

ORDINANCE NO. 0-17-03

AN ORDINANCE OF THE CITY OF MARSHALL, TEXAS, AMENDING THE ARTICLE TITLED MUNICIPAL DRAINAGE UTILITY SYSTEM OF THE CITY OF MARSHALL CODE OF ORDINANCES; ESTABLISHING A FEE SCHEDULE FOR DRAINAGE CHARGES TO FUND AND OPERATE A MUNICIPAL DRAINAGE UTILITY SYSTEM; 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 fee schedule of charges to fund and operate a Municipal Drainage Utility System previously created by City Ordinance, 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 THEREFORE,**

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, Article titled Municipal Drainage Utility System is amended to establish a fee schedule of drainage charges in accordance with 552.041, Subsection C, Municipal Drainage Utility Systems of the Texas Local Government Code.

SECTION 3. DRAINAGE UTILITY SYSTEM ESTABLISHED

A Municipal Drainage Utility System was previously adopted and implemented as provided by 552.041, Subsection C, Municipal Drainage Utility Systems of the Texas Local Government Code, and the Drainage Utility System is a municipal public utility of the City of Marshall, Texas.

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 authorized to levy and bill drainage charges through the City of Marshall Water Utility Billing System, which will be separately identified from 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 to 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 the same 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 and were conducted in strict compliance with the Texas Open Meetings Act (Texas Government Code Chapter 551).

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 in February, 2017 after its passage and publication as required by law.

PASSED, APPROVED this 26th day of January, 2017

AYES: - 7 -

NOES: - 0 -

ABSTAINED: - 0 -

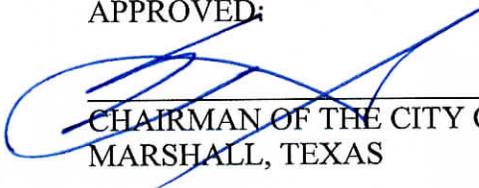
PASSED, APPROVED AND ADOPTED this 9th day of February, 2017.

AYES: 7

NOES: 0

ABSTAINED: 0

APPROVED:



CHAIRMAN OF THE CITY COMMISSION
MARSHALL, TEXAS

ATTEST:



CITY SECRETARY