

First Reading
September 4, 2014
Item No. 3.7

Second Reading
October 23, 2014
Item No. 6.18

ORDINANCE NO. 2014-00124

AN ORDINANCE AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS, WITH REGARD TO THE MUNICIPAL DRAINAGE UTILITY AND RELATED DEFINITIONS; ADOPTION OF STATE LAW; RELATED BILLING RULES AND PROCEDURES THEREFOR; APPEALS OF ASSESSMENT, BILLING, AND PAYMENT DISPUTES; DISCONTINUANCE OF SERVICE; REPEALING THE FORMULA AND SCHEDULE OF MUNICIPAL DRAINING CHARGES AS SET FORTH IN ORDINANCE NO. 2011-O0080; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Lubbock, Texas finds and determines that it is in the best interest of the health, safety, and welfare of the citizens of the City of Lubbock to make the following amendments to Chapter 22 of the Code of Ordinances of the City of Lubbock; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT Section 22.07.001 of the Code of Ordinances, City of Lubbock, Texas is hereby amended to read as follows:

Sec. 22.07.001 Findings

The city council of the City of Lubbock has found and does find that:

(1) The City of Lubbock will provide drainage to protect the public health and safety in the service area from loss of life and property caused by surface water overflows, surface water stagnation, and pollution arising from nonpoint source runoff for all real property in the proposed service area on payment of drainage charges, except real property exempted under Sections 552.053 or 580.003 of the Texas Local Government Code; and

(2) The City of Lubbock will offer drainage service on nondiscriminatory, reasonable and equitable terms.

(3) The City of Lubbock shall prescribe an Impervious Area basis on which the municipal drainage utility system is funded, and fees in support of the system may be assessed, levied and collected. As it relates to this charge, Impervious Area is defined as a surface which has become compacted or covered with a layer of material to the extent that it is resistant to infiltration by water. Impervious Area includes, but is not limited to, compacted soils, graveled surfaces subject to motorized vehicular traffic, walkways, buildings, parking lots, pavement, and ingress/egress driveways. Impervious Area shall not include sidewalks located in the public right-of-way. For purposes of this definition a "walkway" is a pedestrian way in the interior of a lot or tract that is not located in the public right-of-way.

(4) The City of Lubbock shall establish a schedule of drainage charges against all non-exempt real property located in the proposed service area, based on classification of the property as Residential or Non-Residential.

For the purposes of this Article, the following terms are defined:

(a) Residential Property is a tract of real property, upon which is located as the primary structure, a one-family dwelling unit or a two-family dwelling unit, as those terms are defined in Section 40.01.003(58) and (59), including all impervious surfaces located on said real property.

(b) Non-Residential Property is a contiguous tract of real property under common ownership, and not Residential Property, except property exempt pursuant to Sections 552.053 or 580.003 of the Texas Local Government Code.

(5) As it relates to the requirements of Section 552.053 of the Texas Local Government Code, charges shall initiate:

(a) for Residential Property, at such time the City of Lubbock building official has completed all required inspections and approved the property for release; or

(b) for Non-Residential Property, at such time an original "Certificate of Occupancy" has been issued by the City of Lubbock pursuant to Article 28.06 of the Code of Ordinances.

SECTION 2. THAT Section 22.07.002 of the Code of Ordinances, City of Lubbock, Texas is hereby amended to read as follows:

Section 22.07.002 Adoption of state law; creation of utility

The provisions of Subchapter C of Chapter 552 of the Texas Local Government Code are hereby adopted by the City of Lubbock. The City of Lubbock shall have full authority to operate a municipal drainage utility system pursuant to Subchapter C, Chapter 552, Texas Local Government Code; Article 11, Section 5, of the Texas Constitution; and the charter of the City of Lubbock, Texas. The drainage of the city is hereby declared to be a public utility.

SECTION 3. THAT Section 22.07.005 of the Code of Ordinances, City of Lubbock, Texas is hereby amended to read as follows:

Sec. 22.07.005 Billing; delinquent charges; discontinuation of other service

(1) All billings, credits, exemptions and other procedures, including penalties for delinquent payments, shall be as specified in Chapter 552, Subchapter C, Texas Local Government Code.

(2) Penalties and procedures for collection as are used for other utility billings by the City of Lubbock, where not in conflict with Chapter 552, Subchapter C, Texas Local Government Code, are hereby adopted for use as rules of the municipal drainage utility.

(3) Pursuant to Texas Local Government Code, Section 552.050, failure by a user of the municipal utilities within the service area to pay the charges when due shall subject such user to discontinuance of any utility services provided by the municipality.

SECTION 4. THAT Section 22.07.006 of the Code of Ordinances, City of Lubbock, Texas is hereby amended to read as follows:

Sec. 22.07.006 Schedule of drainage charges

(1) Drainage charges shall be set in accordance with Texas Local Government Code, Section 552.047, and shall be based on classifications directly related to drainage on and from the property. Revenue collected from the Stormwater Utility will be used solely to provide drainage to real property located within the service area.

(2) Drainage charges shall be in accordance with a schedule of charges adopted by resolution of the city council following a public hearing, as required by Section 552.045 of the Texas Local Government Code. Said resolution shall be placed on file at the office of the city secretary following passage, and made available upon request to the public. Such charges may be changed, adjusted, or readjusted by city council resolution, as may be required, and a current copy of such drainage charges shall be kept available at the office of the city secretary.

SECTION 5. THAT Section 22.07.007 of the Code of Ordinances, City of Lubbock, Texas is hereby amended to read as follows:

Sec. 22.07.007 Disputes; Appeals

(1) All disputes in connection with this Article shall be brought initially, and within six (6) months from the date it is claimed that said dispute arose, to the city engineer or his designee for resolution, which decision shall be rendered within thirty (30) days after having received written notice of the dispute from the landowner. Matters which may be disputed and appealed include, but are not limited to, the following:

(a) ordinary billing and payment disputes;

(b) assessment of a stormwater utility fee to exempt property, or property outside the City's jurisdictional area;

(c) incorrect determination of a certain property's contribution of stormwater into the stormwater system;

(d) duplicate assessment of a stormwater utility fee on utility accounts.

(2) Any appeal of the city engineer's decision shall be brought within fifteen (15) days of the date of the city engineer's decision to the Water Board of Appeals for an

informal hearing and dispute resolution procedure used in other utility disputes by the City of Lubbock. The Water Board of Appeals shall render a written decision on such appeal within thirty (30) days after having received a written notice of appeal from the landowner. A decision of the Water Board of Appeals shall be final.

SECTION 6. THAT the formula and schedule of municipal drainage charges as set forth in Exhibit "I" to Ordinance No. 2011-00080 is repealed in its entirety.

SECTION 7. THAT, unless otherwise provided herein, a violation of any provision of this Ordinance shall be deemed a misdemeanor punishable as provided by Section 1.01.004 of the Code of Ordinances of the City of Lubbock.

SECTION 8. THAT should any paragraph, section, sentence, phrase, clause or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 9. THAT the City Secretary of the City of Lubbock is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

SECTION 10. THAT this Ordinance shall become effective, except as may otherwise be provided herein, from and after its publication as provided by law.

AND IT IS SO ORDERED.

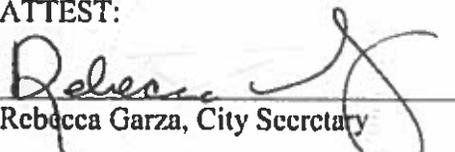
Passed by the City Council on first reading this 4th day of September, 2014.

Passed by the City Council on second reading this 23rd day of October, 2014.



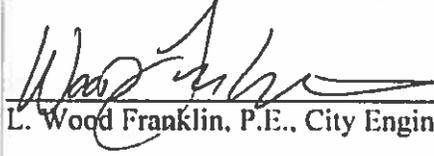
GLEN C. ROBERTSON, Mayor

ATTEST:



Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



L. Wood Franklin, P.E., City Engineer



Michael G. Keenum, P.E., Stormwater Engineer

APPROVED AS TO FORM:



Mitchell Satterwhite, First Assistant City Attorney

Ord. Stormwater Ord Amendment
8.25.14