

**ORDINANCE NO. 2249**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTLAND, TEXAS, ADOPTING, IMPOSING, AND ESTABLISHING ROADWAY, WATER, WASTEWATER, AND DRAINAGE IMPACT FEES ON NEW DEVELOPMENTS IN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION TO THE EXTENT ALLOWABLE BY LAW; ADOPTING ASSESSMENT AND COLLECTION RATES FOR ROADWAY, WATER, WASTEWATER, AND DRAINAGE IMPACT FEES; PROVIDING A CUMULATIVE CLAUSE, PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING A PENALTY AND SPECIFICALLY NEGATING A REQUIREMENT OF A CULPABLE MENTAL STATE; ESTABLISHING A PENALTY FOR VIOLATIONS; AND PROVIDING AND EXSTABLISHING AN EFFECTIVE DATE**

---

**WHEREAS**, the City of Portland is responsible for and committed to the provision of public facilities to ensure the provision of adequate facilities in the future; and

**WHEREAS**, new development causes and imposes increased demands for City public roadway, water, wastewater, and drainage facilities (“public infrastructure”); and

**WHEREAS**, Texas Local Government Code, Chapter 395, authorizes Cities to adopt and amend impacts for the purpose of financing capital improvements for public infrastructure required by new development; and

**WHEREAS**, to the extent new development places demands upon public infrastructure, those demands should be satisfied by sharing the responsibility for financing these facilities from the public at large to the developments creating the demands; and

**WHEREAS**, the City Council, after careful consideration of the matter, hereby finds and declares that roadway, water, wastewater, and drainage impact fees imposed upon development to finance specific public infrastructure projects that are needed to meet the demands of the development are in the best interests of the general welfare of the City and its residents, are proportionate, and do not impose an unfair burden on such development; and

**WHEREAS**, the amount of the roadway, water, wastewater, and drainage fees imposed on new development shall be determined by the cost of the additional public infrastructure needed to support such new development as identified in capital improvements plans; and

**WHEREAS**, the Capital Improvements Advisory Committee has filed written comments regarding the proposed roadway, water, wastewater, and drainage impact fees with the City Council; and

**WHEREAS**, on September 7, 2021, the City Council held a public hearing at the City of Portland City Hall, 1900 Billy G. Webb, Portland, Texas to solicit comments from citizens and other interested parties concerning the adoption of land use assumptions and the capital improvements plan for the potential imposition of impact fees for roadway, water, wastewater, and drainage facilities; and

**WHEREAS**, On September 7, 2021, the City Council approved Resolution No. 844 adopting land use assumptions and the capital improvements plans for the potential imposition of impact fees for roadway, water, wastewater, and drainage facilities; and

**WHEREAS**, On September 7, 2021, the City Council approved Resolution No. 845 establishing a public hearing date to consider adoption of impact fees for roadway, water, wastewater, and drainage facilities and directed the City Secretary to publish notice of said Public Hearing; and

**WHEREAS**, on October 19, 2021, the City Council held a public hearing at the City of Portland City Hall, 1900 Billy G. Webb, Portland, Texas to consider land use assumptions and roadway, water, wastewater, and drainage capital improvements plans pursuant to which impact fees would be imposed; and

**WHEREAS**, on November 2, 2021, the City Council conducted a second reading of this ordinance at the City of Portland City Hall, 1900 Billy G. Webb, Portland, Texas regarding how impact fees would be imposed; and

**WHEREAS**, the land use assumptions and roadway, water, wastewater, and drainage, capital improvements plans were developed by qualified professionals using generally accepted engineering and planning practices in accordance with Chapter 395 of the Texas Local Government Code; and

**WHEREAS**, the report dated September 17, 2021 prepared by Freese and Nichols, Inc., and entitled "Portland Impact Fee Study: Roadway, Water, Wastewater, and Drainage Systems Final Report" sets forth reasonable methodologies and analyses for determining the impact of new development on public infrastructure and the costs for additional roadway, water, wastewater, and drainage facilities in the City of Portland, and are in accordance with the provisions of Chapter 395 of the Texas Local Government Code; and

**WHEREAS**, the City Council finds that the City has complied with Chapter 395 in the notice, adoption, promulgation, and methodology necessary to adopt impact fees;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, TEXAS:**

**SECTION 1.** All the above whereas clauses and the premises stated in them are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

**SECTION 2.** In accordance with Chapter 395 of the Texas Local Government Code, the City Council has employed qualified professionals to prepare land use assumptions and capital improvements plans for the imposition of roadway, water, wastewater, and drainage impact fees. These land use assumptions and capital improvements plans were approved after a public hearing in accordance with Chapter 395 of the Texas Local Government Code.

**SECTION 3.** The report entitled "Portland Impact Fee Study: Roadway, Water, Wastewater, and Drainage Systems Final Report", dated September 17, 2021, which is attached to this Ordinance as Exhibit "A", is hereby adopted and incorporated into this Ordinance. To the extent of any conflict between Exhibit "A" and prior versions of the report, Exhibit "A" shall control. To the extent of any conflict between Exhibit "A" and this Ordinance, Exhibit "A" shall control.

**SECTION 4.** The provisions in this Ordinance apply to all new development within the corporate boundaries of the City for roadway fees and within the boundaries of the City and its extraterritorial jurisdiction for water, wastewater, and drainage fees.

**SECTION 5.** Chapter 9 of the Code of Ordinances of the City of Portland, Texas, is hereby established which shall hereafter read as follows:

## **CHAPTER 9: IMPACT FEES**

### **ARTICLE I. - IN GENERAL**

#### **Sec. 9-1. - Short Title.**

This Article shall be known and cited as the "Portland Impact Fee Ordinance."

#### **Sec. 9-2 - Statement of Purpose.**

This Article is intended to ensure the provision of adequate public facilities to serve new development in the City by requiring each development to pay its proportional share of the costs of such improvements necessitated by and attributable to such new development as related to roadway, water, wastewater, and drainage capital improvements.

#### **Sec. 9-3. - Authority.**

This Article is adopted pursuant to Chapter 395 of the Texas Local Government Code. The provisions of this Article shall not be construed to limit the powers 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 Article. The effective date of this Article is November 2, 2021.

#### Sec. 9.4 – Definitions

The following words, terms and phrases, as used in this Article, shall have the meanings respectively ascribed to them in this Section, unless the context clearly indicates otherwise:

(1) *Area-related 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. Area-related facility may include a capital improvement, which is located offsite, within, or on the perimeter of the development site.

(2) *Assessment* means the determination of the amount of the maximum credited impact fee per service unit that can be imposed on new development pursuant to this Article.

(3) *Capital improvement* means any roadway, water, wastewater, and drainage facilities that have a life expectancy of three (3) or more years and are owned and operated by or on behalf of the City.

(4) *Capital improvements plan* means a plan approved by the City Council that identifies capital improvements or facility expansions for which impact fees may be assessed.

(5) *City* means the City of Portland, Texas.

(6) *City Council* means the City Council of the City of Portland, Texas.

(7) *City Manager* means the City Manager of the City of Portland, Texas, or his or her designee.

(8) *Change of Use* means a new development involving a change in use or occupancy of any existing structure, with the exception of shell structures never previously occupied, that has the effect of increasing the number of service units beyond those attributable to the immediately preceding use, which requires the issuance of a new permit and which may include, but is not limited to, the reconstruction, redevelopment, conversion, structural alteration or enlargement of any structure.

(9) *Director* means the Director of Public Works or his or her designee.

(10) *Drainage facility* means a culvert, storm sewer, drainage retention, drainage storage basin or other facility or improvement used for providing drainage collection and distribution service included within the City's drainage system. This term includes, but is not limited to, land, easements or structures associated with such facilities. This term excludes site-related facilities.

(11) *Effective date* means November 2, 2021.

(12) *Extraterritorial jurisdiction (ETJ)* means the extraterritorial range of the City's authority outside corporate limits of the city.

(13) *Facility expansion* means the expansion of the capacity of any existing facility for the purpose of serving new development. The term does not include the repair, maintenance, modernization, or expansion of an existing facility to serve existing development.

(14) *Final Plat* means the map of a subdivision (and any required accompanying material) which is presented to the City Planning and Zoning Commission, the City Council or authorized city staff for approval, and which, if approved, is recorded in the official public records of San Patricio County.

(15) *Impact fee capital improvements plan* means the adopted plan for a service area, as may be amended from time to time, which identifies the facilities and their associated costs which are necessitated by and which are attributable to new development, for a period not to exceed ten (10) years, and which are to be financed in whole or in part through the imposition roadway, water, wastewater, and drainage impact fees pursuant to this Chapter.

(16) *Land use assumptions* means the projections of population and employment growth and associated changes in land uses, densities and intensities for a service area adopted by the City, as may be amended from time to time, upon which the impact fee capital improvements plan for the service area is based.

(17) *New development* means an activity involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of land, which has the effect of increasing demand, measured by an increase in the number of the service units utilizing the City's roadway, water, wastewater, or drainage systems that are attributable to such activity, and which requires either the approval and filing of a plat, or a re-plat pursuant to the City's subdivision regulations, or the issuance of a building permit, or a utility connection.

(18) *Owner* means an owner of real property who is subject to this Ordinance, or an agent, employee or representative thereof who is authorized to act on the real property owner's behalf or a person who has paid an impact fee under this Ordinance.

(19) *Preliminary plat* means the preliminary maps and plans approved by the Planning and Zoning Commission and City Council which indicate the proposed layout of the subdivision.

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

(21) *School District* means a public or private institution for the teaching of students.

(22) *Service area* means a geographic area within the City or within the City's extraterritorial jurisdiction within which impact fees may be collected for new development occurring within such area. For purposes of water, wastewater and drainage, the area within the corporate boundaries of the City and ETJ; for purposes of roadways, an area within the corporate boundaries of the City.

(23) *Service unit* means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards, for a particular category of capital improvements or facility expansions. For water and wastewater facilities, the service unit shall constitute the basis for establishing equivalency within various customer classes based upon the relationship of the continuous duty maximum flow rate in gallons per minute for a water meter of a given size and type compared to the continuous duty maximum flow rate in gallons per minute for a 3/4-inch diameter simple water meter. For roadway impact fees, the service unit rate shall be based on equivalencies generated by models that combining trip generation and trip length information for various land uses. For drainage, the service unit is based on the percent of impervious cover associated with various land uses.

(24) *Service Unit Equivalent* (“SFE’s”) means an equivalency factor, based on the demand associated with the smallest water meter used in the City of Portland, Texas utility systems. SFE's are utilized to establish the number of service units to be allocated to various meter sizes used in the City of Portland, Texas.

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

(26) *Study* means, collectively, the roadway impact fee study, the water and wastewater impact fee study, and the drainage impact fee study that are on file in the office of the City Secretary.

(27) *System-related facility* means a capital improvement or facility expansion which is designated in the capital improvements plan and which is not a site-related facility. This term may include a capital improvement which is located off-site or within or on the perimeter of the development site.

(28) *Utility connection* means connection of an individual meter to the City's water or wastewater system, or an increase in the size of an existing meter.

(29) *Wastewater facility* means a wastewater interceptor or main, lift station or other facility or improvement used for providing wastewater collection and treatment included within the City's collection system for wastewater. This term includes land, easements or structures associated with

such facilities. This term excludes a site-related facility.

(30) *Water facility* means a water interceptor or main, pump station, storage tank or other facility or improvement used for providing water supply, treatment and distribution service included within the City's water storage or distribution system. This term includes, but is not limited to, land, easements or structures associated with such facilities. This term excludes site-related facilities

Sec. 9-5. - Impact fee as condition of development approval.

No new development shall be connected to the City's roadway, water, wastewater, or drainage systems within the applicable service areas without the assessment of an impact fee pursuant to this Article, and no building permit or request for service shall be issued until the applicant has paid the impact fee imposed herein, except for those entities that are expressly exempt from impact fees as set forth in Texas Local Government Code, Chapter 395.

Sec. 9-6. - Land use assumptions.

- (a) Said land use assumptions for the City shall be updated at least every five (5) years utilizing the amendment procedure set forth in Texas Local Government Code, Chapter 395.
- (b) Amendments to the land use assumptions shall incorporate projections of changes in land uses, densities, intensities, and population for the service area over at least a ten (10) year period.

Sec. 9-7. - Water impact fee service area.

There is hereby established one (1) water impact fee service areas and three (3) tiers, to include all land within the City and its extraterritorial jurisdiction, as described in Schedule 1, which Schedule is attached hereto and incorporated by reference herein.

Sec. 9-8. - Wastewater impact fee service area.

There is hereby established one (1) wastewater impact fee service area and three (3) tiers, to include all land within the City and its extraterritorial jurisdiction, the boundaries of which are depicted in Schedule 1, which Schedule is attached hereto and incorporated by reference herein.

Sec. 9-9. - Roadway impact fee service areas.

There are hereby established two (2) roadway impact fee service areas and three (3) tiers, to include all land within the City, as described in Schedule 1, which Schedule is attached hereto and incorporated by reference herein.

Sec. 9-10. - Drainage impact fee service area.

There is hereby established one (1) drainage impact fee service area in the Doyle Watershed, as described in Schedule 1, which Schedule is attached hereto and incorporated by reference herein.

Sec. 9-11. Determination of service units.

The number of service units for roadway, water, wastewater, and drainage impact fees shall be determined by using land use and service unit equivalencies tables which converts the demands for generated by typical land uses to service unit equivalents, and which tables are included within Exhibit A and incorporated by reference herein.

Sec. 9-12. Impact fees per service unit.

(a) Maximum impact fees per service unit for each service area shall be established by category of capital improvements. The maximum impact fee per service unit for each service area for each category of capital improvement shall be computed in the following manner:

- (1) For each category of capital improvements, calculate the total projected costs of capital improvements necessitated by and attributable to new development in the service area identified in the impact fee capital improvements plan;
- (2) From such amount, subtract a credit in the amount of that portion of utility service revenues, if any, including the payment of debt, to be generated by new service units during the period the capital improvements plan is in effect, including the payment of debt, associated with the capital improvements in the plan;
- (3) Divide the resultant amount by the total number of service units anticipated within the service area, based upon the land use assumptions for that service area.

(b) The maximum impact fee per service unit for roadway, water, wastewater, or drainage facilities by service area shall be as set forth in Schedule 1, which is attached hereto and incorporated herein by reference. Schedule 1 shall be used to assess impact fees. Schedule 1 may be amended from time to time utilizing the amendment procedure set forth in Section 9-20.

(c) The roadway, water, wastewater, or drainage facilities impact fee to be paid per service unit by each new development within a service area shall be as set forth in Schedule 1, which is attached hereto and incorporated by reference, and shall be an amount less than or equal to the maximum impact fee per service unit. Schedule 1 may be amended from time to time utilizing the amendment procedure set forth in Section 9-20.

Sec. 9-13. - Assessment of impact fees.

(a) Assessment of impact fees for any new development in all of the City of Portland's Service Areas shall be made as follows:

- (1) For land which is unplatted at the time of application for a building permit or



utility connection, or for a new development which received final plat approval prior the effective date of this Article, and for which no re-platting 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, and shall be the amount of the impact fee per service unit in effect, as set forth in Schedule 1.

- (2) For a new development which is submitted for approval pursuant to the City's subdivision regulations on or after the effective date of this Article, or for which re-platting 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 recordation and shall be the amount of the impact fee per service unit in effect as set forth in Schedule 1.

(b) Following assessment of impact fees pursuant to subsection (a), the amount of 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, in which case a new assessment shall occur at the Schedule 1 rate then in effect for such additional service units.

(c) Following the vacating of any plat or approval of any re-plat, a new assessment must be made in accordance with subsection (a)(2).

(d) An application for an amending plat made pursuant to Texas Local Government Code §212.016 and the City of Portland Subdivision Ordinance, and for which no new development is proposed, is not subject to reassessment for an impact fee.

#### Sec. 9-14. Computation of impact fees.

(a). Following the filing and acceptance of a written application for building permit or utility connection, the City shall compute the impact fee due in the following manner:

- (1) The number of service units shall be determined by using the Service Unit/SFE Equivalencies tables in Exhibit A herein to calculate roadway, water, wastewater, and drainage impact fees as applicable.
- (2) Service units shall then be multiplied by the applicable impact fees as depicted in Schedule 1 as established in Section 9-12.
- (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 9-16.

(b) The amount of impact fees due for new development shall not exceed the amount computed by multiplying the assessed fee for roadway, water, wastewater, or drainage service units generated by the development as by the applicable impact fee(s) in Schedule

1. The amount of impact fee due for redevelopment shall not exceed the amount computed by multiplying the appropriate fees for roadway, water, wastewater, or drainage services by the net increase in service units generated by the redevelopment.
- (c) The developer may submit, or the Director may require the submission of, a study prepared by a professional engineer licensed in the State of Texas that clearly indicates the number of roadway, water, wastewater, or drainage service units which will be consumed or generated by the new development. The Director will review the information for completeness and conformity with generally accepted engineering practices and will, when satisfied with the completeness and conformity of the study, multiply the number of service units determined by the study by the impact fee per service unit contained in Schedule 1 to determine the total impact fee to be collected for the development.
  - (d) Whenever the property owner increases the number of service units for a development, the additional impact fees collected for such new service units shall be determined based on Schedule 1 then in effect and shall be collected at issuance of building permits or, as applicable, when water meters are purchased.
  - (e) In the event the property owner decreases the number of service units for a development, the property owner shall be entitled to a refund of the impact fee or impact fees actually paid, but only for the amounts represented by the decrease in service units based on the assessed fees applicable at the time the fees were paid.
  - (f) If the building permit for the property on which an impact fee is paid has expired and a new application for a building permit is thereafter filed for the identical property and the identical number of service units, the impact fee previously paid satisfies the requirements of this Article, unless the earlier impact fee was refunded to the applicant at the expiration of the previously-issued building permit, or is otherwise refunded.
  - (g) The impact fee shall attach to the property for which the impact fee was paid and shall not be transferable to other properties or service units.
  - (h) No building permit or utility connection shall be issued if the applicant cannot verify payment to Staff of the appropriate impact fees and other applicable fees, or if existing facilities do not have actual capacity to provide service to the new connection(s), except for those entities that are exempted from impact fees as are specifically set forth in Texas Local Government Code, Chapter 395.
  - (i) All matters pertaining to the enforcement, assessment, computation, or collection of impact fees provided for herein shall be determined by the Director, or his or her designee.

Sec. 9-15. - Collection of impact fees.

- (a) Except as otherwise provided in this Section, the impact fee for the new development shall be collected at the time the City issues a building permit, or if a building permit is not

required, at the time an application is filed for a new connection, to the City's water or wastewater system or for an increase in water meter size.

(b) Except as otherwise provided by contracts with political subdivisions, developer's contracts, or wholesale customers, no building permit shall be issued until all impact fees due and owing have been paid to the City.

(c) The City may enter into an agreement for capital improvements with a property owner pursuant to Section 9-21 that establishes a different time and manner of payment.

(d) In the event that a property owner agrees to construct or finance capital improvements in the capital improvements plan pursuant to Section 9-21, the costs of which are to be reimbursed to the owner from impact fees paid from other new developments that will use such facilities, the City may collect impact fees from such other new developments at the time final plats are recorded for such development.

#### Sec. 9-16. Offsets and credits.

(a) The City shall offset the reasonable value of any area-related facilities, identified in the impact fee capital improvements plan and constructed pursuant to an agreement with the City, except as otherwise provided therein, which are dedicated to and received by the City on or after the effective date of this ordinance, against the amount of the impact fee due for that category of capital improvement. No offsets or credits shall be provided for required over-sizing of water and wastewater lines or lift stations not identified in the capital improvements plan or for pro-rata payments to repay other developers for such over-sizing.

(b) The City shall credit any new development that occurs after the effective date of this Article, any amount of capital recovery fees which have been collected by the City pursuant to duly adopted ordinances and any impact fees collected by the City pursuant to this Article.

(c) All offsets and credits against impact fees shall be subject to the following limitations and shall be granted based on this Article and additional standards promulgated by the City, which may be adopted as administrative guidelines.

- (1) No offset or credit shall be given for the dedication or construction of site-related facilities.
- (2) No offset or credit shall exceed the impact fee to be collected from new development as established in Section 9-14.
- (3) The unit costs used to calculate the offsets shall not exceed those assumed for the capital improvements included in the impact fee capital improvements plan for the category of facility within the service area for which the impact fee is imposed.
- (4) If an offset or credit applicable to a plat has not been exhausted within ten (10)

years from the date of the acquisition of the first building permit issued or connection made after the effective date of this Article or within such period as may be otherwise designated by agreement for capital improvements pursuant to Section 9-21, such offset or credit shall lapse.

- (5) 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 this Article or for any amount exceeding the total impact fees collected or due for the development for that category of capital improvement, unless otherwise agreed to by the City.
- (6) The City may participate in the costs of an area-related improvement to be dedicated to the City, including costs that exceed the amount of the impact fees due for the development under Schedule 1 for that category of capital improvements, in accordance with policies and rules established under the City's subdivision regulations and when incorporated into an agreement for capital improvements pursuant to Section 9-21. The amount of any offset shall not include the amount of the City's participation.
- (d) Unless an agreement for capital improvements is executed providing for a different manner of offsetting or crediting impact fees due pursuant to Section 9-21, an offset or credit associated with a plat shall be applied to reduce an impact fee at the time of application for the first building permit or at the time of application for the first utility connection for the property, in the case of land located within the City's extraterritorial jurisdiction, and, thereafter, to reduce impact fees subsequently to be collected, until the offset or credit is exhausted.

Sec. 9-17. Establishment of accounts.

- (a) The City's Department of Finance shall establish separate interest-bearing accounts clearly identifying the category of capital improvement (i.e. roadway, water, wastewater, and drainage facilities).
- (b) Interest earned by each account shall be credited to the account on which it is earned and shall be used solely for the purposes specified for impact fees as authorized herein.
- (c) The City's Department of Finance shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the account are utilized solely for the purposes authorized in this Article. 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 Article; provided, however, that any fee paid shall be expended within a reasonable period of time, but not to exceed ten (10) years from the date the fee is deposited into the account.
- (d) The City's Department of Finance shall maintain and keep adequate financial records for each such account, which shall show the source and disbursement of all revenues, which shall account for all monies received, the number of service units for which the monies are received, and which shall ensure that the disbursement of funds from each account

shall be used solely and exclusively for the provision of projects specified in the impact fee capital improvements plan as area-related capital projects. The City's Department of Finance shall also maintain such records as are necessary to ensure that refunds are appropriately made in accordance with this Article. 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

Sec. 9-18. - Use of proceeds of impact fee accounts.

- (a) The impact fee collected pursuant to this Article may be used to finance or to recoup capital construction costs for water and wastewater facilities identified in the impact fee capital improvements plan and for any purpose authorized in Texas Local Government Code, Chapter 395, as amended. 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 facilities expansions.
- (b) Impact fees collected pursuant to this Article 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 impact fee capital improvements plan;
  - (2) Repair, operation, or maintenance of existing or new capital improvements or facilities expansions;
  - (3) Upgrading, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
  - (4) Upgrading, expanding, or replacing existing capital improvements to serve existing development; 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. 9-19. - Appeals.

- (a) The property owner or applicant for new development may appeal the following Staff decisions and determinations to the City Council: (a) the applicability of an impact fee to the new development; (b) the method of calculating the amount of the impact fee due; (c) the availability or the amount of an offset, credit or rebate; (d) the application of an offset or credit against an impact fee due; or (e) the amount of a refund due, if any. The Property Owner or Applicant shall file a notice of appeal with the City Secretary of the City of Portland, Texas in writing, of its desire to appeal any such Staff decision or determination to the City Council, no later than thirty (30) days following the date of

Staff decision or determination. This notice shall be untimely if it is received by the City Secretary more than thirty (30) days following the date of Staff decision and determination. If the notice of appeal is accompanied by a bond or other sufficient surety 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 of the impact fee is pending.

- (c) The written notice to the City Secretary requesting an appeal shall contain the following information:
  - 1. The name of the Owner and/or Applicant of the Appeal; and
  - 2. The business address and telephone number of the Owner and/or Applicant; and
  - 3. The specific decision or determination of Staff which Owner and/or Applicant are complaining of, and the date of issuance thereof; and
  - 4. State specifically the grounds regarding Owner's and/or Applicant's application for appeal; and
  - 5. State specifically what amount of money that you believe is owing the City, as well as your basis therefor; and
  - 6. The name and address of any legal counsel representing the property owner or applicant who will appear before the City Council; and
  - 7. The signature of the Owner and/or Applicant regarding the Appeal.
  
- (d) The burden of proof shall be on the property owner and/or applicant to demonstrate that the amount of the fee or the amount of the offset, credit or rebate was not calculated according to the provisions of this Article. Upon submission of the case and the hearing held before the City Council, the City Council shall hold a public hearing that includes the opportunity for oral arguments that are limited to not more than fifteen (15) minutes each for the Owner and/or Applicant and the City. The City Council shall then make a decision regarding the appeal.

Sec. 9-20. - Update of plan and revision of fees.

- (a) The City shall update its land use assumptions and capital improvements plans at least every five (5) years, commencing approximately from the date of adoption of such plans, and shall recalculate the impact fees based thereon in accordance with the procedures set forth in Texas Local Government Code, Chapter 395, or in any successor statute.
  
- (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, or whether Schedule 1 should be changed. Schedule 1 may be amended without revising land use assumptions and capital improvements plans at any time prior to the update provided for in subsection (a), provided that the impact fees to be collected under Schedule 1 do not exceed the maximum impact fees of Schedule 1.
  
- (c) 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 plans, or impact fees is needed it may dispense with such update by following the procedures in Texas Local Government Code, Section 395.0575.

- (d) The City may amend by resolution the Land Uses and Service Unit Equivalency tables in Exhibit A at any time prior to the update provided for in Subsection (a), provided that the number of service units associated with a particular land use shall not be increased.

#### Sec. 9-21 - Agreement for capital improvements.

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 be on a form approved by the City and 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 to be given against the impact fees due for the development or any reimbursement to the owner for construction of the facility.

#### Sec. 9-22. Use of other financing mechanisms.

- (a) In addition to the use of impact fees, the City may finance roadway, water, wastewater, and drainage capital improvements or facilities expansions designated in the impact fee capital improvements plan through the issuance of bonds, through the formation of public improvements 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.
- (b) Except as otherwise provided herein, 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.

#### Sec. 9-23. Conflicting ordinances.

All ordinances or parts of ordinances that are in force when the provisions of this ordinance become effective, which are inconsistent or in conflict with the terms or provisions contained in this ordinance, are hereby repealed to the extent of the conflict.

#### Sec. 9-24. Reserved.

**SECTION 6.** Impact Fees shall be assessed and collected in accordance with the provisions of Chapter 395 of the Texas Local Government Code, as amended. The City Manager, or the Manager's designee, is hereby authorized to develop procedures and policies for assessment and collection of impact fees consistent with applicable law and the City's ordinances and to implement said procedures and policies in the administration of the City's Impact Fee Program.

Impact fees shall be collected at the time of issuance of the building permit or, for property outside the city limits, at the time an application for connection to the City's water or wastewater system is filed. On property that receives final plat approval before the effective date of this Ordinance, no impact fees shall be collected on any service unit for which a valid building permit is issued within one (1) year of the effective date of this Ordinance. If a building permit obtained within one (1) year of the effective date of this Ordinance subsequently expires, and no new application is made and approved within such period, the new development shall be subject to the payment of the impact fees adopted in this Ordinance.

**SECTION 7.** The maximum impact fee per service unit, as defined in Exhibit A and as may be amended from time to time, is hereby declared to be an appropriate measure of the impacts generated by a new development on the City's public infrastructure. To the extent that the impact fee charged against a new development, as may be amended from time to time, is less than the maximum impact fee per service unit, such difference is hereby declared to be founded on policies unrelated to the measurement of the impacts of the new development on the City's public infrastructure. The maximum impact shall therefore be used when evaluating any claim by a property owner that the dedication or construction of a capital improvement within a service area that is imposed as a condition of development pursuant to the City's subdivision or development regulations is disproportionate to the impacts created by the development on the City's public infrastructure.

**SECTION 8.** This ordinance shall not limit the City's authority to impose other or additional impact fees authorized by Chapter 395 of the Texas Local Government Code or impose taxes, fees, charges, or assessments authorized by State law.

**SECTION 9.** This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance, Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance.

**SECTION 10.** If any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

**SECTION 11.** Any person who violates this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine not exceeding two thousand dollars (\$2,000.00). Each and every day that a violation of this Ordinance occurs shall constitute a separate offense. The culpable mental state required by Chapter 6.02, Texas Penal Code, is specifically negated and dispensed with and a violation is a strict liability offense.

**SECTION 12.** This Ordinance shall be effective upon the passage of the second reading.

**PASSED and APPROVED** on second reading this \_\_\_ day of \_\_\_\_\_ 2021.

**CITY OF PORTLAND**



---

**Cathy Skurow**  
**Mayor**

**ATTEST:**

---

**Annette Hall**  
**City Secretary**

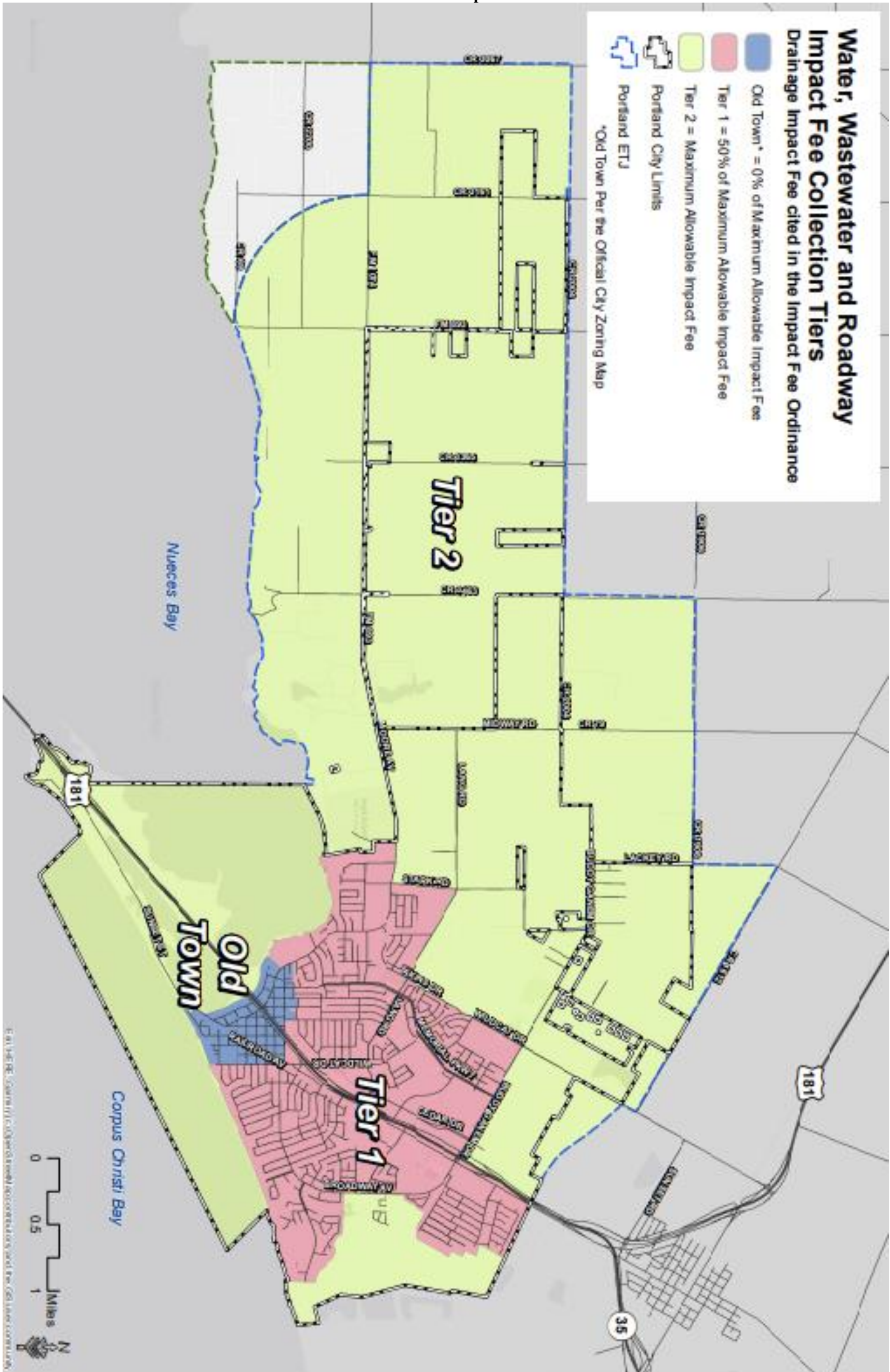
**Exhibit list**

Exhibit A. FNI Final report, September 17, 2021

Schedule 1 Service Area Maps, Tiers, and Impact Fees by Type

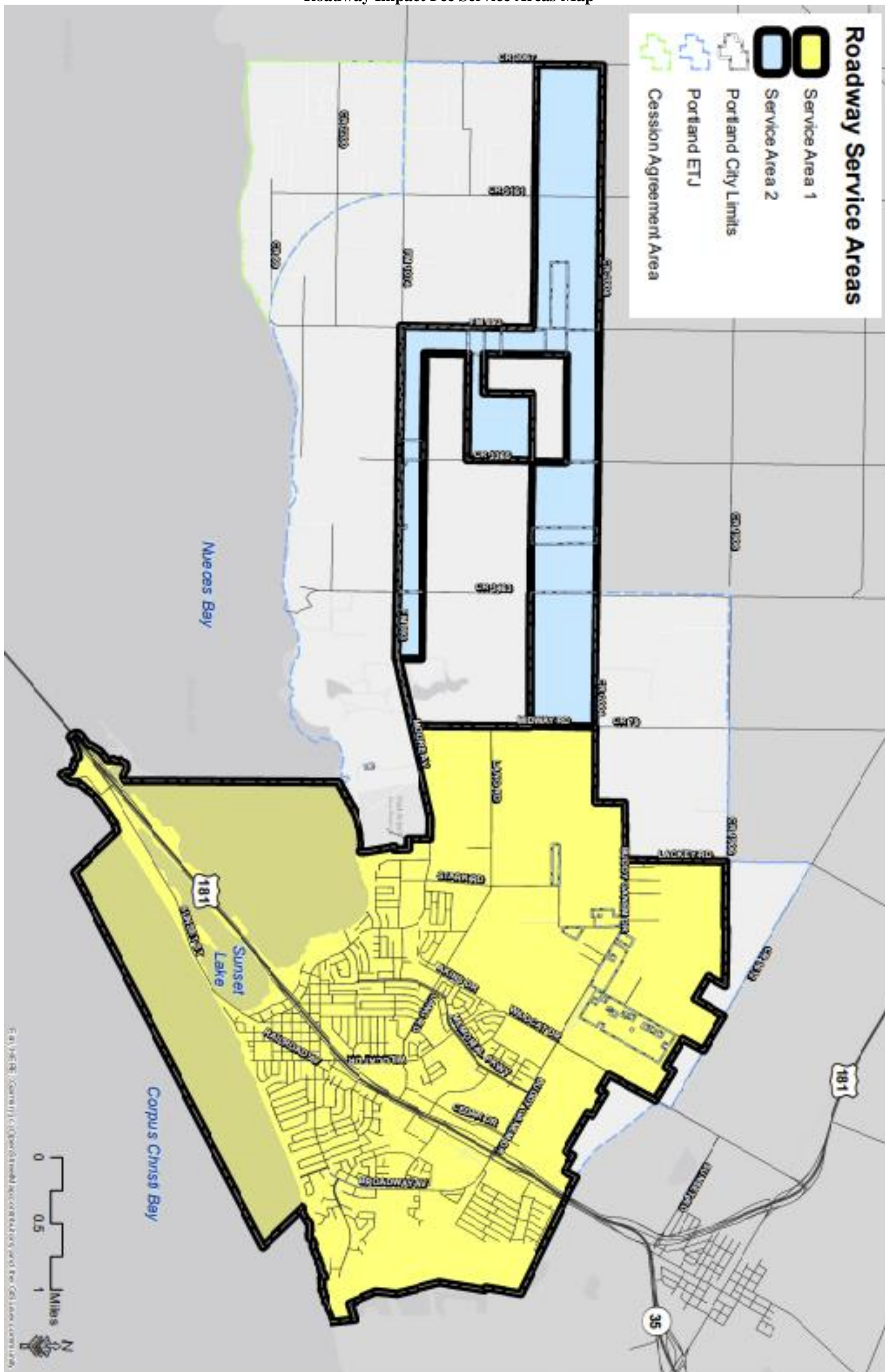
1.1 Tiers

Tiers Map



1.2. Roadway impact fees

Roadway Impact Fee Service Areas Map



**Roadway impact fees per service unit equivalent\*.**

<b>Service Area</b>	<b>Maximum impact Fee</b>	<b>Tier 1 (50% Max.)</b>	<b>Tier 2 (100% Max.)</b>	<b>Old Town (0% Max.)</b>
1	\$1,499	\$750	\$1,499	\$0
2	\$1,034	Not applicable	\$1,034	\$0

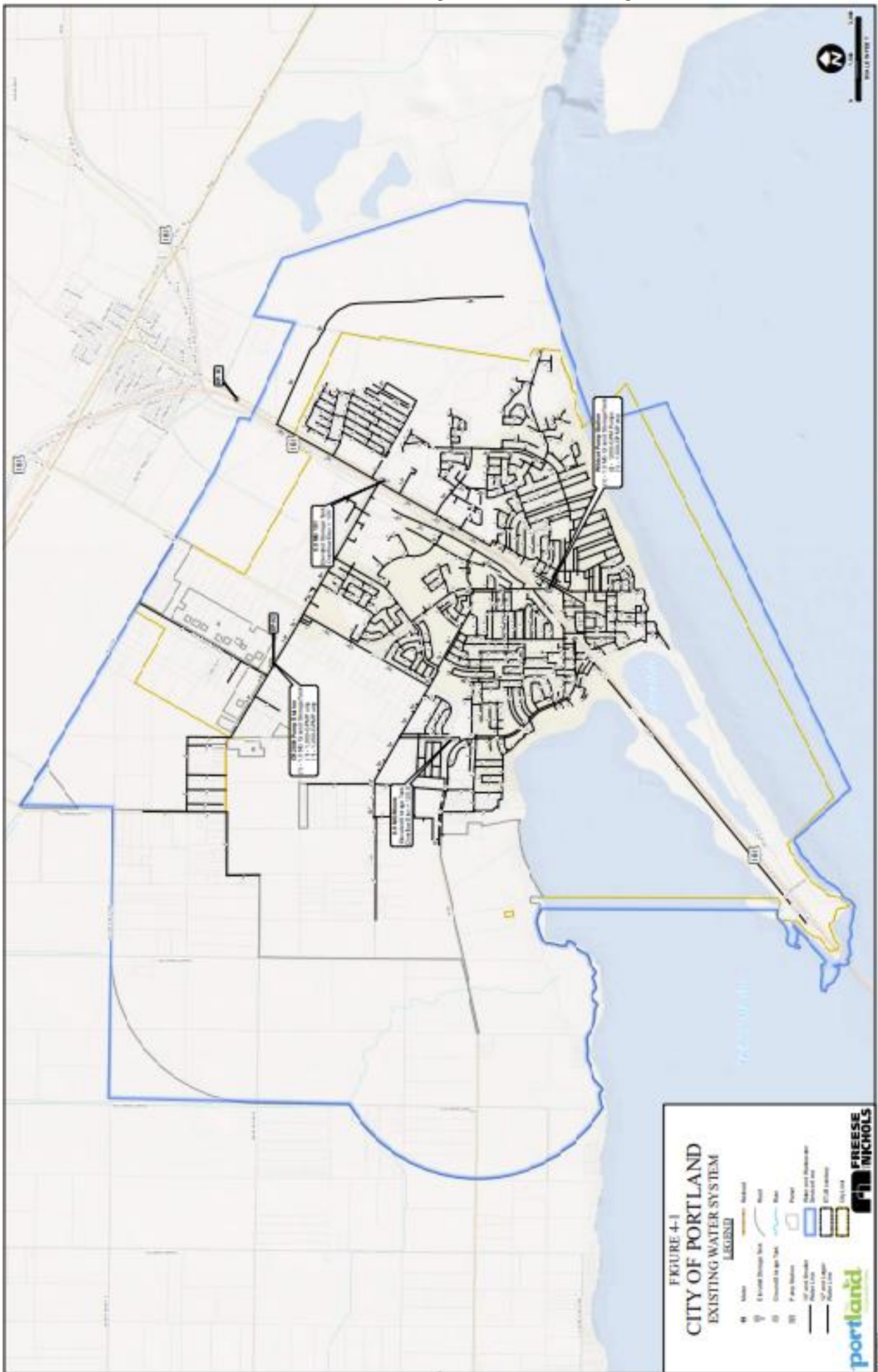
\*See Section 3.7 of "Roadway, Water, Wastewater and Drainage Impact Fee Study Freese and Nichols, Inc. City of Portland, Texas" entitled "Calculation of Impact Fees" for calculation methodology

## Roadway Impact Fee Service Unit Equivalencies Table

Land Use Category	ITE Code	Development Unit	Trip Rate w/ Reductions (PM Peak)	O-D Adjusted Trip Length (mi)	Service Unit Equivalency
<b>RESIDENTIAL</b>					
Single-Family Detached Housing	210	Dwelling Units	0.99	0.8	0.79
Multifamily Housing (Low-Rise)	220	Dwelling Units	0.56	0.81	0.45
Mid-Rise Residential with 1st-Floor Commercial	231	Dwelling Units	0.36	0.81	0.29
Senior Adult Housing - Detached	251	Dwelling Units	0.30	0.73	0.22
Assisted Living	254	Beds	0.26	0.73	0.19
Continuing Care Retirement Community	255	Dwelling Units	0.16	0.73	0.12
<b>OFFICE</b>					
General Office Building	710	1,000 Sq Ft GFA	1.15	0.80	0.92
Medical-Dental Office Building	720	1,000 Sq Ft GFA	3.46	0.72	2.49
United States Post Office	732	1,000 Sq Ft GFA	3.36	0.81	2.72
<b>COMMERCIAL/RETAIL</b>					
Hotel	310	Rooms	0.60	0.81	0.49
All Suites Hotel	311	Rooms	0.36	0.81	0.29
Miniature Golf Course	431	Holes	0.33	1.26	0.42
Golf Driving Range	432	Driving Positions	1.25	1.26	1.58
Movie Theater	444	Screens	14.60	1.26	18.4
Health/Fitness Club	492	1,000 Sq Ft GFA	3.45	1.26	4.35
Hospital	610	1,000 Sq Ft GFA	0.97	1.28	1.24
Nursing Home	620	1,000 Sq Ft GFA	0.59	1.28	0.76
Free-Standing Emergency Room	650	1,000 Sq Ft GFA	1.52	1.28	1.95
Shopping Center	820	1,000 Sq Ft GLA	1.52	0.8	1.22
Building Materials and Lumber Store	812	1,000 Sq Ft GFA	1.55	0.81	1.26
Free-Standing Discount Store	815	1,000 Sq Ft GFA	2.32	0.81	1.88
Hardware/Paint Store	816	1,000 Sq Ft GFA	1.23	0.81	1
Nursery (Garden Center)	817	1,000 Sq Ft GFA	5.21	0.81	4.22
Supermarket	850	1,000 Sq Ft GFA	2.40	0.81	1.94
Discount Club	857	1,000 Sq Ft GFA	2.93	0.81	2.37
Sporting Goods Superstore	861	1,000 Sq Ft GFA	1.21	0.81	0.98
Home Improvement Superstore	862	1,000 Sq Ft GFA	0.65	0.81	0.53
Electronic Superstore	863	1,000 Sq Ft GFA	1.15	0.81	0.93
Baby Superstore	865	1,000 Sq Ft GFA	1.27	0.81	1.03
Department Store	875	1,000 Sq Ft GFA	1.37	0.81	1.11
Arts and Crafts Store	879	1,000 Sq Ft GFA	4.35	0.81	3.52
Pharmacy/Drugstore w/o Drive-Through Window	880	1,000 Sq Ft GFA	3.23	0.14	0.45
Pharmacy/Drugstore w/ Drive-Through Window	881	1,000 Sq Ft GFA	3.91	0.14	0.55
Furniture Store	890	1,000 Sq Ft GFA	0.08	0.81	0.06
Walk-in Bank	911	1,000 Sq Ft GFA	3.28	0.81	2.66
Drive-in Bank	912	Drive-in Lanes	7.33	0.81	5.94
Quality Restaurant	931	1,000 Sq Ft GFA	2.26	0.64	1.45
High-Turnover (Sit-Down) Restaurant	932	1,000 Sq Ft GFA	3.03	0.64	1.94
Fast-Food Restaurant w/ Drive-Through Window	934	1,000 Sq Ft GFA	8.82	0.64	5.64
Quick Lubrication Vehicle Shop	941	Service Positions	2.43	0.81	1.97
Automobile Parts Service Center	943	1,000 Sq Ft GFA	0.77	0.81	0.62
Gasoline/Service Station w/ Convenience Market	945	Fueling Positions	2.40	0.14	0.34
Car Wash and Detail Center	949	Wash Stalls	2.53	0.81	2.05
<b>INDUSTRIAL</b>					
General Light Industrial	110	1,000 Sq Ft GFA	0.63	0.80	0.50
Manufacturing	140	1,000 Sq Ft GFA	0.67	1.07	0.72
Warehousing	150	1,000 Sq Ft GFA	0.19	1.07	0.20
Mini-Warehouse	151	1,000 Sq Ft GFA	0.17	1.07	0.18
<b>INSTITUTIONAL</b>					
Private School (K-8)	534	Students	0.26	0.53	0.14
Private School (K-12)	536	Students	0.17	0.53	0.09
Charter Elementary School	537	Students	0.14	0.53	0.07
Church	560	1,000 Sq Ft GFA	0.49	0.6	0.29
Day Care Center	565	Students	0.20	0.53	0.11

1.3 Water and Wastewater impact fee per service unit

Water and Wastewater Impact Fee Service Areas Map



**Water impact fees per service unit equivalent**

<b>Service Area</b>	<b>Maximum impact Fee</b>	<b>Tier 1 (50% Max)</b>	<b>Tier 2 (100% Max)</b>	<b>Old Town (0% Max)</b>
All City and ETJ	\$3,846	\$1,923	\$3,846	\$0

**Wastewater impact fee per service unit equivalent**

<b>Service Area</b>	<b>Maximum impact Fee</b>	<b>Tier 1 (50% Max)</b>	<b>Tier 2 (100% Max)</b>	<b>Old Town (0% Max)</b>
All City and ETJ	\$4,695	\$2,347	\$4,695	\$0

**Water / Wastewater Service Unit Equivalency Table (per water meter\*)**

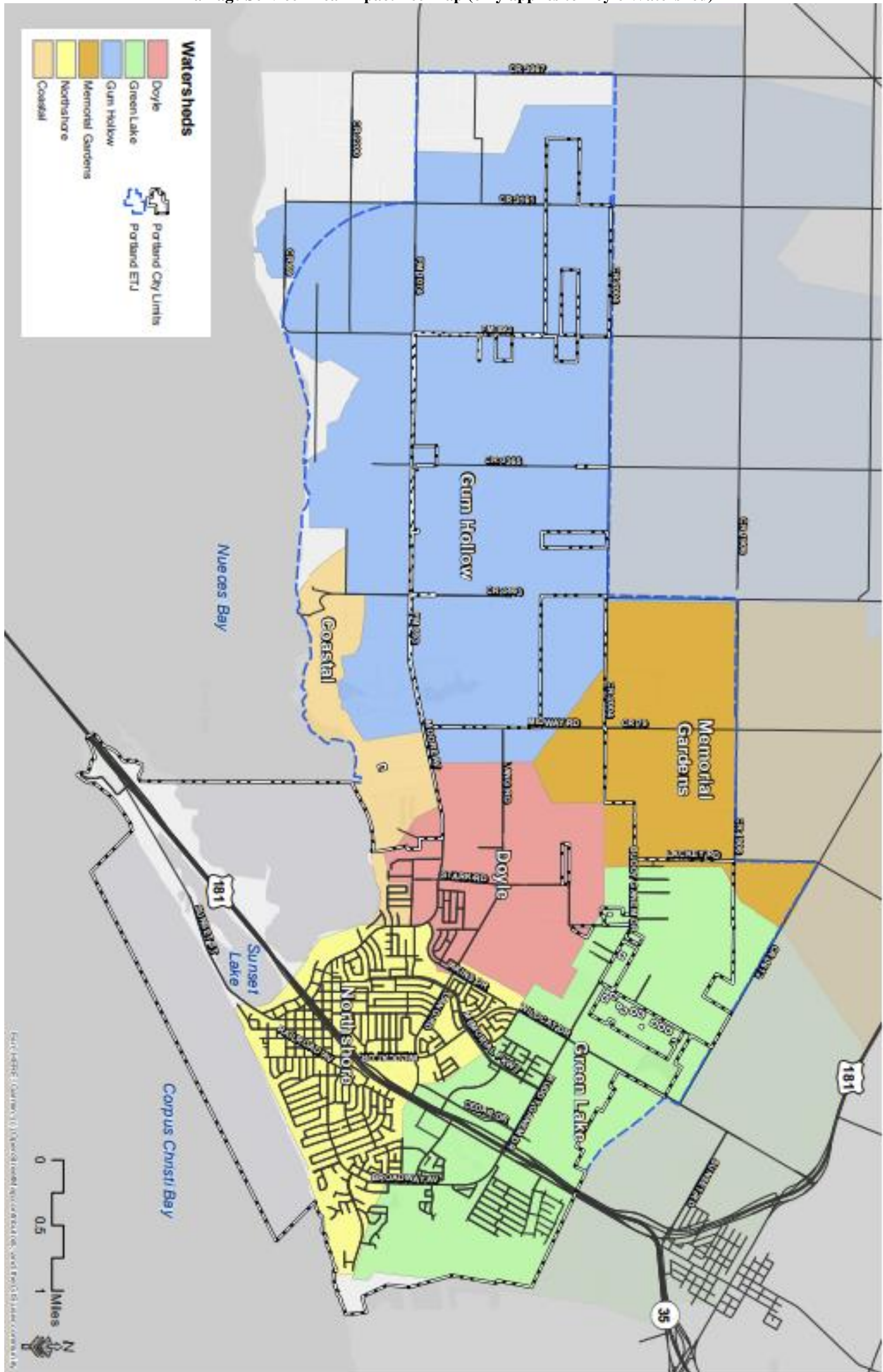
<b>Meter size (inches)</b>	<b>Meter Type</b>	<b>Service Unit Equivalent Water and Wastewater</b>
5/8 x 3/4	Displacement	1.0
1	Displacement	2.7
1 ½	Displacement	3.3
2	Displacement	6.7
3	Turbine	23.3
4	Turbine	40
6	Turbine	83.3
8	Turbine	160

\*separate irrigation meters are charged appropriate water impact fees but will not be charged wastewater impact fees



### 1.4 Drainage Impact Fees

Drainage Service Area Impact Fee Map (only applies to Doyle Watershed)



**Drainage Fee per square foot of imperviousness**

<b>Service Area</b>		<b>Maximum impact Fee</b>	<b>Tier 1</b>	<b>Tier 2</b>	<b>Old Town</b>
Doyle Watershed		\$0.34	\$0.34	\$0.34	Not applicable

**Percent Impervious Values by Landuse Type**

<b>Landuse</b>	<b>Percent Impervious</b>
High Density Residential (<1/4 ac., multi-family)	65
Medium Density Residential (1/4 ac.)	68
Medium Density Residential (1/3 ac.)	30
Medium Density Residential (1/2 ac.)	25
Low Density Residential (1 acre)	20
Low Density Residential (>2 acres)	12
Commercial	85
Industrial	72