

Ordinance amending Chapter 55, Utilities, of the City Code of Ordinances to levy a schedule of storm water drainage charges to all benefitted properties in the service area of the City of Corpus Christi, Texas; creating a drainage utility fund; providing exemptions; providing for penalties, interest, and other remedies for nonpayment of drainage charges; providing an appeals and adjustment process, providing a repealer clause and savings clause.

WHEREAS, it is necessary that the collection, handling, and storage of stormwater drainage runoff within the City protects the public health, safety, and welfare of the City's citizens including but not limited to protection against property damage; and

WHEREAS, the City Council of the City ("City Council") desires to address the various water quality and environmental issues that may burden its stormwater drainage infrastructure, and to protect against surface water overflow, standing surface water, and pollution arising from nonpoint source runoff within the City; and

WHEREAS, prior to the adoption of this ordinance, the City Council adopted a municipal storm water drainage utility system, as authorized by Texas Local Government Code Chapter 552, Subchapter C, "Municipal Drainage Utility Systems," as amended (the "Act"), within the City's municipal boundaries; and

WHEREAS, public hearings were held on August 31, 2021 regarding City Ordinance No. 032544 and this ordinance levying a schedule of stormwater drainage charges for all non-exempt properties located within the City's service area; notice of these public hearings and a copy of the proposed ordinances were published three times prior to the public hearing in a paper of general circulation in accordance with the Act; and

WHEREAS, as set forth in City Ordinance No. 032544, the City Council adopts the Act and declares that the City's storm water drainage infrastructure and services of the City is a public utility within the meaning of the Act.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:

SECTION 1. The above and foregoing recitals and premises to this ordinance are true and correct and are incorporated herein and made a part of this ordinance for all purposes.

SECTION 2. The City Council of Corpus Christi hereby levies a Schedule of Drainage Charges applicable to all non-exempt property owners in the City's service area for the collection, handling and transportation of stormwater drainage and runoff in accordance with Ordinance No. 032544 creating a Municipal Drainage Utility System and this ordinance.

Section 3. Chapter 55 of the City Code of Ordinances is hereby amended by adding a new Article XXI to read as follows:

Article XXI. Municipal Drainage Utility System

Sec. 55-700 – Establishment of Municipal Drainage Utility System; Operation; Service Area

(a) On September 7, 2021, the City Council enacted Ordinance No. 032544 which adopted a Municipal Drainage Utility System in accordance with Subchapter C, Chapter 552 of the Texas Local Government Code (the “Act”) and declared that the stormwater drainage of the City is hereby found to be a public utility within the meaning of the Act.

(b) The City shall operate the municipal drainage utility system in a nondiscriminatory, reasonable, and equitable basis.

(c) The storm water drainage service area (the “service area”) shall include all real property within the corporate city limits of Corpus Christi. The City will provide stormwater drainage for all real property within the service area upon payment of the determined drainage fees as provided in this ordinance.

Sec. 55-701. No effect on Landowner Obligations under City’s Unified Development Code or other City ordinances; No Waiver of Governmental Immunity.

(a) The establishment of the Municipal Drainage Utility System by the City does not relieve private landowners, developers, other individuals, or entities from responsibility for providing drainage plans and improvements in connection with private land development as required by the City’s Unified Development Code, State law, Federal law or by other City ordinances that relate to drainage or stormwater runoff, drainage management or drainage improvements.

(b) The establishment of the Municipal Drainage Utility System does not imply or warrant that a benefitted property will be free from flooding, stormwater pollution, or stream erosion. The City makes no representation that all drainage problems will be remedied. This ordinance does not create additional duties on the City or create new liability or remedies for any flooding, stream erosion, deterioration of water quality, or other damages. Nothing in this ordinance shall be deemed to waive the City’s sovereign or governmental immunity under law or reduce the need or necessity for private property owners to obtain the necessary flood insurance coverage for their property.

Sec. 55-702. Definitions.

Terms defined herein are specific to this Article and shall not be construed as conflicting with similar terms in other parts of this Chapter. Terms not otherwise defined herein shall be given the definitions contained in Subchapter C, Chapter

552, Texas Local Government Code.

- (a) "The Act" shall mean Subchapter C, Section 552 of the Texas Local Government Code, as amended.
- (b) "Benefitted Property" shall mean an improved lot or tract to which drainage service is made available under this Article.
- (c) "Commercial Property" shall mean all improved properties within the City other than residential property, including, but not limited to, commercial, industrial, institutional, government, multi-family, mobile-home park, and religious organization land uses.
- (d) "Cost of Service" shall mean the costs for drainage system service to a Benefitted Property, which shall be the total of:
 - (1) 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;
 - (2) Prorated cost of the acquisition, construction, repair, and maintenance of structures, equipment, and facilities used in draining the Benefitted Property;
 - (3) Prorated cost of architectural, engineering, legal and related services, plant 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;
 - (4) Prorated cost of all machinery, equipment, furniture, and facilities necessary or incident to the provision and operation of draining the Benefitted Property;
 - (5) 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;
 - (6) 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 City; and
 - (7) Administrative costs of operating and maintaining a Drainage Utility System.
- (e) "Drainage" shall mean 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.
- (f) "Drainage Utility Charges" shall mean the levy imposed to recover the cost of the service of the municipality in furnishing drainage for any Benefitted Property, including any interest and penalties; and amounts made in contribution to funding of future drainage system construction by the City.
- (g) "Drainage System" shall mean the drainage system owned or controlled in whole or in part by the City and dedicated to the service of Benefitted Property,

- including any future additions, extensions, and improvements thereto and replacement thereof.
- (h) "ERU (Equivalent Residential Unit)" means a unit of measurement of impervious area calculated for the average single-family residential property within the utility service area, as measured in square feet, including the residential structure, garage, driveway, sidewalk, patio, out buildings and any other impervious structure.
 - (i) "Facilities" shall mean the real, personal, or mixed property that is used in providing drainage and included in the system.
 - (j) "Impervious Area" or "Impervious Surface" shall mean a surface which has become compacted or covered with a layer of material so that it is highly resistant to infiltration by water. Impervious Areas include, but are not limited to, compacted soils, graveled surfaces subject to motorized vehicular traffic, walkways, buildings, parking lots, pavement, and ingress/egress driveways. "Impervious Area" or "Impervious Surface" does not include sidewalks located in the public right-of-way and as further defined in this Code. 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.
 - (k) "Improved Lot or Tract" shall mean a lot or tract that has a structure, or as further defined in this Code, or other improvement on it that causes an Impervious Surface or Area.
 - (l) "Intensity of Development Factor" shall mean the ratio of storm water runoff based on the amount of impervious area.
 - (m) "Non-Residential" shall mean any improved lot or tract that is not a Residential Property as defined herein.
 - (n) "Parcel" shall mean one (1) or more lots or portions of lots that are contiguous and under single ownership.
 - (o) "Public Utility" shall mean drainage service that is regularly provided by the City through City property dedicated to that service to the users of benefited property within the service area and that is based on:
 - a. An established schedule of charges;
 - b. Use of the police power to implement the service; and
 - c. Nondiscriminatory, reasonable, and equitable terms consistent with the Act.
 - (p) "Residential Property" shall mean any improved lot or tract with single-family home, duplex, triplex, quadplex, condominium, or mobile home.
 - (q) "Service Area" shall mean the municipal boundaries of the City.
 - (r) "User" or "Customer" shall mean the person or entity that owns or occupies a Benefitted Property.

- (s) "Wholly Sufficient and Privately-Owned Drainage System" shall mean drainage from an improved lot or tract which does not discharge into any natural or manmade waterway or drainage infrastructure including public streets, storm drains, culverts, drainage easements, or storm water ponds that are part of the Drainage System.

Sec. 55-703-706. Reserved

Sec. 55-707. Drainage Utility Fund.

A separate fund is hereby created, known as the Drainage Utility Fund, for the purpose of segregating, identifying, and controlling all revenues and expenses attributable to the Drainage Utility. All Drainage Utility Charges shall be accounted for as collected and received into this fund and shall be used exclusively for drainage Cost of Service. Such utility revenues may be used for the operation, planning, engineering, inspection, construction, repair, maintenance, improvement, reconstruction, administration, debt issuance cost and debt service, and other reasonable and customary expenses associated with the operation of a utility system. It shall not be necessary that the expenditures from the Drainage Utility Fund for any authorized purpose specifically relate to or benefit any particular Benefited Property from which the revenues were collected.

Sec. 55-708 Administration of Drainage Utility

The Director of Public Works for the City or his designee shall be responsible for the administration of the Drainage Utility, including, but not limited to, enacting any procedures necessary for the administration of the drainage charges and the consideration of appeals, development, and implementation of maintenance and facility improvement programs, state, and federal regulatory compliance, and establishing drainage criteria and standards for the drainage system. The Public Works Department shall keep an accurate record of all properties benefited by the services and facilities of the Drainage Utility.

Sec. 55-709. Drainage Utility Charge

- (a) A Drainage Utility Charge is hereby imposed upon each improved lot and parcel within the Service Area. The Drainage Utility Charge shall be billed beginning January 1, 2022. Drainage Utility Charges shall be billed on a monthly basis thereafter for the duration of the Drainage Utility.
- (b) For purposes of imposing the Drainage Utility Charge, all lots and parcels within the City are classified into the following customer categories: (1) Residential Single-Family Property and (2) Non-Single-Family Residential (commercial) Property.

- (c) The ERU value for the City is determined through an inventory of all improved single-family residential parcels in the City and determination of Impervious Area for each parcel. This study shows that the impervious area for an average single-family residence in the City is 3,280 square feet.
- (d) The monthly Drainage Utility Charge for properties shall be calculated by multiplying the total number of ERU's for the parcel by the ERU monthly billing rate.

SINGLE FAMILY RESIDENTIAL PARCELS:

	Numbers of parcels	Stormwater Unit Equivalent
Single Family Residential	84,957	1

TIERED SINGLE-FAMILY RESIDENTIAL DRAINAGE FEES:

	Estimated Impervious Area	Equivalent Residential Unit	FY 2022
Tier 1	Less than 3,000 sq. ft.	0.75	\$4.59
Tier 2	3,000 sq. ft.- 4,500 sq. ft.	1.00	\$6.12
Tier 3	Greater than 4,500 sq. ft.	1.75	\$10.71

NON-SINGLE FAMILY RESIDENTIAL (COMMERCIAL) FACTORS:

<ul style="list-style-type: none"> • Intensity of Development (IDF) factors derived from City Drainage Manual 	Property's state code determines which IDF is used
<ul style="list-style-type: none"> • Rate Calculation = (Gross area x IDF)/3,280 sq.ft. 	1 stormwater unit = 3280 sq.ft.
<ul style="list-style-type: none"> • All properties (Non-SFR) 	1 or more Stormwater Units based on calculation (area x factor)

INTENSITY OF DEVELOPMENT FACTOR (for Non-Single Family Commercial)

Land Use	State Code Land Uses	Intensity of Development Factor	Number of Parcels
Townhouse Dwellings/Multiple Dwellings District; Manufactured Homes	B11, B3, B5, B7, B8, B9	0.65	265
Apartments	B1, B10, B6	0.80	379
Business District	F1	0.85	6,536
Industrial District	F2, F3, F4, F5 J3, J4, J5	0.7	180
Railroad Yard Areas		0.30	0
Parks, Playgrounds, Greenbelts, Cemeteries		0.31	0
Private Streets		0.83	0
Agriculture Uses	D1, E5R, E2, E3	0.05	37
Commercial Stock	C1	0.17	14

NON-SINGLE FAMILY RESIDENTIAL (COMMERCIAL) RATE:

Type of Use (Non-Single-Family Commercial)	YR 2022
Non-Single Family Rate (Commercial)	\$6.12 per unit

(e) The Public Works Department shall be responsible for determining Impervious Area of property based on reliable data, including the appraisal roll, geographic information system technology, aerial photography, or other reliable means for determining Impervious Area. The Public Works Department may require

additional information from the property owner, tenant, manager, or developer to make the determination. The amount of a charge may be revised by the Public Works Department based on any additions to the Impervious Area through the City approved building permit process.

- (f) No Drainage Utility Charge credit shall be given for the installation of drainage facilities required by the code or state law.

Sec. 55-710. Exemptions from Drainage Fees.

The following shall be exempt from the provisions of this Article:

- (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;
- (c) A subdivided lot, until a structure has been built on the lot and a certificate of occupancy has been issued by the City (if a certificate of occupancy is required);
- (d) The State of Texas;
- (e) Institutions of higher education;
- (f) The City of Corpus Christi, Texas.

Sec. 55-711. Billing, Payments, and Penalties

- (a) Bills or statements for the Drainage Utility Charge shall be rendered by the City's Utility Billing Department on a monthly basis for all properties subject to the charge. Bills shall be payable when rendered and shall be considered received by the customer, whether actually received or not, when deposited in the United States mail, postage prepaid, addressed to the utility customer or sent via the City's electronic billing system.
- (b) The Utility Billing Department shall assume that each utility account in the service area serves one (1) or more Users of a Benefitted Property and shall assess the Drainage Charges to the person responsible for payment of the utility account. The Public Works Department shall calculate the Drainage Charges for all Users and shall assess the Drainage Charges to the person responsible for payment of the utility account. If there is more than one (1) User of a Benefitted Property (which is non-Residential), then the charges shall be assessed to the owner of the Benefitted Property, unless instructed by the owner of the Benefitted Property, in writing, to bill Users on a prorated basis.
- (c) Bills are due and payable on the date specified thereon and if full payment is not made by the date specified, the bill shall become delinquent.
- (d) Drainage Utility Charges shall be billed with the City's other public utility billings and shall be identified separately on the bill as a Drainage Utility Charge. Drainage Utility Charges are subject to the City's Utility billing policies, procedures,

penalties, discounts, interest, and other terms of the City's Utility Billing Rules and Regulations.

- (e) Any charge due hereunder which is not paid when due will subject the User to discontinuance of all utility services provided by the City and the drainage charge may be recovered in an action at law or in equity by the City including fixture of a lien against the property, as allowed by law.
- (f) The City shall have access, at all reasonable times, to any Benefitted Property served by the Drainage Utility for necessary inspection, repair of infrastructure or enforcement of this article.

Sec. 55-712 Revision of Rates

The City Council shall establish the initial drainage utility charges via ordinance pursuant to the Act. The City Council reserves the right to review the drainage utility charges at any time and may, by ordinance, increase or decrease the drainage utility charges within the schedule upon a determination that an increase or decrease is warranted.

Sec. 55-713 Utility Relief Fund

- (a) A customer who is eligible may apply for a discounted fee. A customer shall provide proof of eligibility in accordance with the rules and procedures established by the Director. A customer shall establish eligibility for a discounted fee on an annual basis.
- (b) The Director shall adopt rules for the administration of this section, including acceptable methods for showing and determining eligibility for low-income, age (65 and older) or disability.
- (c) A reduced fee under this section is prospective only. A customer may not receive a refund resulting from a reduction or discount under this section.

Sec. 55-714. Appeals

- (a) Requests for adjustment of a Drainage Utility Charge shall be submitted to the Public Works Department. A User may apply for an adjustment if:
 - (1) The User believes that the drainage charge schedule, as applied to the User's Benefitted Property, does not fairly reflect the Cost of Service to the User's Benefitted Property;
 - (2) The User disputes the amount of Impervious Area used to calculate the drainage charge; or
 - (3) The User's Drainage Charge has been assessed in error.
- (b) The following procedures shall apply to all requests for adjustment of the Drainage Utility Charge:

- (1) The User shall have the burden of proof.
 - (2) Any User who has paid Drainage Utility Charges and who believes the calculation or determination of the Drainage Utility Charge to be incorrect may, subject to the restrictions set forth in this Article, submit an adjustment request to the Public Works Department at P.O. Box 9277, Corpus Christi, Texas 78469.
 - (3) Requests for adjustment of Drainage Utility Charges paid by an Owner, User or Customer making the request shall be in writing and set forth in detail the grounds upon which relief is sought.
 - (4) Adjustment requests will be reviewed by the Public Works Department within twenty (20) business days from the date of receipt of an adjustment request. Adjustments resulting from such a request shall be prospective but may be made retroactive for no greater time period than three (3) monthly billings prior to the receipt of the request.
 - (5) The User requesting an adjustment may be required, at the User's cost, to provide supplemental information to the Public Works Department, including, but not limited to, survey data certified by a Texas Registered Professional Land Surveyor (R.P.L.S.), or other documentation of Impervious Area. Failure to provide requested information may result in the denial of the adjustment request.
 - (6) The Public Works Department's determination of the adjustment request shall be provided to the User, in writing, within twenty (20) business days of the later of receipt of the request for adjustment or receipt of any additional information submitted in accordance with this section. If the Public Works Director or his designee approves the request, the adjustment to the Drainage Utility Charge will be made.
- (c) If the Department denies the adjustment request, the User may, within ten (10) days from the date of notification, appeal the decision to the City Manager or their designee for final consideration. No further appeal, beyond the City Manager or their designee is available to User.
- (d) Before placing a lien against the Benefitted Property for delinquent Drainage Utility Charges, the City shall send notice to the record owner of the Benefitted Property stating the amount of the charges owed, and of the owner's right to appeal the placement of the lien by producing evidence that the delinquent charges are not rightfully owed. The User's appeal and proof must be submitted to the Public Works Department within ten (10) business days from the date of notification from the City. A lien shall not be filed if the owner shows that the Drainage Utility Charge made the basis of the lien is not owed. When a person pays all of the charges, a lien filed pursuant to this Chapter, shall be released. The paying party shall be responsible for the filing costs of the release.

Sec. 55-715. Other Laws

To the extent this Article conflicts with any other provision in Chapter 55 or any other Chapter in the City Code of Ordinances, the provisions shall be harmonized when possible, however, this Article shall control and supersede any other provision regarding the Drainage Utility System.

SECTION 4. That all provisions of the ordinances of the City of Corpus Christi in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Corpus Christi not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 5. That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 6. That this Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

That the foregoing ordinance was read for the first time and passed to its second reading on this the 31st day of August, 2021, by the following vote:

Paulette M. Guajardo	<u>Aye</u>	John Martinez	<u>Aye</u>
Roland Barrera	<u>Aye</u>	Ben Molina	<u>Absent</u>
Gil Hernandez	<u>NO</u>	Mike Pusley	<u>Aye</u>
Michael Hunter	<u>Absent</u>	Greg Smith	<u>Aye</u>
Billy Lerma	<u>Aye</u>		

That the foregoing ordinance was read for the second time and passed finally on this the 7th day of September 2021, by the following vote:

Paulette M. Guajardo	<u>Aye</u>	John Martinez	<u>Aye</u>
Roland Barrera	<u>Aye</u>	Ben Molina	<u>NO</u>
Gil Hernandez	<u>NO</u>	Mike Pusley	<u>Aye</u>
Michael Hunter	<u>Aye</u>	Greg Smith	<u>Aye</u>
Billy Lerma	<u>Aye</u>		

PASSED AND APPROVED on this the 7th day of September, 2021.

ATTEST:

Rebecca Huerta
Rebecca Huerta
City Secretary

Paulette M. Guajardo
Paulette M. Guajardo
Mayor

