

**TOWN OF ADDISON, TEXAS**

**ORDINANCE NO. 012-034**

**AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 82 (UTILITIES), ARTICLE VI (STORMWATER (DRAINAGE) UTILITY SYSTEM) OF THE TOWN CODE OF ORDINANCES, AS AMENDED, BY ADDING THERETO A NEW DIVISION II REGARDING STORMWATER (DRAINAGE) UTILITY FEES; ESTABLISHING MONTHLY STORMWATER (DRAINAGE) UTILITY FEES FOR THE PURPOSE OF FUNDING THE STORMWATER (DRAINAGE) UTILITY SYSTEM; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Addison, Texas (the "City") is a home rule municipality having the full power of local self-government pursuant to its Charter, Article XI, Section 5 of the Texas Constitution, and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, the City Council of the Town ("City Council") heretofore adopted Ordinance No. \_\_\_\_\_ that, among other things, declared adoption of Chapter 552, Subchapter C (entitled "Municipal Drainage Utility Systems") of the Texas Local Government Code (the "Act"), declared the stormwater (drainage) of the City to be a public utility, and provided for Stormwater (drainage) Utility service for benefitted properties within a designated service area upon payment of Stormwater (drainage) Utility Fees; and

**WHEREAS**, Section 552.045(d) of the Act provides that, after passage of an ordinance adopting the Act, a municipality may levy a schedule of stormwater (drainage) charges following the holding of a public hearing on the charges for which notice was given; and

**WHEREAS**, in accordance with the Act, the City published notices of a public hearing regarding this Ordinance and the City Council held a public hearing regarding the charges (fees) set forth in this Ordinance: and, the City Council, finding that the charges (fees) set forth herein are nondiscriminatory, reasonable, and equitable, now desires to levy the schedule of Stormwater (drainage) Utility Fees for Stormwater (drainage) Utility service set forth in this Ordinance; and

**WHEREAS**, in setting the schedule of Stormwater (drainage) Utility Fees, the Fees are based on an inventory of all parcels within the utility service area; and

**WHEREAS**, the City Council finds that the adoption of this Ordinance is in the best interests of the health, safety and welfare of the citizens of the City.

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

Section 1. Incorporation of Recitals. The above and foregoing recitals and premises to this Ordinance are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Establishment of Stormwater (Drainage) Utility Fees. Stormwater (drainage) Utility Fees as set forth herein are hereby established. Stormwater (drainage) Utility Fees shall be levied against all benefitted properties (as defined in Chapter 82, Article VI, Division 1 (“Division 1”) of the Code of Ordinances of the Town of Addison, Texas (the “City”) within the utility service area (as defined in Division 1) unless exempt under Division 1. These Fees shall be imposed and issued with utility billing statements issued on and after January 1, 2013.

Section 3. Amendment. The Code of Ordinances of the City is hereby amended by amending Chapter 82 (Utilities), Article VI (Municipal Stormwater (Drainage) Utility System) thereof by adding thereto a new Division 2 (Stormwater (Drainage) Utility Fees), and all other chapters, articles, sections, subsections, sentences, phrases and words of the Code of Ordinances are not amended hereby. The said Division 2 shall read as follows:

## DIVISION 2. STORMWATER (DRAINAGE) UTILITY FEES

### **Section 82-280 - Applicability.**

The City Council hereby establishes the Stormwater (drainage) Utility Fees as set forth herein. A Stormwater (drainage) Utility Fee shall be levied against all benefitted property within the service area unless exempt under Section 82-273, above.

### **Section 82-281 - Fee calculation.**

(a) *Stormwater (drainage) Utility Fee Calculation.* Stormwater (drainage) Utility Fees shall be calculated based on the total stormwater runoff potential for benefitted properties for all Customers within the service area. The total stormwater runoff potential shall be measured as impervious areas in square feet (“SF”).

(b) *Stormwater (drainage) Utility Fee.* The total stormwater runoff potential for the service area shall be allocated between and among the Customer classes based on the relative amount of impervious area in each class established in Section 82-266(a), in Division 1, above.

(1) *Residential Property Class.* Stormwater (drainage) Utility Fees for the residential property class of Customers shall be as follows:

(A) The equivalent residential unit (“ERU”) is defined as the average impervious area for all single family residential properties within the City and includes the impervious area of the building footprint plus and an allocation for other impervious surfaces on a residential property. The said average impervious area for the ERU is 3,100 square feet (SF).

- (B) Residential properties are further allocated into four (4) residential tiers (Tier 1, Tier 2, Tier 3, Tier 4) for the purpose of billing stormwater charges based on their relative impervious area compared to the ERU of 3,100 SF; the ERU also being the same as the average impervious area within Tier 2.
  - (C) The monthly Stormwater (drainage) Fee shall be a flat-rate Fee for each dwelling unit within each defined residential tier.
  - (D) The value that will be used to identify the tier that will be used to determine the Stormwater (drainage) Fee for a particular residential dwelling unit shall be the impervious area of the footprint of the buildings on the parcel as listed below:
    - (i) Tier 1 Residential:
      - a. Building Impervious Area: 1 SF to 1,999 SF
      - b. The average impervious area for each property in Tier 1 is 60% of the ERU of 3,100 SF, or 1,850 SF
    - (ii) Tier 2 Residential:
      - a. Building Impervious Area: 2,000 SF to 3,399 SF
      - b. The average impervious area for each property in Tier 2 is 100% of the ERU of 3,100 SF, or 3,100 SF
    - (iii) Tier 3 Residential:
      - a. Building Impervious Area: 3,400 SF to 4,999 SF
      - b. The average impervious area for each property in Tier 3 is 150% of the ERU of 3,100 SF, or 4,650 SF
    - (iv) Tier 4 Residential:
      - a. Building Impervious Area: 5,000 SF and above
      - b. The average impervious area for each property in Tier 4 is 250% of the ERU of 3,100 SF, or 7,750 SF
  - (E) The monthly, flat-rate Fee for each Tier for each fiscal year is established in the Fee schedule listed in subsection (c)(1), below.
- (2) *Non-Residential Property Class.* Stormwater (drainage) Utility Fees for the non-residential property class of Customers shall be as follows:
- (A) The non-residential rate, set forth in subsection (c)(5) below, are based on the Tier 2 Residential Fee (the said Tier 2 Residential Fee being based on 100% of the ERU of 3,100 SF) and are established per 1,000 SF of impervious area and determined as follows: 1,000 SF divided by the ERU (3,100 SF) times the then applicable Tier 2 Residential Fee and rounded up to the nearest \$0.01.

- (B) The Stormwater (drainage) Utility Fee for each non-residential property or allocated portion of a non-residential property shall be equal to the product of (a) the impervious area of such non-residential property or allocated portion measured in 1,000 SF, times (b) the rate established in the rate schedule listed in subsection (c)(5), below.

(c) *Schedule of Monthly Fees and Rates.* The monthly Stormwater (drainage) Utility Fee shall be as follows:

- (1) Tier 1 Residential Fee. The monthly Stormwater (drainage) Utility Fee for each residential dwelling unit in Tier 1 shall be as follows for each fiscal year (FY) that begins October 1 and continues through and ends the following September 30, with the first such fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):

FY2013 shall be \$4.80, FY2014 shall be \$5.10, FY2015 shall be \$5.40, FY2016 shall be \$5.70, FY2017 shall be \$6.00, FY2018 shall be \$6.30, FY2019 shall be \$6.60, FY2020 shall be \$6.90, FY2021 shall be \$7.20, FY2022 shall be \$7.50.

- (2) Tier 2 Residential Fees. The monthly Stormwater (drainage) Utility Fee for each residential dwelling unit in Tier 2 shall be as follows for each fiscal year (FY) that begins October 1 and continues through and ends the following September 30, with the first such fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):

FY2013 shall be \$8.00, FY2014 shall be \$8.50, FY2015 shall be \$9.00, FY2016 shall be \$9.50, FY2017 shall be \$10.00, FY2018 shall be \$10.50, FY2019 shall be \$11.00, FY2020 shall be \$11.50, FY2021 shall be \$12.00, FY2022 shall be \$12.50.

- (3) Tier 3 Residential Fees. The monthly Stormwater (drainage) Utility Fee for each residential dwelling unit in Tier 3 shall be as follows for each fiscal year (FY) that begins October 1 and continues through and ends the following September 30, with the first such fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):

FY2013 shall be \$12.00, FY2014 shall be \$12.75, FY2015 shall be \$13.50, FY2016 shall be \$14.25, FY2017 shall be \$15.00, FY2018 shall be \$15.75, FY2019 shall be \$16.50, FY2020 shall be \$17.25, FY2021 shall be \$18.00, FY2022 shall be \$18.75.

- (4) Tier 4 Residential Fees. The monthly Stormwater (drainage) Utility Fee for each residential dwelling unit in Tier 4 shall be as follows for each fiscal year (FY) that begins October 1 and continues through and ends the following September 30, with the first such fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):

FY2013 shall be \$20.00, FY2014 shall be \$21.25, FY2015 shall be \$22.50, FY2016 shall be \$23.75, FY2017 shall be \$25.00, FY2018 shall be \$26.25, FY2019 shall be \$27.50, FY2020 shall be \$28.75, FY2021 shall be \$30.00, FY2022 shall be \$31.25.

- (5) Non-residential Fees. The monthly Stormwater (drainage) Utility Fee per 1,000 square feet (SF) of impervious area on each non-residential property or allocated portion of a non-residential property shall be as follows for each fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):

FY2013 shall be \$2.59 per 1,000 SF, FY2014 shall be \$2.75 per 1,000 SF, FY2015 shall be \$2.91 per 1,000 SF, FY2016 shall be \$3.07 per 1,000 SF, FY2017 shall be \$3.23 per 1,000 SF, FY2018 shall be \$3.39 per 1,000 SF, FY2019 shall be \$3.55 per 1,000 SF, FY2020 shall be \$3.71 per 1,000 SF, FY2021 shall be \$3.88 per 1,000 SF, FY2022 shall be \$4.04 per 1,000 SF.

(d) *Minimum Monthly Stormwater (drainage) Utility Fee.* Notwithstanding the rates set forth above, the minimum monthly Stormwater (drainage) Utility Fee for all Customer accounts shall be the Fee for Tier 1 of the residential class for each fiscal year.


(e) *Revision of Fees or Rates.* The Stormwater (drainage) Utility Fee or the Stormwater (drainage) Utility rate set forth in this Section are subject to the annual (or more often as the City Council may desire) review by the City Council and may be revised by the City Council through an ordinance from time to time in accordance with this Article and the Act.

Section 4. Savings; Repealer. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Provided, however, that the repeal of such ordinances or parts of such ordinances, and the amendments and changes made by this Ordinance, shall not affect any right, property or claim which was or is vested in the City, or any act done, or right accruing or accrued, or established, or any suit, action or proceeding had or commenced before the time when this Ordinance shall take effect; nor shall said repeals, amendments or changes affect any offense committed, or any penalty or forfeiture incurred, or any suit or prosecution pending at the time when this Ordinance shall take effect under any of the ordinances or sections thereof so repealed, amended or changed; and to that extent and for that purpose the provisions of such ordinances or parts of such ordinances shall be deemed to remain and continue in full force and effect.


Section 5. Severability. The provisions of this Ordinance are severable, and if any phrases, clauses, sentences, paragraphs, sections, subsections, words, or provisions of this Ordinance or the application of any phrases, clauses, sentences, paragraphs, sections, subsections, words, or provisions hereof to any person, firm, corporation, entity, situation or circumstance is for any reason adjudged invalid or held unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the same shall not affect the validity of any other phrases, clauses, sentences, paragraphs, sections, subsections, words, or provisions of this Ordinance or the application of any other phrases, clauses, sentences, paragraphs, sections, subsections, words, or provisions of this Ordinance to any person, firm, corporation, entity, situation or circumstance, and the City Council declares that it would have adopted the valid portions of this Ordinance adopted herein without the invalid or unconstitutional phrases, clauses, sentences, paragraphs, sections, subsections, words or provisions, and to this end the remainder of this Ordinance shall remain in full force and effect.

Section 6. Effective Date. This Ordinance shall be in full force and effect from and after its passage and publication as required by law, including but not limited to the City Charter and ordinances.

**PASSED AND APPROVED** by the City Council of the Town of Addison, Texas this 23<sup>rd</sup> day of October, 2012.

  
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Todd Meier, Mayor

ATTEST:

By:   
\_\_\_\_\_  
Chris Terry, City Secretary

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
John Hill, City Attorney