

ORDINANCE 120-032004
Amendment #2-042006

AN ORDINANCE AMENDING ORDINANCE 120-032004, AMENDMENT #2-042005 ADJUSTING THE STREET CAPITAL IMPROVEMENT FEE, PROVIDING AN EFFECTIVE DATE AND PROVIDING A SEVERABILITY CLAUSE

WHEREAS, The City of Garden Ridge is obligated to annually adjust the amount of the Street Capital Improvement Fee for the effects of inflation, and

WHEREAS, the Construction Cost Index (CCI), as determined in the most recent issue of Engineer News Record, stood at 7,689, and


WHEREAS, the base CCI for compilation of the cost of inflation stood at 7,689 rendering an inflationary adjustment of \$25.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARDEN RIDGE, TEXAS:

1. THAT the Street Capital Improvement Fee is hereby adjusted to the amount of \$513 per living unit equivalent (LUE); and
2. SEVERABILITY CLAUSE: If any section, paragraph, sub-division, clause or phrase of this ordinance amendment shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part of any provision thereof other than the part so decided to be invalid or unconstitutional.
3. EFFECTIVE DATE: This Ordinance amendment shall take effect immediately upon passage and adoption as provided by law and publication of caption in the official newspaper of the City.

PASSED AND APPROVED this 5th day of April, 2006.




Jay F. Feibelman, Mayor


Linda Knowlson, City Secretary

AN ORDINANCE ADOPTING A STREET CAPITAL IMPROVEMENT PLAN FOR THE CITY OF GARDEN RIDGE AND PROVIDING FOR A STREET CAPITAL IMPROVEMENT FEE; ESTABLISHING THE AMOUNT OF THE STREET CAPITAL IMPROVEMENT FEE BASE YEAR DATA FOR SAID FEE CALCULATION; REQUIRING THE DEPOSIT OF CAPITAL IMPROVEMENT FEES INTO SPECIAL ACCOUNTS FOR EACH TYPE OF CAPITAL IMPROVEMENT; LIMITING THE NATURE OF THE PROJECTS FOR WHICH CAPITAL IMPROVEMENTS FEES MAY BE UTILIZED; AND PROVIDING THAT THE PROVISIONS OF THE ORDINANCE ARE SEVERABLE

WHEREAS, the City of Garden Ridge adopted the Transportation System Evaluation and Street Master Plan for the City of Garden Ridge dated May 2001; and,

WHEREAS, portions of the Street Master Plan within the City of Garden Ridge have not been constructed; and,

WHEREAS, substantial new construction of street system infrastructure in the undeveloped portion of the City is required to complete the Street Master Plan; and,

WHEREAS, the City Council has determined and finds that there is a direct relationship between new building construction on lots in the City and the additional cost to complete streets within the City; and,

WHEREAS, the City Council finds that it is fair and equitable that the additional cost of the street improvements over and above that necessary to serve the existing residents of the City of Garden Ridge should be borne, pro-rata, among the new residents of the City;

WHEREAS, the City Council of the City of Garden Ridge has determined that it is necessary to adopt the Street Capital Improvement Plan and the Street Capital Improvement Fee to construct street infrastructure to support transportation demand created by new development in the City of Garden Ridge; and,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARDEN RIDGE, TEXAS:

1. THAT the City Council hereby adopts the attached Street Capital Improvement Plan; and,
2. THAT the City Council hereby promulgates and adopts the following rules and regulations.

ARTICLE I. STREET CAPITAL IMPROVEMENT FEE

A. *Calculation and Collection of fee.*

Prior to and as a condition of the issuance of final plat approval in the City

Garden Ridge, the applicant shall pay to the City a street capital improvement fee, which is in addition to and not in lieu of any other fee established by the City, in the amount of \$453. per living unit equivalent (LUE) determined for the street capital improvement fee and as calculated for the application and as defined as follows:

DEVELOPMENT TYPE	LUE CONVERSION	
Single family Residential	1 LUE per dwelling unit	
Non-Residential	As per design flow analysis for water Use prepared and certified by a registered professional engineer and as determined by the size water meter required and in accordance with the following schedule:	
	Meter Size	LUEs
	1 inch	1.7
	1-1/2 inch	4.0
	2 inch	7.0
	3 inch	16
	4 inch	28
	6 inch	64
	8 inch	114

For land on which new development occurs, or is proposed to occur, without platting, the applicant shall pay to the City a street capital improvement fee equal to the fee established by the City for platted property. Said fee shall be paid to the City concurrent with the applicant's request for water service.

B. *Administration of Fees Collected.*

All street capital improvement fees collected shall be deposited by the City into a separate interest-bearing capital improvements account within the City's fund of accounts. No expenditure shall be made from the City's street capital improvement fee funds except for the following: improvements to street infrastructure required for new development as defined in accordance with Section 395.012 of the Local Government Code, to retire bonds issued to pay for future improvements to street infrastructure in the City, to conduct planning and engineering studies or to pay financial consulting fees necessary to maintain an accurate and current basis for the amount of the street capital improvement fees.

C. *Annual Review of Fees.*

The City Council shall review no less often than annually the capital improvement

fees established herein and adjust same where necessary.

(1) Adjustment of Street Capital Improvement Fee for Inflation.

When adjusting the street capital improvement fee (the fee) for inflation, such adjustments shall be based upon the current Construction Cost Index (CCI) as derived in the most recent publication of Engineering News-Record.

All adjustments to the fee shall be calculated using "base year" data. The base month for calculations is February, 2004. The base month may change if the fee is adjusted for non-inflationary causes. (see note below) In February of 2004, the CCI stood at *(to be determined by date of passage of ordinance)*. The base fee charged in February, 2004 was \$453 for Living Unit Equivalent.

Formula for Derivation of Inflationary Adjustment

$$\frac{\text{current CCI} - \text{base CCI}}{\text{base CCI}} \quad \times \quad \text{base fee}$$

Example of Formula

Base fee = \$453; base CCI = 6,233; Dec 2003 CCI = 6,782

$$\frac{\text{Dec 2003 CCI } 6,782 - \text{base CCI } 6,233}{\text{Base CCI } 6,233} \quad \times \quad \$453 = \$40$$

\$453 + \$40 = \$493 = adjusted rate for inflation

(2) Non-Inflationary Adjustment of Street Capital Improvement Fee.

When the fee is adjusted for non-inflationary causes, the revised fee shall serve as the base fee for future inflationary adjustments. Additionally, the CCI for the month of the adjustment shall serve as the base CCI for future inflationary adjustments. Non-inflationary adjustments may include changes to land use assumptions, revised project scope of work, etc.

ARTICLE II. ADJUSTMENT PROCEDURE

A. Fees Collected in Excess of Actual Costs of Capital Improvements.

- (1) If the total capital improvement fees collected for capital improvements exceed by more than ten percent (10%) the actual cost of the capital improvements, including costs of planning, engineering, and legal fees associated with constructing these improvements and adjusting the capital improvement fees from time to time, the City shall refund the excess over the ten percent (10%), pro-rata.
- (2) Upon the receipt of an application for adjustment of any or all of the capital improvement fees paid, the City Administrator or his designee shall first determine the relationship of the actual cost of constructing the capital improvements in question versus the total fees collected for the same capital improvements in question. If an adjustment in the amount of the fees paid is due the applicant, the City Administrator or his designee shall advise the owner in writing of his determination and adjustment. The owner shall have the right to appeal the determination to the City Council by filing notice of appeal in the office of the City Secretary within ten (10) days of the aforesaid determination. Upon appeal, the City Council shall review the application and such other written information and make a decision of the adjustment, if any, under the formula specified in Part A.(1) hereof. The decision of the City Council shall be final.

B. Credit for Facilities Constructed by Owner.

- (1) If as a result of the provisions of the City's ordinances governing the development of subdivisions or as a result of other conditions agreed to by an owner of property within the services areas prior to the effective date of this ordinance an owner is required to install capital improvements that are part of the master plan for capital improvements in the proposed subdivision, the owner may apply for any adjustment of the applicable capital improvement fees. Said application shall be in writing and shall contain such information as shall be designated by the City. The owner may submit with the application such other information as the owner deems relevant.
- (2) Upon the receipt of an application for adjustment of any or all of the capital fees paid, the City Administrator or his designee shall first determine whether the conditions required of the owner have been met, to what degree the City's costs for constructing those facilities have been reduced, and the relationship of the actual costs of constructing the capital improvements in question versus the total fees collected for the same capital improvements in question. If an adjustment in the amount of the fees paid is due the applicant, the City Administrator or his designee shall advise the owner in writing of his determination and adjustment. The owner shall have the right to appeal the determination to the City Council by filing notice of appeal in the office of the City Secretary within ten (10) days of the aforesaid determination. Upon appeal, the City Council shall review the application and such other written information and make a determination of the adjustment, if any, under the conditions agreed to by the owner. The decision of the City Council shall be final.

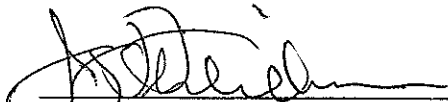
A. *Timing of Application for Adjustment.*

In the event that an owner of property within the service areas becomes subject to the payment of a capital improvement fee as a result of the passage of this ordinance, that owner shall have the right to apply for an adjustment of the capital improvement fee, pursuant to the terms hereof, within sixty (60) days after the effective date of this ordinance or the determination of the actual cost of constructing the capital improvements in question, whichever is later.

ARTICLE III. SEVERABILITY

If any provision, section, sentence, or clause or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or for any reason 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, the intent of the City Council of the City of Garden Ridge in adopting this ordinance being that no portion hereof nor provision or regulation contained herein become inoperative or fail by reason of any unconstitutionality or invalidity or any other portion or regulation.

PASSED, APPROVED, AND EFFECTIVE THIS 3rd day of March, 2004.


Jay E. Feibelman, Mayor

ATTEST:




Linda Knowlson, City Secretary