

ORDINANCE NO. 2020-11-7

An Ordinance of the City of Plano, Texas, repealing and replacing Chapter 21, Utilities, Article I, In General, Section 21-2. Same – Charges, of the Code of Ordinances of the City of Plano to update the appeal process for calculating the size of the impervious area, change the description of average pollutant removal efficiency to be consistent with the recommendation of the Council of Governments and to modify the fees for residential and non-residential customers of Municipal Drainage Utility System; providing a severability clause, a repealer clause, a savings clause, a penalty clause, a publication clause and an effective date.

WHEREAS, on May 26, 2020 the City Council of the City of Plano, Texas adopted Ordinance No. 2020-5-14 creating a Municipal Drainage Utility System and on June 22, 2020 establishing monthly drainage charges for developed properties discharging water into the City's storm water drainage system, and repealing and replacing Ordinance Nos. 92-7-41 and 92-7-42 adopted on July 27, 1992 said ordinances being codified as Section 21-1 and 21-2 of Article I of Chapter 21 of the City Code of Ordinances (the "Code Sections"); and

WHEREAS, the City Council previously revised drainage fees and established and revised credits for best management practices by Ordinance No. 93-9-31 approved September 13, 1993, Ordinance No. 93-9-65 approved September 27, 1993, Ordinance No. 94-9-24 approved September 12, 1994, Ordinance No. 2000-10-4 approved October 16, 2000, Ordinance No. 2001-12-20 approved December 17, 2001, Ordinance No. 2002-9-12 approved September 9, 2002, Ordinance No. 2006-4-26 approved April 24, 2006, Ordinance No. 2013-3-9 approved March 25, 2013, Ordinance No. 2013-9-7 approved September 9, 2013, Ordinance No. 2014-9-4 approved September 8, 2014, Ordinance No. 2014-9-20 approved September 22, 2014, and Ordinance No. 2020-5-14 approved May 26, 2020; and

WHEREAS, the City is adopting this ordinance after notice and hearing and will, before January 1, 2021, conduct a hearing on the levy of the schedule of charges as required by Title 13, Subtitle A, Chapter 552, Subchapter C of the Texas Local Government Code and is authorized to adopt this ordinance and levy the schedule of charges pursuant to said subchapter, the City's Charter and its authority as a home-rule municipality; and

WHEREAS, the current revenues generated by the present drainage rates for residential and non-residential properties are not sufficient to: 1) cover the costs associated with the operating and maintenance of the storm drainage system sufficiently to satisfy the covenants in its Municipal Drainage Revenue Bonds; and 2) issue new revenue debt for the rehabilitation of the Collin Creek Drainage Culverts; and

WHEREAS, additional revisions to the code are necessary to update the appeal process for calculating the size of the impervious area and to change the description of average pollutant removal efficiency to be consistent with the recommendation of the Council of Governments; and

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WHEREAS, the City Council finds that it is appropriate to charge sufficient rates to allow for funding of future drainage systems; and

WHEREAS, the City Council further finds and determines that such modifications to drainage fees with the effective date of January 1, 2021 are in the best interest of the City and its citizens and the new rates are adopted as provided in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The City Council hereby repeals Chapter 21, Utilities, Article I, In General, Section 21-2. Same – Charges, in its entirety and replaces it with the following:

“Sec. 21-2. – Same - Charges.

- (a) There shall be a charge on each monthly utility statement for the municipal drainage utility system. The city manager or his designee is authorized to collect such charges.
- (b) Except as otherwise provided herein, billing, charges and collection procedures, including any delinquencies, shall be consistent with that of the water and sewer services and state and local law.
- (c) The drainage fee will be a separate line item on the utility statement and shall be clearly identified as a separate charge.
- (d) The following properties shall be exempt from the drainage charges set forth herein:
 - a. Property with proper construction and maintenance of a wholly sufficient and privately owned drainage system;
 - b. 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 for maintenance; and
 - c. A subdivided lot, until a structure has been built on the lot and a certificate of occupancy has been issued by the city.
- (e) The city manager or his designee(s) may, from time to time, adopt rules for the administration of the drainage charge.
- (f) The following rates are hereby established and shall be collected through the city's public utility billing department:

Residential Customer Class	Size of Impervious Area (in square feet)*	Monthly Fee
R-1	Less than 2,500	\$3.92
R-2	2,500 to less than 4,000	\$5.27
R-3	4,000 to less than 5,500	\$5.52
R-4	Greater than 5,500	\$7.08

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* Includes footprint of any roofed area (ex: home, detached garage, shed, building), driveways (concrete, asphalt, brick or stone), patios (concrete, brick, wood, or stone), decks, sidewalks (concrete, brick or stone), basketball/tennis court, compacted gravel surfaces, artificial turf covered areas, and parking lots (concrete, asphalt, or compacted gravel).

Duplex properties shall have the same monthly fee as R-1, R-2, R-3, and R-4 (depending on the size of the impervious area) if the duplex has only one meter. If each side of the duplex is individually metered, the fee for each half shall be one-half (1/2) the total fee as calculated for the duplex.

For all other properties including but not limited to apartment, commercial, industrial, office, religious institution, public or private school, and governmental and quasi-governmental entities, the monthly fee shall be based upon eleven and one fifth cents (\$0.115) per one hundred (100) square feet of total impervious area of the improved property. The minimum fee shall be three dollars and ninety-two cents (\$3.92) per property.

The new rates described in this section shall be effective for all bills rendered on or after January 1, 2021.

- (g) In setting the rates for drainage service, the city has based its calculations on an inventory of impervious areas of all improved properties within the service area. The inventory is the city's property management system which is maintained in the office of the director of engineering of the City of Plano.
- (h) The property owner may appeal the assessed drainage fee including the size of the impervious area which was determined by the city. For new customer accounts, there will be a ninety (90) day period to request an appeal from the date of the initial billing of the account. For all other customers, or for new customers whose request for appeal is received later than ninety (90) days after the date of the initial billing, approved credits will only be effective forward from the next billing cycle for the property after the date of the appeal request, and will not be allowed for any previous period. A Stormwater Utility Fee Appeal form with supporting documentation must be provided by the owner to verify that the city's impervious calculation is incorrect. Such documentation, in the form of a survey, site plan, or other documents must be presented to the director of engineering within (60) days of the owner's request for an appeal. The director of engineering shall have thirty (30) days following receipt of the documentation to approve or deny such appeal. During all appeal periods, the property owner shall be responsible for payment of fees. If the appeal warrants a reduction in the impervious area, a credit will be applied to the next practicable month's billing which will be based on the revised impervious area. The director of engineering may adopt procedures for such appeals as an administrative

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policy established by written report maintained in the engineering department of the city.

- (i) Those improved non-residential properties (including apartments) which practice stormwater management are eligible to receive a credit on their monthly billings. The application for such credit shall follow the procedures for appeal as set forth in subsection (h) above. The credit will be only for the impervious area within the area which receives the stormwater management technique.

(1) That area which receives approved street sweeping on a weekly basis will be eligible for up to a five (5) percent credit.

(2) That area which drains into an approved best management practice (BMP) will be eligible for a credit equal to the average pollutant removal efficiency of the BMP used. BMPs shall be designed and constructed in accordance with the NCTCOG iSWM Design Manual for Site Development and approved by the city. The average pollutant removal efficiency of the BMPs for use in calculating fee reductions shall be as follows:

Best Management Practice (BMP)	Average Pollutant Removal Efficiency
Oil-Grit Separator	10%
Grass Channel	25%
Filter Strip	26%
Enhanced Wet Swale	33%
Porous Concrete With Infiltration	35%
Green Roof	41%
Dry Detention Pond	43%
Enhanced Dry Swale	44%
Storm Water Wetland	47%
Sand Filter	49%
Storm Water Pond	49%
Underground Sand Filter	49%
Modular Porous Pavement With Infiltration	50%
Submerged Gravel Wetland	54%
Bioretention Area	54%
Planter Box	58%
Organic Filter	61%
Downspout Drywell	76%
Infiltration Trench	76%
Soakage Trench	76%
Alum Treatment	77%
Rain Harvesting	*
Proprietary Systems	**

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* Insufficient data to provide design removal efficiency.

** The performance of specific proprietary commercial devices and systems must be provided by the manufacturer and should be verified by independent third-party sources and data.

(3) In addition to the credit allowed for installation of BMPs, those improved non-residential properties (including apartments) that reduce the amount of impervious surface area on their site are eligible to receive a proportionate reduction on their monthly drainage fee billings. The reduction shall be calculated by taking the original impervious surface area minus the revised impervious surface area and using this amount to reduce the revised impervious surface area before calculating the monthly drainage fee.

(4) The credit methodology shall be an administrative policy as established by written report maintained in the engineering department of the city."

Section II. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

Section III. All provisions of the Code of Ordinances of the City of Plano, codified or uncoded, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano, codified or uncoded, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section IV. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

Section V. Any violation of the provisions or terms of this ordinance by any person, firm, or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VI. This Ordinance shall become effective after publication as required by law, but no earlier than January 1, 2021.

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DULY PASSED AND APPROVED this the 9th day of November, 2020.



Harry LaRosiliere, MAYOR

ATTEST:



Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:



Paige Mims, CITY ATTORNEY