

To Frank Salvato:

Dear Frank:

You asked that I review the Impact Ordinance referenced above to determine if the Taylor City Council was authorized to waive all or any part of impact fees scheduled for payment from a private developer developing a subdivision on behalf of the Taylor Housing Authority.

When the Ordinance was drafted, exemption from the Ordinance was granted in the caption and the grounds and procedure for the exemption are stated in Section 1.26.

Exemption from water and wastewater impact fees required by the Ordinance can be granted when the City Council determines the development merits waiver or reduction because of:

- (a). Economic benefit to the community; or
- (b). Creation or promotion of jobs; or
- (c). Economic hardship; or
- (d) For good cause shown by the development or owner.

The Ordinance further provides that the Council can grant a variance or waiver from any requirement of the Ordinance upon written request by a developer or owner or property subject to the Ordinance. A public hearing must be conducted regarding the request, and the public hearing must be conducted in strict application that the requirement would result in confiscation of the property. Notwithstanding, the Ordinance also allows the Council to grant a waiver from any requirement on other grounds consistent with the goals and objectives of the City's comprehensive plan and the health, safety or welfare of the community, and as established in administrative guidelines

The Ordinance is not clear whether the waiver for water and wastewater fees requires a public hearing, as is required for a waiver "from any requirement", requiring strict application that confiscation of property will result if the waiver is not granted.

The waiver for other grounds from any requirement of the Ordinance consistent with the City's comprehensive plan and the health, safety, or welfare of the community must be based on administrative guidelines, that have not yet been determined.

It is my opinion the wavier of water and wastewater fees does not require the same standard required for the waiver of "any requirement". However, the Council should take

into account the procedures, standards and precedent established in this case can and will be used to allege or claim potential discrimination or antitrust claims if they are not consistent in all future waiver requests. Consequently, the Council should establish objective standards for granting any waiver requiring compliance with the Ordinance except in rare circumstances. Failure to do so may allow claims against the City if the City subsequently demands greater compliance standards in future waiver request.

# **Taylor Housing Authority**

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The Housing Authority of the City of Taylor request that the City Council exempt the Sunset Addition from the impact fee for new homes. We have recently been informed that our current exemption expires on January 16, 2003.

We have been working with mortgaggers and builders for over a year to provide low to moderate income working families the opportunity to realize the American Dream of home ownership.

These homes will generate substantial tax revenue for the City of Taylor and the Taylor School District.

As of this date our builders have pulled 6 permits to build houses. I have talked to the builders and believe that Richard Smith and Charles Schiller are preparing to pull permits for 5 houses prior to January 16. Weatherby Homes has informed me that they are preparing to pull five. The builders have experienced some delay in getting soil samples for the engineered slabs.

Total lots:	48
Total permits:	6
Projected permits:	10