

ORDINANCE NO. 2019-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS, AMENDING ARTICLE VII - DRAINAGE UTILITY, OF CHAPTER 47 - UTILITIES - OF THE CODE OF ORDINANCES, AMENDING CERTAIN ADMINISTRATIVE RULES FOR THE CITY OF FREDERICKSBURG DRAINAGE UTILITY; AMENDING THE SCHEDULE OF DRAINAGE UTILITY FEES IN ARTICLE 21.000 OF APPENDIX A TO THE CODE OF ORDINANCES; AMENDING THE EXEMPTIONS FROM DRAINAGE UTILITY REGULATION AND FEES; AND ESTABLISHING DRAINAGE UTILITY FEE CREDITS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS:

Section 1. That, Article VII “Drainage Utility”, of Chapter 47 “Utilities”, of the Code of Ordinances, is deleted in its entirety, and a replacement Article VII is substituted therefore and adopted as follows:

ARTICLE VII. - DRAINAGE UTILITY

Sec. 47-270. - Adoption.

This Article is hereby adopted and shall be known as the “Drainage Utility Article”.

Sec. 47-271. - Drainage utility.

- (a) *Declaration of purpose and findings.* The City Council of the City of Fredericksburg hereby finds, determines and declares that in order to protect the citizenry from the loss of life and property caused by surface water stagnation within the boundaries of the service area established herein, and in order to maintain and improve existing water drainage facilities belonging to the City of Fredericksburg, it is necessary and in the best interest of the public health and safety to establish a drainage utility, as authorized by state law. To this end, the City Council will establish a schedule of drainage charges against all real property in the service area established herein, subject to the limitations of state law, and the City shall provide drainage for all real property in the service area established herein on payment of the drainage charges, except as real property is exempted hereunder. The City of Fredericksburg will offer drainage service on nondiscriminatory, reasonable and equitable terms.
- (b) *Establishment and dedication of drainage utility assets.* The City Council hereby establishes the City of Fredericksburg Drainage Utility as a public utility and dedicates to the utility all City-owned property, real and personal, facilities, materials and supplies constituting the City’s drainage system as constituted on the effective date of this Article and as may be acquired in the future, to be used for the purpose of the Drainage Utility.

(c) *Establishment and revisions to drainage utility service area.*

- (1) The City Council hereby establishes the drainage utility service area as all real property in the City limits of the City of Fredericksburg, as the same may be hereafter expanded or amended.
- (2) Revisions to the drainage utility service area, other than expansion by way of annexation, shall be made only after the publication of notice and public hearing as required by state law.

Sec. 47-272. - Drainage utility fund.

- (a) A separate fund shall be created effective as of the effective date of this Article, known as the drainage utility fund, for the purpose of identifying and controlling all revenues and expenses attributable to the drainage utility. All unexpended drainage fees held by the City prior to the effective date of this Article shall be deposited into the drainage utility fund upon the effective date of this Article as the fund beginning balance. All drainage charges collected by the City after the effective date of this Article and such other monies as may be available to the City for the purpose of drainage shall be deposited in the drainage utility fund. Such utility revenues shall be used for the purposes of the creation, operation, planning, engineering, inspection, construction, repair, maintenance, improvement, reconstruction, administration and other reasonable and customary charges associated with the operation of a utility for the drainage utility of the City. It shall not be necessary that the expenses from the drainage utility fund for any authorized purpose specifically relate to any particular property from which the revenues for such purposes were collected.
- (b) All funds collected pursuant to this Article for creation, operation, planning, engineering, inspection, construction, repair, maintenance, improvement, reconstruction, administration and other reasonable and customary charges associated with the operation of a drainage utility shall be used solely for those purposes unless otherwise directed by the City Council for other drainage and water quality purposes not specified above. In the event a portion of the drainage revenues is pledged to retire any outstanding indebtedness or obligation incurred, or is collected or levied as a reserve or amount in contribution for future construction, repair or extension or maintenance of the utility assets, then such pledged portion of revenues may not be transferred to the general fund.
- (c) An annual report of the drainage utility revenues, expenses and programs shall be provided to City Council.

Sec. 47-273. – Assessment and collection of drainage utility fees.

- (a) The owner or occupant of any real property within the drainage utility service area, that receives any type of utility service (electricity, water and/or sewer) from the City of

Fredericksburg, shall be assessed a drainage utility fee based on the property's impact to the drainage utility of the City, as provided for in the fee schedules set forth in Article 21.000 of Appendix A to this Code of Ordinances.

- (b) Drainage utility fees assessed hereunder shall be added to and collected by way of the monthly City utility bill of each applicable owner or occupant, and all funds collected under this Section shall be deposited to the credit of the drainage utility fund of the City of Fredericksburg.

Sec. 47-274. - Exemptions.

The following shall be exempt from the provisions of this Article and any rules subsequently adopted pursuant to this Article:

- (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.
- (4) The State of Texas, and any lot or tract in which the State of Texas holds a freehold interest.
- (5) A school district, and any lot or tract in which a school district holds a freehold interest.

Sec. 47-2745. – Drainage utility fee credits for non-residential property.

An owner of non-residential real property may petition the City for a drainage utility fee credit based upon on-site storm water management controls that reduce the property's impact to the drainage utility of the City. Any petition under this Section shall be submitted on a form promulgated by the Director of Public Works and Utilities. The Director of Public Works and Utilities, or his/her designee, shall evaluate any petition filed under this Section and determine any appropriate drainage utility fee credit for non-residential property, based upon nondiscriminatory, reasonable and equitable criteria, in accordance with this Article.

The maximum allowable drainage utility fee credits that may be granted under this Section are set forth in the following table:

Credit Type	Maximum Allowable Drainage Utility Fee Credit	Examples
1. Vegetated Detention Facility	15% of total assessed drainage utility fee for subject property	On-site detention facilities which are designed and constructed to be vegetated which aids in preventing trash, debris, and pollutants from entering the downstream stormwater infrastructure.
2. Permanent Structural Detention Facility	10% of total assessed drainage utility fee for subject property	Detention facilities designed and constructed with concrete walls and/or bottoms.
3. Detention or Retention Pond Amenity	20% of total assessed drainage utility fee for subject property	Detention or retention facilities design in a manner that promotes use of adjacent spaces as open space.
4. Riparian Zone Preservation	10% of total assessed drainage utility fee for subject property	Development designed in such a way to enhance creek/drainage way health by removing invasive species and promoting a buffer zone of diverse, native plants to minimize erosion.
5. Permanent Best Management Practices ("BMP")	25% of total assessed drainage utility fee for subject property	Enhanced drainage swales, sand filtration, inlet trash collection, wet ponds, and stormwater wetlands.
6. Zero Discharge Credit	100% of total assessed drainage utility fee for subject property	Permanent structural controls which are designed to infiltrate, evapotranspire, or re-use stormwater so that it will not be discharged from the property.

Sec. 47-275. - Administration, rules and regulations.

The Director of Public Works and Utilities, or his/her designee, shall be responsible for administration of this Article. The Director of Public Works and Utilities, or his/her designee, shall be responsible for developing rules, regulations and procedures for administration and assessment

of the drainage utility fee and the consideration of variances; developing maintenance programs; and establishing drainage criteria and standards for operation of the drainage system subject to adoption by ordinance. The Director of Public Works and Utilities, or his/her designee, shall be responsible for developing and administering standards, criteria, rules and procedures for the treatment or prevention of pollution in drainage.

The Director of Public Works and Utilities, or his/her designee, shall be responsible for determining each property's impact to the drainage utility of the City based on reliable data, including but not limited to, Gillespie County Appraisal District data, GIS database data, aerial photography, information received by the City through the building permit process, or other reliable means for determining impervious area. The Director of Public Works and Utilities, or his/her designee, may request additional information from a property owner or occupant as reasonably necessary to determine each property's impact to the drainage utility of the City.

Sec. 47-276. - Floods, control, liability.

Floods from drainage runoff may occasionally occur which exceed the capacity of the drainage system maintained and financed with the drainage charges. In addition, surface water stagnation may occasionally occur which exceed the capability of the drainage system maintained and financed with drainage charges as defined herein. This Article does not imply that properties subject to charges shall always be free from flooding or flood damage, surface water stagnation or pollution or that all flood control and water treatment projects to control the quantity and quality of runoff can or will be constructed cost effectively. Nothing whatsoever in this Article shall be construed as or be deemed to create additional duties on the part of the City of Fredericksburg or hold the City liable for any damages incurred in a flood or from adverse water quality due to drainage runoff. Nothing in this Article shall be deemed to waive the City's immunity under state law or reduce the need or necessity for flood insurance nor shall anything in this Article reduce the responsibility or liability of the property owners for occurrences on their own property under law.

Sec. 47-277. - Enforcement.

Any charge due hereunder which shall not be paid when due may be recovered in action at law by the City of Fredericksburg. In addition to any other remedies or penalties provided by this or any other ordinance of the City of Fredericksburg, failure of any user of City utilities within the City of Fredericksburg to pay said charges promptly when due shall subject such user to discontinuance of such utility services and the City Manager of the City of Fredericksburg, or his authorized agent, is hereby empowered and directed to enforce this provision as to any and all delinquent users. The employees of the City of Fredericksburg shall, at all reasonable time, have access to any premises served by the City of Fredericksburg for inspection, repair or the enforcement of the provisions of this Article.

Sec. 47-278. - Penalty for violations of this Article.

Any person violating any provisions of this Article shall, upon conviction, be fined as provided for in the general penalty provision found in section 1-6 of this Code and each and every day that the provisions of this Article are violated shall constitute a separate and distinct offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of this Article.

Secs. 47-279—47-304. - Reserved.

{End of Code Text}

Section 2. That, Article 21.000 “Drainage Utility Collection Rates”, of Appendix A “Fee Schedule”, of the Code of Ordinances, is deleted in its entirety, and a replacement Article 21.000 entitled “Drainage Utility Fees” is substituted therefore and adopted as follows:

APPENDIX A - FEE SCHEDULE

ARTICLE 21.000. - DRAINAGE UTILITY FEES

(a) The following drainage utility fees are hereby established and shall be collected pursuant to Sec. 47-273 of this Code of Ordinances.

(b) The owner or occupant of any residential lot or tract within the drainage utility service area, that receives any type of utility service (electricity, water and/or sewer) from the City of Fredericksburg, shall be assessed a monthly drainage utility fee as follows, based on the Main Building Area upon the lot or tract:

Residential Tier	Main Building Area (sq. ft.)	Monthly Fee
1	≤ 1,000	\$3.00
2	>1,000 but ≤1,300	\$4.00
3	>1,300 but ≤1,600	\$5.00
4	>1,600 but ≤2,000	\$6.00
5	>2,000 but ≤3,000	\$7.00
6	>3,000	\$9.00

(c) The owner or occupant of any non-residential lot or tract within the drainage utility service area, that receives any type of utility service (electricity, water and/or sewer) from the City of Fredericksburg, shall be assessed a monthly drainage utility fee as follows, based on the Total Impervious Area of the lot or tract:

Non-Residential Tier	Total Impervious Area (sq. ft.)	Monthly Fee
1	≤1,800	\$3.00
2	>1,800 but ≤2,800	\$5.00
3	>2,800 but ≤5,500	\$9.00
4	>5,500 but ≤12,000	\$18.00
5	>12,000 but ≤50,000	\$50.00
6	> 50,000	\$200.00

(d) Property owned by a religious organization that is exempt from taxation pursuant to Section 11.20 of the Texas Tax Code shall be exempt from any monthly drainage utility fee.

(e) Property used for cemetery purposes, if the cemetery is closed to new interments and does not accept new burials, shall be exempt from any monthly drainage utility fee.

(f) The Director of Public Works and Utilities, or his/her designee, shall be responsible for determining the Main Building Area and/or Total Impervious Area for all lots or tracts, based on reliable data, including but not limited to, Gillespie County Appraisal District data, GIS database data, aerial photography, information received by the City through the building permit process, or other reliable means for determining Main Building Area and/or Total Impervious Area. The Director of Public Works and Utilities, or his/her designee, may request additional information from a property owner or occupant as reasonably necessary to determine each property's impact to the drainage utility of the City.

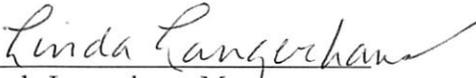
{End of Code Text}

Section 3. Severability or Invalidity. If any provision of this ordinance or the application hereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without defeating the purpose or objective of the provisions, and to this end, the provisions of this ordinance are declared to be severable.

Section 4. Repealer. All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 5. Effective Date. This ordinance shall be effective on and after March 1, 2019.

PASSED AND APPROVED on this the 21st day of January, 2019.


Linda Langerhans, Mayor
City of Fredericksburg, Texas

ATTEST:


Shelley Goodwin, City Secretary

APPROVED AS TO FORM:


Daniel Jones, City Attorney

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