact fee capital improvements plan, if required or authorized by the city, by entering into an agreement with the city prior to the issuance of any building permit for the development. The agreement shall identify the estimated cost of the improvement or expansion, the schedule for initiation and completion of the

improvement or expansion, a requirement that the improvement be designed and completed to city standards and such other terms and conditions as deemed necessary by the city. The agreement shall provide for the method to be used to determine the amount of the offset or credit to be given against impact fees due for the development.

(b) The city and such owner either may agree that the costs incurred or funds advanced will be offset or credited against the impact fees otherwise due from the new development, or they may agree that the city shall reimburse the owner for such costs from impact fees paid from other new developments which will use such capital improvements or facility expansions, or from other funding sources. In the event that the city elects to reimburse an owner for the dedication, construction or financing of a capital improvement or facility expansion designated in the capital improvements plan, the terms of reimbursement shall be incorporated in the agreement required by subsection (a). Reimbursement agreements shall further be based on the availability of city funds from all sources including current and projected impact fee fund accounts.

Sec. 26-168. Use of other financing mechanisms.

(a) The city may finance capital improvements or facility expansions designated in the capital improvements plan through the issuance of bonds, through the formation of public utility districts or other assessment districts, or through any other authorized mechanism, in such manner and subject to such limitations as may be provided by law, in addition to the use of impact fees.

(b) Except as herein otherwise provided, the assessment and collection of an impact fee shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge or assessment which is lawfully imposed on and due against the property.

(c) The city council may decide that the city shall pay all or a part of impact fees due for a new development pursuant to duly adopted criteria.

Sec. 26-168. Impact fee as additional and supplemental regulation.

(a) Impact fees established by these regulations are additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land or the issuance of building permits, the sale of water or wastewater taps, or certificates of occupancy. Such fee is intended to be consistent with and to further the policies of city's comprehensive land use plan, the capital improvements plan, the zoning ordinance, subdivision regulations and other city policies, ordinances and resolutions by which the city seeks to ensure the provision of adequate public facilities in conjunction with the development of land.

(b) This division shall not affect, in any manner, the permissible use of property, density of development, design, and improvement standards and requirements, or any other aspect of the development of land or provision of public improvements subject to the zoning and subdivision regulations or other regulations of the city, which shall be operative and remain in full force and effect without limitation with respect to all such development.

Sec. 26-170. Relief procedures.

(a) Any person who has paid an impact fee or an owner of land upon which an impact fee has been paid may petition the city council to determine whether any duty required by this division has not been performed within the time so prescribed. The petition shall be in writing and shall state the nature of the unperformed duty and request that the duty be performed within 60 days of the request. If the city council determines that the duty is required pursuant to the ordinance and is late in being performed, it shall cause the duty to commence within 60 days of the date of the request and to continue until completion. This subsection is not applicable to matters which may be appealed pursuant to section 26-162.

(b) The city council may grant a variance from any requirement of this division, upon written request by a developer or owner of property subject to the ordinance, following a public hearing, and only upon finding that a strict application of such requirement would, when regarded as a whole, result in confiscation of the property.

(c) If the city council grants a variance to the amount of the impact fee due for a new development under this section, it may cause to be appropriated from other city funds the amount of the reduction in the impact fee to the account for the service area in which the property is located.

Sec. 26-177. Water and wastewater service area.

(a) There is hereby established a water service area and a wastewater service area, constituting land within the city limits and within the city's extraterritorial jurisdiction, as depicted in Figure 2 of Exhibit 1 attached to the ordinance from which this division derives and incorporated by reference herein.

(b) The boundaries of the water service area and the wastewater service area may be amended from time to time or new water and wastewater benefit areas may be delineated, pursuant to the procedures in V.T.C.A., Local Government Code Ch. 395.

Sec. 26-178. Land use assumptions.

The land use assumptions for the City in Exhibit 1 attached to the ordinance from which this division derives and incorporated by reference herein are hereby adopted.

Sec. 26-178. Water and wastewater capital improvements plans.

(a) The capital improvements plans for water and wastewater for the city in Exhibit 1 attached to the ordinance from which this division derives and incorporated by reference herein are hereby adopted.

(b) The water improvements plan may be amended from time to time, pursuant to the procedures in V.T.C.A., Local Government Code ch. 395.

Sec. 26-179. Water and wastewater impact fees.

(a) The impact fee per service unit for water facilities is \$2,883.58.

(b) The impact fee per service unit for wastewater facilities is \$788.11.

(c) The impact fees per service unit for water and wastewater facilities may be amended from time to time, pursuant to the procedures in V.T.C.A., Local Government Code ch. 395.

SECTION III. PROVIDING FOR A SAVINGS CLAUSE. The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this ordinance.

SECTION IV. SEVERABILITY CLAUSE. If any provision, section, sentence, clause or phrase of this ordinance, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portions of this ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of the City of Marble Falls in adopting, and of the Mayor in approving this ordinance, that no portion thereof or provision or regulation contained herein shall be come inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provision or regulation.

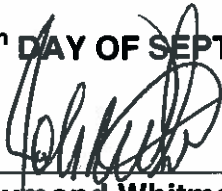
SECTION V. REPEALER CLAUSE. The provisions of this ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein, provided, however, that all prior

ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

SECTION VI. EFFECTIVE DATE. This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION VII. NOTICE AND MEETING CLAUSE. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Division 551 of the Texas Government Code.

DULY PASSED AND APPROVED THIS 8th DAY OF SEPTEMBER, 2008.




Raymond Whitman, Mayor

ATTEST:



Christina Laine, City Secretary

APPROVED AS TO FORM:



Patty Akers, City Attorney

