



CITY OF MARSHALL

COMMISSION AGENDA INFORMATION SHEET:

MEETING DATE: October 27, 2016

PROJECT: Consider and act on finding that a Municipal Drainage Utility System would be beneficial in protecting the health and safety of citizens from loss of life and property, and approve a recommendation to adopt a fee schedule in support of a Municipal Drainage Utility System based on a previously approved Twenty-Year Drainage Capital Improvements Plan. (Public Services Director)

DESCRIPTION: During the City Commission meeting on August 25, 2016, the City Commission adopted a Twenty-Year Capital Improvements Plan (CIP) related to drainage and flood control measures needed to improve storm water runoff within Marshall. In order to address the drainage projects and maintenance, a fee schedule needs to be put in place that is both logical and fair to all concerned and that develops sufficient funds to support the needed improvements.

Under the Municipal Drainage Utility Systems Act, Chapter 522 of the Local Government Code, the City Commission has an obligation to set Municipal Drainage Utility System rates based on the cost of service, which will be shown as a separate monthly fee on each water bill to fund the needed drainage improvements and maintenance.

The City Commission recently adopted a Drainage CIP, so the next step in developing a fee schedule is determining an appropriate levy to support costs listed in the Twenty-Year CIP. We have been reviewing other cities across Texas and the methods and schedules used to support their drainage and maintenance costs. The latest detailed statewide survey of Municipal Drainage Utilities by Espey Consultants of Austin, Texas was updated in September 2013 and includes 98 existing drainage utilities. The 2013 survey has an average monthly residential fee of \$4.24, with a highest levy of \$14.00/month and a lowest levy of \$1.00/month.

The sole purpose of the levy is recovering the cost of services provided by the City of Marshall in furnishing drainage benefits as outlined in the Twenty-Year Drainage CIP. Revenue from the levy can only be used for drainage related maintenance activities or drainage related projects. The recently approved CIP has an estimated average annual cost, over twenty years, of \$435,250. An initial flat fee

per residential or commercial unit of \$3.50 per unit will generate approximately \$429,240 based on a \$3.50 fee per unit (\$3.50 X 10,220 units X 12 months) in revenue to begin seriously addressing long-standing drainage issues in Marshall. As noted in the Drainage CIP, funding from the levy may be used for projects, personnel, and equipment to maintain our right-of-ways, associated drainage, drainage ditches and creeks.

Attached is 1) a copy of the recently approved Twenty-Year CIP, 2) a copy of Subchapter C of Section 552 of the Texas Local Government Code, and 3) a "Proposed" version of the Municipal Drainage Utility System Ordinance that must be fully published in the local newspaper, in accordance with Subsection C of the Section 552 and then presented during a Public Hearing. After the Public Hearing, the City Commission may vote on the "proposed" Ordinance and hold another Public Hearing on the levy, in accordance with Subsection C of the Section 552. If the City Commission desires to move forward in creating the Municipal Drainage Utility System, our next steps are:

- 1) **(October 27th Meeting)** Drainage CIP was adopted on August 25th. We now need to determine an appropriate drainage fee, based on the number of active water meters and a uniform method for determining the fee based system, such as impermeable area.
- 2) **(November 6th, 20th, and December 4th Notices)** A Public Hearing must be held prior to adoption of an Ordinance creating the Drainage Utility and three notices must be publicized before adoption of the Ordinance; first notice must be on or 30 days before the Public Hearing (Notices must be published in the newspaper, with full copy of the Ordinance in the Notices, on November 6th, 20th, and December 4th).
- 3) **(December 8th Meeting)** Public Hearing date and Ordinance consideration and approval.
- 4) **(December 11th – December 26th – January 8th Notices)** A second Public Hearing must be held regarding the fee schedule prior to levying the Drainage Utility Fee charges and three notices must be publicized before levying the fees; first notice must be on or 30 days before the Public Hearing (Notices must be published in the newspaper, with full copy of the Ordinance and rates in the Notices, on December 11th, 26th, and January 8th).
- 5) **(January 12th Meeting)** Public Hearing date on fees to be levied; consideration and approval of fees.
- 6) **(January 2017)** Begin billing the drainage utility fee in late January 2017 (after Public Hearing on January 12th).
- 7) One of the first actions to take is to fund a drainage utility Master Plan by issuance of a Request for Qualifications, which will be funded from the drainage utility fee. **(approval to advertise Drainage RFO in January 2017, award a contract in March/April 2017).**

Under Chapter 552 of the Local Government Code, the following may be exempted from a drainage utility levy:

- 1) State agencies
- 2) Counties
- 3) Cities
- 4) School districts
- 5) Private businesses with their own privately owned drainage
- 6) Property held in its natural state
- 7) Unimproved subdivided lots
- 8) Religious institutions

COST: N/A

FUNDING:

Acct. Name & No
To Be Determined

Original Budget
To Be Determined

RECOMMENDED

ACTION:

Consider 1) approval of a finding that a Municipal Drainage Utility System would be beneficial in protecting the health and safety of citizens from loss of life and property, and 2) approving a fee schedule in support of the Municipal Drainage Utility System in the City of Marshall. (Public Services Director)

CITY CONTACT: J. C. Hughes, Public Services Director 903-503-4503

ATTACHMENTS:

- Twenty-Year Capital Improvements Plan
- Local Government Code – Chapter 552
- RPS Espey – Texas Municipal Drainage Utilities Survey – Sept 2013
- “Proposed” Municipal Drainage Utility System Ordinance



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Texas Municipal Drainage Utilities-September 2013

	Population	Single-Family ERU Rate-\$/Month
Abilene	115,930	\$2.45
Addison	13,700	\$10.00
Allen	76,600	\$3.00
Amarillo	185,525	\$2.51
Arlington	367,197	\$4.25
Austin	709,893	\$9.20
Azle	11,164	\$3.00
Baytown	68,714	\$1.50
Bedford	49,902	\$3.50
Belton	18,277	\$3.00
Benbrook	22,850	\$6.50
Bryan	67,266	\$2.80
Burkburnett	10,927	\$1.50
Cibolo	18,000	\$4.00
Cleburne	30,400	\$2.75
College Station	84,000	\$5.00
Colleyville	23,210	\$7.00
Converse	18,643	\$2.43
Coppell	39,460	\$1.00
Corinth	19,556	\$6.00
Crowley	12,920	\$1.75
Dallas	1,280,500	\$7.77
Deer Park	32,706	\$1.32
Denton	109,561	\$5.45
Desoto	47,600	\$6.00
Dickinson	18,000	\$4.00
Eagle Pass	27,183	\$3.00
EL Paso	592,099	\$2.97
Eules	53,400	\$2.50
Fairview	9,100	\$5.75
Flower Mound	65,851	\$3.90
Fort Worth	686,850	\$5.40
Fredericksburg	11,305	\$1.00
Frisco	116,969	\$2.00
Gainesville	16,569	\$3.50



Galveston	57,500	\$7.00
Garland	224,750	\$2.88
Georgetown	45,342	\$4.75
Glenn Heights	11,511	\$5.08
Grand Prairie	161,550	\$3.76
Grapevine	48,583	\$4.00
Haltom City	40,132	\$4.89
Harker Heights	26,700	\$6.00
Hewitt	13,588	\$2.75
Highland Village	15,738	\$5.11
Houston	2,099,642	\$5.80
Hurst	38,996	\$4.00
Irving	205,600	\$4.00
Jacinto City	10,780	Not Charging
Keller	37,700	\$8.00
Kennedale	7,284	\$2.50
Killeen	102,003	\$6.00
Kingsville	26,322	\$1.25
La Marque	14,732	Not Charging
Lancaster	36,225	\$7.97
Laredo	215,484	\$6.50
Leon Valley	11,020	\$3.68
Little Elm	25,898	\$3.35
Live Oak	14,503	\$5.50
Lockhart	14,237	\$2.00
Lubbock	212,365	\$14.00
Mansfield	51,300	\$3.50
McKinney	112,000	\$2.75
Mesquite	136,750	\$3.00
Mission	77,058	\$1.50
Mount Vernon	2,662	\$3.00
New Braunfels	51,066	\$4.42
North Richland Hills	64,050	\$2.58
Plano	255,700	\$3.30
Portland	18,500	\$3.00
Prosper	10,500	\$4.00
Richardson	103,201	\$3.75
Richland Hills	8,300	\$9.50
River Oaks	7,567	\$4.00



Round Rock	92,392	\$2.75
Rowlett	54,869	\$5.50
Saginaw	18,950	\$3.00
San Angelo	93,200	\$4.00
San Antonio	1,306,900	\$4.25
San Marcos	50,371	\$6.74
Schertz	30,000	\$3.80
Sealy	6,150	\$2.00
Selma	5,540	\$4.12
Southlake	26,224	\$8.00
Stephenville	17,050	\$3.00
Sunset Valley	468	\$4.00
Taylor	15,191	\$1.00
Temple	60,000	\$3.00
The Colony	40,206	\$2.50
Trophy Club	7,832	\$6.00
Tyler	101,106	6% water utilities billing
Universal City	18,530	\$3.08
University Park	24,182	\$4.85
Watagua	24,150	\$12.00
Weatherford	25,557	\$3.00
Webster	9,930	\$1.24
White Settlement	16,543	\$4.62
Wichita Falls	103,876	\$3.55
Total Count	Min	Average
98	468	\$4.24
		Median
		\$3.76
	Max	High
	2,099,642	\$14.00
		Low
		\$1.00
		Mode
		\$3.00

DRAINAGE FUND - TWENTY YEAR CAPITAL IMPROVEMENTS PLAN - 2037 PLAN

(All project values are in thousands of dollars)
 2017 - 2037 TWENTY YEAR DRAINAGE CIP
 Version #1 - Aug. 2016 (jch)

PROJECT FISCAL YEAR	CITY COMMISSION APPROVED 08-25-2016										FUNDING SOURCES				Total
	2017	2018	2019	2020	2021	2022-2026	2027-2032	2033-2037	Bonds	GF	Grants	Drain Sys	Reserves		
PROPOSED PROJECTS (DRAINAGE SYSTEM FUND)	TOTAL	2017	2018	2019	2020	2021	2022-2026	2027-2032	2033-2037	Bonds	GF	Grants	Drain Sys	Reserves	Total
Drainage - Annual Misc. Bridge & Culverts (\$25K/yr.)	\$ 500	\$ 25	\$ 25	\$ 25	\$ 25	\$ 25	\$ 125	\$ 125	\$ 125				\$ 500		\$ 500
Drainage - Annual Misc. Drainage Projects (\$35K/yr.)	\$ 700	\$ 35	\$ 35	\$ 35	\$ 35	\$ 35	\$ 175	\$ 175	\$ 175				\$ 700		\$ 700
Drainage - Rehab Culverts - N. Franklin at UPRR Bridge & Drainage	\$ 125	\$ 125											\$ 125		\$ 125
Drainage - Rehab Culverts - N. Grove at UPRR Bridge & Drainage	\$ 100	\$ 100											\$ 100		\$ 100
Drainage - Detention - Cox Creek (Donna/Karen to Hwy 59.)	\$ 250						\$ 250						\$ 250		\$ 250
Drainage - Engineering - Cox Creek (Donna/Karen to Hwy 59.)	\$ 50						\$ 50						\$ 50		\$ 50
Drainage - Detention - Upper Happy Hollow (Milton to Carter)	\$ 500						\$ 500						\$ 500		\$ 500
Drainage - Engineering - Upper Happy Hollow (Milton to Carter)	\$ 50						\$ 50						\$ 50		\$ 50
Drainage - Detention - Upper Parker Creek (Old T & P Ponds Site)	\$ 2,500						\$ 1,750						\$ 625		\$ 2,500
Drainage - Engineering - Upper Parker Creek (Old T & P Ponds Site)	\$ 75						\$ 75						\$ 75		\$ 75
Drainage - Detention - Town Branch (Hwy. 80 downstream to Hwy. 59)	\$ 700						\$ 700						\$ 150		\$ 700
Drainage - Engineering - Town Branch (Hwy. 80 downstream to Hwy. 59)	\$ 50						\$ 50						\$ 50		\$ 50
Drainage - Detention - Upper Turtle Creek (Sanford to So. Washington)	\$ 600						\$ 600						\$ 600		\$ 600
Drainage - Engineering - Upper Turtle Creek (Sanford to So. Washington)	\$ 60						\$ 60						\$ 60		\$ 60
Drainage - Parker Cr. - Clean/Widen Creek (Below Old Elysian Fields Rd.)	\$ 500						\$ 100	\$ 100	\$ 100				\$ 500		\$ 500
Drainage - Alamo Blvd. (Replace culverts under sidewalk at City Hall)	\$ 80												\$ 45		\$ 80
Drainage - Bell Cut-Off Install Concrete Crossing & Drainage at RR	\$ 80												\$ 65		\$ 80
Drainage - Buck Sherrill Rd. (Large box culvert and headwall)	\$ 75												\$ 75		\$ 75
Drainage - Carter/Youngsdale Streets Drainage (Consider bldg. removals)	\$ 200												\$ 200		\$ 200
Drainage - Country Club (406) Drainage (New/larger culverts and drains)	\$ 100												\$ 100		\$ 100
Drainage - Cox Road Double Box Culvert (Large box culvert and headwall)	\$ 75												\$ 75		\$ 75
Drainage - Grove-South (Old Dorm) Drainage (Consider bldg. removal)	\$ 200						\$ 200						\$ 200		\$ 200
Drainage - Houston-West (1200) Drainage (Improvements upstream)	\$ 60												\$ 60		\$ 60
Drainage - Hynson/5th Street Drainage (Culverts - enlarge/replace)	\$ 50												\$ 50		\$ 50
Drainage - Sanford Street (406) Drainage (Repairs and improvements)	\$ 60												\$ 60		\$ 60
Drainage - Warren Drive (1011) Drainage (Add catch basin and drain)	\$ 15												\$ 15		\$ 15
Drainage - Washington-South (600) Drainage (Consider bldg. removal)	\$ 150												\$ 150		\$ 150
Drainage - Wingwood Terrace Drainage (Culverts - enlarge/replace)	\$ 50												\$ 50		\$ 50
Drainage - Yates (400) Bridge Culvert & Drainage (Replace culverts)	\$ 25												\$ 25		\$ 25
Drainage System CIP Sub-Total	\$ 8,035	\$ 700	\$ 1,545	\$ 2,660	\$ 910	\$ 820	\$ 700	\$ 400	\$ 300	\$ -	\$ -	\$ 2,535	\$ 5,500	\$ -	\$ 8,035
Equipment - Drainage Utility System (Lease Purchase Equipment)	\$ 1,225	\$ 50	\$ 50	\$ 50	\$ 50	\$ 50	\$ 300	\$ 325	\$ 350				\$ 1,225		\$ 1,225
Personnel - Drainage Utility System (Three Full-Time Employees)	\$ 1,980	\$ 100	\$ 103	\$ 106	\$ 108	\$ 112	\$ 115	\$ 625	\$ 710				\$ 1,980		\$ 1,980
Drainage Utility System Equip. and Personnel Sub-Total	\$ 3,205	\$ 150	\$ 153	\$ 156	\$ 159	\$ 162	\$ 415	\$ 950	\$ 1,060	\$ -	\$ -	\$ -	\$ 3,205	\$ -	\$ 3,205
Drainage Utility System Total	\$ 11,240	\$ 850	\$ 1,698	\$ 2,816	\$ 1,069	\$ 982	\$ 1,115	\$ 1,350	\$ 1,360	\$ -	\$ -	\$ 2,535	\$ 8,705	\$ -	\$ 11,240

\$8,705,000/20 years = approximately \$435,250 needed per year

~~be received by and all the security pledged to the authority by all municipalities is available to the authority to secure bonds issued to provide necessary construction funds. A contract used by the authority to secure bonds to finance its plant and facilities must be submitted by the authority to the attorney general for examination. If the attorney general approves the contract and bonds, the contract is incontestable.~~

~~Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 18.06, eff. Sept. 1, 1995, Acts 2001, 77th Leg., ch. 1420, Sec. 8.349, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 402.023 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.~~

SUBCHAPTER C. MUNICIPAL DRAINAGE UTILITY SYSTEMS

Sec. 552.041. SHORT TITLE. This subchapter may be cited as the Municipal Drainage Utility Systems Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.041 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.042. LEGISLATIVE FINDING. (a) The legislature finds that authority is needed to:

- (1) permit municipalities to establish a municipal drainage utility system within the established service area;
- (2) provide rules for the use, operation, and financing of the system;
- (3) protect the public health and safety in municipalities from loss of life and property caused by surface water overflows, surface water stagnation, and pollution arising from nonpoint source runoff within the boundaries of the established service area;
- (4) delegate to municipalities the power to declare, after a public hearing, a drainage system created under this subchapter to be a public utility;

(5) prescribe bases on which a municipal drainage utility system may be funded and fees in support of the system may be assessed, levied, and collected;

(6) provide exemptions of certain persons from this subchapter; and

(7) prescribe other rules related to the subject of municipal drainage.

(b) This subchapter is remedial.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(b), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.042 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.043. APPLICATION OF SUBCHAPTER TO MUNICIPALITIES.

This subchapter applies to any municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(c), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.043 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.044. DEFINITIONS. In this subchapter:

(1) (A) "Benefitted property" means an improved lot or tract to which drainage service is made available under this subchapter.

(B) "Benefitted property," in a municipality with a population of more than 1.18 million located primarily in a county with a population of 2 million or more which is operating a drainage utility system under this chapter, means a lot or tract, but does not include land appraised for agricultural use, to which drainage service is made available under this subchapter and which discharges into a creek, river, slough, culvert, or other channel that is part of the municipality's drainage utility system. Sections 552.053(c)

(2) and (c)(3) do not apply to a municipality described in this subdivision.

(2) "Cost of service" as applied to a drainage system service to any benefitted property means:

(A) the prorated cost of the acquisition, whether by eminent domain or otherwise, of land, rights-of-way, options to purchase land, easements, and interests in land relating to structures, equipment, and facilities used in draining the benefitted property;

(B) the prorated cost of the acquisition, construction, repair, and maintenance of structures, equipment, and facilities used in draining the benefitted property;

(C) the prorated cost of architectural, engineering, legal, and related services, plans and specifications, studies, surveys, estimates of cost and of revenue, and all other expenses necessary or incident to planning, providing, or determining the feasibility and practicability of structures, equipment, and facilities used in draining the benefitted property;

(D) the prorated cost of all machinery, equipment, furniture, and facilities necessary or incident to the provision and operation of draining the benefitted property;

(E) the prorated cost of funding and financing charges and interest arising from construction projects and the start-up cost of a drainage facility used in draining the benefitted property;

~~(F) the prorated cost of debt service and reserve~~
requirements of structures, equipment, and facilities provided by revenue bonds or other drainage revenue-pledge securities or obligations issued by the municipality; and

(G) the administrative costs of a drainage utility system.

(3) "Drainage" means bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural or artificial watercourses.

(4) "Drainage charge" means:

(A) the levy imposed to recover the cost of the service of the municipality in furnishing drainage for any benefitted property; and

(B) if specifically provided by the governing body of the municipality by ordinance, an amount made in contribution to funding of future drainage system construction by the municipality.

(5) "Drainage system" means the drainage owned or controlled in whole or in part by the municipality and dedicated to the service of benefitted property, including provisions for additions to the system.

(6) "Facilities" means the property, either real, personal, or mixed, that is used in providing drainage and included in the system.

(7) "Public utility" means a drainage service that is regularly provided by the municipality through municipal property dedicated to that service to the users of benefitted property within the service area and that is based on:

(A) an established schedule of charges;

(B) the use of the police power to implement the service; and

(C) nondiscriminatory, reasonable, and equitable terms as declared under this subchapter.

(8) "Service area" means the municipal boundaries and any other land areas outside the municipal boundaries which, as a result ~~of topography or hydraulics, contribute overland flow into the~~ watersheds served by the drainage system of a municipality; provided, however, that in no event may a service area extend farther than the boundaries of a municipality's current extraterritorial jurisdiction, nor, except as provided by Section 552.0451, may a service area of one municipality extend into the boundaries of another municipality. The service area is to be established in the ordinance establishing the drainage utility. Provided, that no municipality shall extend a service area outside of its municipal boundaries except:

(A) a municipality of more than 500,000 population located within 50 miles of an international border;

(B) a municipality all or part of which is located over or within the Edwards Aquifer recharge zone or the Edwards Aquifer

transition zone, as designated by the Texas Natural Resource Conservation Commission; or

(C) as provided by Section 552.0451.

(9) "User" means the person or entity who owns or occupies a benefitted property.

(10) "Improved lot or tract" means a lot or tract that has a structure or other improvement on it that causes an impervious coverage of the soil under the structure or improvement.

(11) "Wholly sufficient and privately owned drainage system" means land owned and operated by a person other than a municipal drainage utility system the drainage of which does not discharge into a creek, river, slough, culvert, or other channel that is part of a municipal drainage utility system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(d), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991; Acts 1993, 73rd Leg., ch. 674, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 773, Sec. 1, eff. June 18, 1993; Acts 1995, 74th Leg., ch. 35, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 76, Sec. 11.258, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 633, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 13.22, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 108, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 520 (S.B. 688), Sec. 1, eff. June 16, 2007.

Renumbered from Local Government Code, Section 402.044 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(5), eff. April 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 101, eff. September 1, 2011.

Sec. 552.045. ADOPTION OF SYSTEM; RULES. (a) Subject to the requirements in Subsections (b) and (c), the governing body of the

municipality, by a majority vote of its entire membership, may adopt this subchapter by an ordinance that declares the adoption and that declares the drainage of the municipality to be a public utility. *

(b) Before adopting the ordinance, the governing body must find that:

(1) the municipality will establish a schedule of drainage charges against all real property in the proposed service area subject to charges under this subchapter;

(2) the municipality will provide drainage for all real property in the proposed service area on payment of drainage charges, except real property exempted under this subchapter; and

(3) the municipality will offer drainage service on nondiscriminatory, reasonable, and equitable terms.

(c) Before adopting the ordinance, the governing body must publish a notice in a newspaper of general circulation in the municipality stating the time and place of a public hearing to consider the proposed ordinance. The proposed ordinance must be published in full in the notice. The governing body shall publish the notice three times before the date of the hearing. The first publication must occur on or before the 30th day before the date of the hearing.

(d) After passage of the ordinance adopting this subchapter, the municipality may levy a schedule of drainage charges. The municipality must hold a public hearing on the charges before levying ~~the charges. The municipality must give notice of the hearing in the~~ manner provided by Subsection (c). The proposed schedule of drainage charges, as originally adopted or as revised, must be published in the notice.

(e) The municipality by ordinance may adopt and enforce rules as it considers appropriate to operate the drainage utility system. Provided, however, that the prohibitions contained in Section 212.003 (a) of the Local Government Code relating to quasi-zoning and other land use regulations in the extraterritorial jurisdiction of a municipality shall apply to any rule or ordinance adopted or enacted by the municipality under this Act, except that rates may be established using impervious cover measurements relating to land use and building size.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(e), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.045 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.0451. EXTENSION OF SERVICE AREA BY CERTAIN MUNICIPALITIES. (a) A municipality with a population of more than 900,000 located in one or more counties with a population of less than 1.5 million as of the 1990 federal census may extend its service area:

(1) into the boundaries of another municipality if:

(A) before the extension water from the municipality to which the service area is to be extended regularly drains into the drainage system of the municipality extending its service area; and

(B) the extension is provided for by an interlocal agreement between the municipalities; or

(2) beyond its municipal boundaries into an unincorporated area of its extraterritorial jurisdiction if:

(A) before the extension water from the area to which the service area is to be extended regularly drains into the drainage system of the municipality extending its service area; and

(B) the extension is provided for by an interlocal agreement between the municipality extending its service area and the county containing the area to which the service area is to be extended.

(b) An interlocal agreement under Subsection (a) may:

(1) contain provisions necessary for the operation of a drainage system within the area to which the service area is extended; and

(2) provide for charges for treatment of drainage water and methods of assessment of the charges to an owner of a lot or tract of benefitted property in the area to which the service area is extended.

(c) Charges and methods of assessment agreed to under Subsection (b)(2) must comply with Section 552.047.

Added by Acts 1993, 73rd Leg., ch. 773, Sec. 2, eff. June 18, 1993.
Renumbered from Local Government Code, Section 402.0451 by Acts 2007,
80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1,
2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(6),
eff. April 1, 2009.

Sec. 552.046. INCORPORATION OF EXISTING FACILITIES. The
municipality may incorporate existing drainage facilities, materials,
and supplies into the drainage utility system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended
by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991.
Renumbered from Local Government Code, Section 402.046 by Acts 2007,
80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1,
2009.

Sec. 552.047. DRAINAGE CHARGES. (a) The governing body of the
municipality may charge a lot or tract of benefitted property for
drainage service on any basis other than the value of the property,
but the basis must be directly related to drainage and the terms of
the levy, and any classification of the benefitted properties in the
municipality must be nondiscriminatory, equitable, and reasonable.

~~(b) In setting the schedule of charges for drainage service,~~
the governing body must base its calculations on an inventory of the
lots and tracts within the service area. The governing body may use
approved tax plats and assessment rolls for that purpose. The
governing body may also consider the land use made of the benefitted
property. The governing body may consider the size, in area, the
number of water meters, and topography of a parcel of benefitted
property, in assessing the drainage charge to the property.

(c) The governing body may fix rates for drainage charges in
advance and may change, adjust, and readjust the rates and charges
for drainage service from time to time. The rates must be equitable
for similar services in all areas of the service area.

(d) Unless a person's lot or tract is exempted under this subchapter, the person may not use the drainage system for the lot or tract unless the person pays the full, established, drainage charge.

(e) Users residing within the established service area, but outside the municipality's boundaries, may appeal rates established for drainage charges under Section 13.043(b), Water Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 11.259, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 633, Sec. 2, eff. Sept. 1, 1997.

Renumbered from Local Government Code, Section 402.047 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 170 (H.B. 1600), Sec. 2.87, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 171 (S.B. 567), Sec. 87, eff. September 1, 2013.

Sec. 552.048. BILLINGS; DEPOSIT NOT REQUIRED. (a) The municipality may bill drainage charges, identified separately, with the municipality's other public utility billings. Any delinquent billings may be collected on the benefitted property under the procedure prescribed by this subchapter.

(b) The municipality may not require a deposit for drainage service as a precondition to accepting surface flow in the drainage utility system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.048 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.049. SEGREGATION OF INCOME. The income of a drainage utility system must be segregated and completely identifiable in municipal accounts. If drainage charges are solely for the cost of

service, the municipality may transfer the charges in whole or in part to the municipal general fund, except for any part collected outside municipal boundaries and except for any part pledged to retire any outstanding indebtedness or obligation incurred, or as a reserve for future construction, repair, or maintenance of the drainage system. If the governing body has levied, in the drainage charge, an amount in contribution to the funding of future system improvements, including replacement, new construction, or extension, that amount is not transferable to the general fund.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(f), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.049 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.050. DELINQUENT CHARGES. (a) Any charge due hereunder which is not paid when due may be recovered in an action at law by the municipality. In addition to any other remedies or penalties provided at law or in this subchapter, failure of a user of the municipal utilities within the service area to pay the charges promptly when due shall subject such user to discontinuance of any utility services provided by the municipality, and municipalities are ~~hereby empowered to enforce this provision against delinquent users.~~ The employees of the utility established in accordance with this subchapter shall have access, at all reasonable times, to any benefitted properties served by the drainage utility for inspection or repair or for the enforcement of the provisions of this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991. Renumbered from Local Government Code, Section 402.050 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.051. DRAINAGE REVENUE BONDS. By majority vote of the governing body, the municipality may issue drainage revenue bonds. The municipality may use Chapter 1201, Government Code. In addition, the municipality may pledge income received by contracts for the provision of drainage to other governments or governmental subdivisions located inside or outside the service area.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991; Acts 2001, 77th Leg., ch. 1420, Sec. 8.350, eff. Sept. 1, 2001. Renumbered from Local Government Code, Section 402.051 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.052. DISCONTINUATION OF DRAINAGE SYSTEM. (a) If, after at least five years of substantially continuous operation of a municipal drainage system, the governing body of the municipality determines that the system should be discontinued, that the powers under this subchapter should be revoked, and that provision for municipal drainage should be made by other revenues, the governing body may adopt an ordinance to that effect after providing notice and a public hearing as provided by Section 552.045.

(b) If the municipality discontinues a system under Subsection (a), it may not adopt a system under this subchapter for at least five years after the discontinuation.

(c) A discontinuation does not affect a written obligation incurred by the municipality for funding or for the purchase of equipment, materials, or labor for the drainage system that is not then fully paid or otherwise discharged.

(d) A claim for damages based on an alleged failure of the drainage system that is filed with the municipality before the adoption of the ordinance discontinuing the drainage system is not abated by the discontinuation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1230, Sec. 1(g), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991.

Renumbered from Local Government Code, Section 402.052 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.77(7), eff. April 1, 2009.

Sec. 552.053. EXEMPTIONS. (a) A governmental entity or person described by Subsection (b) and a lot or tract in which the governmental entity or person holds a freehold interest may be exempt from this subchapter and all ordinances, resolutions, and rules adopted under this subchapter.

(b) The following may be exempt:

- (1) this state;
- (2) a county;
- (3) a municipality;
- (4) a school district.

(c) The following shall be exempt from the provisions of any rules or ordinances adopted by a municipality pursuant to this Act:

(1) property with proper construction and maintenance of a wholly sufficient and privately owned drainage system;

(2) property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the municipality in which the property is located for maintenance; and

(3) a subdivided lot, until a structure has been built on the lot and a certificate of occupancy has been issued by the municipality in which the property is located.

(d) A municipality may exempt property owned by a religious organization that is exempt from taxation pursuant to Section 11.20, Tax Code, from drainage charges under this subchapter.

(e) The following property is exempt from drainage charges under Section 552.047 and all ordinances, resolutions, and rules adopted under this subchapter:

(1) property owned by a county in which a municipality described by Section 552.044(8)(A) is located;

(2) property owned by a school district located wholly or partly in a municipality described by Section 552.044(8)(A); and

(3) property owned by a municipal housing authority of a municipality described by Section 552.044(8)(A).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991; Acts 1993, 73rd Leg., ch. 674, Sec. 2, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 773, Sec. 3, eff. June 18, 1993. Renumbered from Local Government Code, Section 402.053 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 278 (S.B. 874), Sec. 1, eff. May 30, 2009.

Acts 2009, 81st Leg., R.S., Ch. 539 (S.B. 1522), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 16.006, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1230 (S.B. 609), Sec. 1, eff. June 17, 2011.

Sec. 552.054. EFFECT OF SUBCHAPTER. This subchapter does not:

(1) enhance or diminish the authority of a home-rule municipality to establish a drainage utility under Article XI, Section 5, of the Texas Constitution;

~~(2) preclude a municipality from utilizing revenues, other than drainage utility revenues, for drainage purposes; or~~

(3) preclude a municipality from imposing impact fees or other charges for drainage authorized by law.

Added by Acts 1989, 71st Leg., ch. 1230, Sec. 1(h), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 852, Sec. 1, eff. June 16, 1991.

Renumbered from Local Government Code, Section 402.054 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

SUBCHAPTER D. IMPROVEMENTS TO WATER AND SEWER SYSTEMS IN CERTAIN MUNICIPALITIES

Sec. 552.061. APPLICATION OF SUBCHAPTER TO CERTAIN MUNICIPALITIES. To exercise authority under this subchapter, a municipality must:

- (1) have all or a major part of its territory in a county with a population of more than 25,000; or
- (2) be located in a county in which at least 60 percent of the total area is regularly covered by water and in which is located the majority of the total area of a wildlife refuge for species of wildlife on the federal endangered species list.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 83(b), eff. Aug. 28, 1989. Renumbered from Local Government Code, Section 402.061 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.062. DEFINITIONS. In this subchapter:

- (1) "Benefitted property" means a lot or tract to which water or sewer service is made available under this subchapter.
- (2) "Cost of improvement" includes engineering expenses, fiscal fees, and other expenses incident to the construction of improvements to the water system, sewer system, or both systems in addition to the other costs of the improvements.
- (3) "Sewer system improvements" means the laying of mains, laterals, and extensions and all appliances and necessary adjuncts required for the sanitary disposal of excreta and offal from the area in which the improvements are made but does not include off-site mains, laterals, and extensions and appliances and adjuncts necessary to connect the improvements to the existing sewer system operated by the municipality.
- (4) "Water system improvements" means the laying of a water main with gates, tees, crosses, taps, meter boxes, manholes, or extensions, and any other appurtenances required to furnish water for domestic or commercial purposes to the area in which the improvements are constructed, but does not include any off-site appurtenances required to connect the improvements to the existing water system operated by the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 402.062 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.063. MUNICIPAL AUTHORITY. (a) The municipality may improve a water works system or sanitary sewer system within the municipal boundaries by constructing, extending, enlarging, or reconstructing the system.

(b) The governing body of the municipality may determine the need for improvements, may order the construction of the necessary improvements, and may contract for the improvements.

(c) The governing body may act under this subchapter through resolution, motion, order, or ordinance unless an ordinance is specifically required. The governing body may adopt, by resolution or ordinance, any rules appropriate to the exercise of its powers under this subchapter, including rules relating to notice and hearing under this subchapter.

(d) The governing body may not assess a special tax or assessment against a railway, street railway, or interurban right-of-way to defray a portion of the cost of the improvements to the municipal water or sanitary sewer system.

(e) This subchapter does not affect the law of this state relating to the duty of a municipality to furnish water or sewer service in its proprietary capacity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Renumbered from Local Government Code, Section 402.063 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.064. DECLARATION; COSTS; ESTIMATED ASSESSMENT. (a) In the ordinance or resolution that declares the need for the improvements, the municipality:

(1) must state the general nature and extent of the improvements; and

(2) may direct that detailed plans, specifications, and cost estimates for the improvements be prepared and submitted to the governing body.

(b) The cost of the improvements may be paid wholly by the municipality or partly by the municipality and partly by the benefitted property and its owners. If any part of the cost is to be paid by the benefitted property and its owners, the governing body of the municipality must prepare an estimate of the cost of the improvements. The governing body must prepare the estimate before any improvements are constructed, either before or after bids for the proposed construction are received by the municipality, but before the hearing required under this subchapter is held.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.
Renumbered from Local Government Code, Section 402.064 by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.76(a)(2), eff. April 1, 2009.

Sec. 552.065. ASSESSMENT PROVISIONS. (a) By ordinance, the governing body of the municipality may:

(1) assess not more than nine-tenths of the estimated cost of improvements against the benefitted property and the owners of that property;

(2) provide the time, terms, and conditions of payment and defaults of the assessments; and

(3) prescribe the interest rate on the assessment, not to exceed 10 percent a year.

(b) ~~The governing body may issue in the name of the~~ municipality assignable certificates in evidence of assessments levied under this section that declare the lien on the property and the liability of the owners whether named correctly or not. The governing body may set the terms and conditions of those certificates. If a certificate substantially states that the required proceeding relating to improvements referred to in the certificate has been held in compliance with law and that all the prerequisites to the fixing of an assessment lien against the property described in the certificate and the personal liability of the owner of the property have been performed, the certificate is prima facie evidence of all the matters recited in the certificate, and further proof is not required. In a suit on an assessment or reassessment in evidence of which a certificate may be issued under

AN ORDINANCE OF THE CITY OF MARSHALL, TEXAS, CREATING A NEW CHAPTER TITLED MUNICIPAL DRAINAGE UTILITY SYSTEM OF THE CITY OF MARSHALL CODE OF ORDINANCES; ESTABLISHING A MUNICIPAL STORM WATER UTILITY SYSTEM FEE SCHEDULE; PROVIDING FOR EXEMPTIONS AND CREDITS; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF:

WHEREAS, the City Commission of the City of Marshall, Texas (“City Commission”) has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Marshall, Texas (“City”) in promoting the public health, safety and welfare of the citizens by adopting a Municipal Drainage Utility System; and

WHEREAS, the City Commission desires to establish a Municipal Drainage Utility System, pursuant to 552.041, Subsection C, Municipal Drainage Utility Systems of the Texas Local Government Code; the City Commission has investigated and determined that a uniform schedule of drainage fees shall be applied against all real property in the proposed service area(s); and

WHEREAS, the City Commission further finds that it would be in the best interest of its citizens to provide for exemptions or credits to the drainage fees, pursuant to 552.041, Subsection C, Municipal Drainage Utility Systems of the Texas Local Government Code; as set forth herein below.

NOW, BE IT ORDAINED BY THE CITY COMMISSION OF MARSHALL, TEXAS, THAT:

SECTION 1. FINDINGS

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. CODE AMENDED

The Code of Ordinances of the City of Marshall, Texas is amended to establish a new Article to be titled Municipal Drainage Utility System.

SECTION 3. DRAINAGE UTILITY SYSTEM ESTABLISHED

A Municipal Drainage Utility System is hereby adopted and shall be implemented as provided by 552.041, Subsection C, Municipal Drainage Utility Systems of the Texas Local Government Code, and the Drainage Utility System is hereby found to be a municipal public utility.

SECTION 4. DRAINAGE SERVICE

The City of Marshall shall provide drainage systems for real property within its boundaries upon payment of determined drainage charges, exclude certain exempted real property as outlined by state statutes, and those fees, assessments, and charges will be based on nondiscriminatory, reasonable, and equitable terms.

SECTION 5. AUTHORITY TO LEVY CHARGES

The City of Marshall is hereby authorized to levy and bill drainage charges through the City of Marshall Water Utility Billing System, which will be separately identified from other the other utility billings.

SECTION 6. INCOME USES

The income from the Municipal Drainage Utility System shall be segregated and completely identifiable in the accounting system; funds received shall only be used for purposes that are directly and indirectly related to the Municipal Drainage Utility System as outlined in 552.041, Subsection C, Municipal Drainage Utility Systems of the Texas Local Government Code.

SECTION 7. RATES

System Fee Schedule – a separate deposit will not be required for drainage charges.

(A) The following fees are hereby established and shall be collected through the existing City water billing system for public utilities, pursuant other applicable law.

(B) Impervious Area.

(1) Rates shall be charged based on a property's contribution to the public storm water utility system. The contribution shall be based on the impervious area for the property.

(2) The storm water utility fee shall be established according to the following schedule on a monthly basis. The number of equivalent residential units (ERU) on a non-single family, non-exempt property shall be determined by the City Public Services Director or designee;

Property Type Rate

(a) Single-Family Residential \$3.50 per ERU

(b) Multiplexes and Apartments \$3.50 per ERU

(c) A minimum charge equivalent to \$3.50 shall be applied to all other non-exempt developed property, regardless of classification.

(3) Exemptions. The following shall not be assessed a Municipal Drainage Utility System Fee:

(a) Property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the City in which the property is located for maintenance.

(b) A subdivided lot, until a structure has been built on the lot and a Certificate of Occupancy has been issued by the City.

(c) Property with proper construction and maintenance of a wholly sufficient and privately owned drainage system.

(d) State property.

(e) Harrison County.

(f) Marshall Independent School District.

(g) City of Marshall.

- (h) Property owned by public or private institutions of higher education.
- (i) Property owned by a religious organization that is exempt from taxation pursuant to Section 11.20, Texas Tax Code, as amended.
- (j) The rates established above apply to the accounts maintained by the City for public utility services.
- (k) All billings, credits, exemptions and other procedures relating to this fee shall be subject to the provisions of the Act.

SECTION 8. APPEALS

- (A) Billing and payment disputes for administrative issues shall be subject to appeal procedures for other utility disputes.
- (B) Appeals for the following other reasons listed herein below, shall be directed to the City Public Services Director or designee, who shall render a written decision on such appeal within 30 days after receipt of a written notice of appeal from the property owner.
 - (a) Exemption has been assessed a drainage fee.
 - (b) Fee assessed is based on an incorrect determination of contribution to the drainage system.
 - (c) Fee is based on an incorrect determination of equivalent residential units.
 - (d) Fee is assessed on more than one utility account on an individual property.
- (C) Any property owner who disagrees with the decision of the Public Services Director or designee, may appeal the decision to the City Commission and whose decision shall be final.

SECTION 9. PENALTIES FOR NON-PAYMENT

All drainage fees charged hereunder are a part of the City of Marshall billing utility and shall be subject to the same penalties and remedies as allowed by ordinances and law.

SECTION 10. SAVINGS

All provisions of any Ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed Ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the Ordinance. Any remaining portions of said Ordinances shall remain in full force and effect.

SECTION 11. SEVERABILITY

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City of Marshall hereby declares that it would have passed this Ordinance, and each section, paragraph, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 12. OPEN MEETINGS

That the meetings at which this Ordinance was passed were conducted in strict compliance with the Texas Open Meetings Act (Texas Government Code Chapter 551).

DRAFT
10-27-16

SECTION 13. EFFECTIVE DATE

This Ordinance shall become effective from and after its adoption and publication as required by law; the fee schedule shall become effective on January 30, 2017.

PASSED, APPROVED this 27th day of October, 2016.

AYES: _____

NOES: _____

ABSTAINED: _____

PASSED, APPROVED AND ADOPTED this 10th day of November, 2016.

AYES: _____

NOES: _____

ABSTAINED: _____

APPROVED:

CHAIRMAN OF THE CITY COMMISSION
MARSHALL, TEXAS

ATTEST:

CITY SECRETARY