

CITY OF PRINCETON, TEXAS

ORDINANCE NO. 2016-09-26

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PRINCETON, TEXAS, AMENDING THE PRINCETON MUNICIPAL CODE TO ADD A NEW ARTICLE V TO CHAPTER 78, UTILITIES, SAID NEW ARTICLE ESTABLISHING THE CITY OF PRINCETON'S DRAINAGE UTILITY AND ITS SERVICE AREA; DEDICATING CITY ASSETS TO THE UTILITY, IMPOSING CHARGES, AND ADOPTING RELATED REGULATIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER AND AN EFFECTIVE DATE.

WHEREAS, the City of Princeton city council (the "city council") finds that to protect the public health and safety from loss of life and property caused by surface water overflows, surface water stagnation, and pollution arising from nonpoint source runoff within the city; and

WHEREAS, the city council finds that funding for improvement of the existing drainage system and construction of future drainage projects is best funded by users of the drainage system on a prorated basis; and

WHEREAS, the city council desires to establish a municipal drainage utility system and this ordinance is adopted for that purpose pursuant to the Texas Local Government Code, Subchapter C, Sections 552.041, et seq., as amended; and

WHEREAS, the city council finds that pursuant to the Local Government Code, Section 552.045:

- (a) it will establish a schedule of drainage charges against all real property in the service area subject to charges as permitted by Subchapter C, Chapter 552, Texas Local Government Code, subject to any exemptions as required or permitted by Subchapter C;
- (b) it will provide drainage for all real property in the service area on payment of drainage charges, except real property exempted in accordance with Subchapter C;
- (c) it will offer drainage service on nondiscriminatory, reasonable, and equitable terms; and
- (d) notice as required by Subchapter C has been provided and a public hearing has been held; and

WHEREAS, the city council finds that certain persons and entities shall be exempt from the rules, regulations, and charges imposed by the new Chapter 78, Utilities, Article V, Drainage, of the Princeton Municipal Code;

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

SECTION 1. That the Princeton Municipal Code, Chapter 78, Utilities, is amended to add Article V, Drainage, to read as follows:

ARTICLE V. DRAINAGE

DIVISION 1. DEFINITIONS

Benefitted property. An improved lot or tract to which drainage service is made available under this article.

City. The City of Princeton, Texas.

City council. The city's governing body.

Cost of service. As applied to the drainage utility system service to any benefitted property:

- (a) the 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;
- (b) the prorated cost of the acquisition, construction, repair, and maintenance of structures, equipment, and facilities used in draining the benefitted property;
- (c) the prorated cost of architectural, engineering, legal, and related services, plans 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;
- (d) the prorated cost of all machinery, equipment, furniture, and facilities necessary or incident to the provision and operation of draining the benefitted property;
- (e) the 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;
- (f) the 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
- (g) the administrative costs of a drainage utility system.

Drainage. 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.

Drainage utility. The drainage utility established under this article in accordance with Subchapter C.

Drainage utility system. The drainage utility's drainage system owned or controlled in whole or in part by the city and dedicated to the service of benefitted property, including provisions for additions to the system.

Equivalent Residential Unit (ERU). An area of impervious coverage on an improved lot or tract that is generally equal to the average impervious area on a single family property in the City limits, calculated as 3,950 square feet.

User. The person or entity who owns or occupies a benefitted property.

Impervious Cover. Impervious area for the purpose of the SDUS charge, defined below, means any surface or subsurface of benefitted property including, but not be limited to, roads, parking areas, buildings, roofs, pools, patios, sheds, driveways, private sidewalks, compacted subgrades, compacted gravel used for vehicular traffic and/or parking, and other impermeable construction that does not readily absorb water and has the effect of increasing water runoff flow rate or runoff volume that drains to the drainage utility system.

Improved lot or tract. A lot or tract that has a structure or other improvement on it that causes an impervious coverage of the soil under the structure or improvement.

Surface water drainage utility system (SDUS) charge means the total monthly drainage charge for a benefitted property as calculated under this article and the schedule of charges adopted by the city council, as may be modified from time to time.

Wholly sufficient and privately owned drainage system. Land owned and operated by a person other than a municipal drainage utility system the drainage of which does not discharge into a creek, river, slough, culvert, or other channel that is part of the drainage utility system.

DIVISION 2. DRAINAGE UTILITY

Section 78.601 Establishment of Drainage Utility.

The provisions of Subchapter C, Chapter 552, Texas Local Government Code ("Subchapter C"), are hereby adopted to create a drainage utility for the city. Accordingly, drainage of the city is hereby declared to be a public utility. The city incorporates into the drainage utility system all existing property, facilities, materials, and supplies constituting the city's drainage utility system on the effective date of this article. All future acquisitions by the city of real or personal property used in the city's drainage utility system shall be maintained as a part of the drainage utility.

Section 78.602 Service Area.

The service area for the drainage utility shall include all real property within the city limits of the city of Princeton as now existing and all which may be annexed hereafter from time to time.

Section 78.603 Calculation of Drainage Charges.

- (a) The city council finds that:
- (1) impervious cover increases runoff and associated pollutants into the drainage utility system; and
 - (2) rates charged shall be based on a benefitted property's impact on the drainage utility system; and
 - (3) it is fair and equitable to calculate the impact and assess the drainage charge to each benefitted property based on impervious cover, subject to the limitation set forth below for single family residential properties.
- (b) The city council hereby imposes a drainage charge to be paid by users of benefitted property to cover the cost of service of the drainage utility system. Said drainage charge shall be set forth in a schedule of charges to be adopted by the city council and calculated as follows:
- (1) Single family residential properties shall be measured as one ERU per month regardless of actual amount of impervious cover on such properties;
 - (2) except with respect to the limitation for single family residential properties set forth in this section, all non-exempt benefitted properties shall be measured for ERU in one/tenth increments with no maximum and for such non-exempt properties there shall be a minimum of one ERU regardless of actual amount of impervious cover on such properties; and
 - (3) Each benefitted property shall be assessed a SDUS charge of \$4.85 per ERU per month. On October 1, 2019, the SDUS charge will be increased to \$5.60 per ERU per month.
- (c) The city council may adjust the values and rates in Section 78.603(b) at any time based upon the recommendation of the city manager that the cost of service for the drainage utility warrants an adjustment in rates.
- (d) The rates imposed in subsection (b), above, shall be collected through the city's bill for public utilities in accordance with Subchapter C and Section 580.00 Texas Local Government Code, and other applicable law.

Section 78.604 Segregation of Income.

The income of the drainage utility system shall be segregated and completely identifiable in city accounts. If drainage charges are solely for the cost of service, the city may transfer the charges in whole or in part to the city's general fund, except for any part collected outside municipal boundaries and except for any part pledged to retire any outstanding indebtedness or obligation incurred, or as a reserve for future construction, repair, or maintenance of the drainage utility system. If the city council has levied, in the drainage charge, an amount in contribution to the funding of future system improvements, including replacement, new construction, or extension, that amount is not transferable to the general fund.

Section 78.605 Exemptions.

- (a) The following shall be exempt from the provisions of 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 city for maintenance;
 - (3) a subdivided lot until a structure has been built on the lot and a certificate of occupancy has been issued by the city;
 - (4) state agencies; and
 - (5) public or private institutions of higher education.
- (b) Property owned by a religious organization that is exempt from taxation pursuant to Section 11.20, Tax Code, shall be exempt from 50% of the SDUS charge assessed in Section 78.603.

Section 78.605 No effect on land owner obligations under city ordinances; No waiver of immunity; Other laws; requirements related to major rain events affecting wholly sufficient and privately owned drainage systems.

- (a) The establishment of the drainage utility by the city does not relieve users, private land owners, developers, other individuals or entities from responsibility for providing drainage improvements in connection with land development pursuant to the other ordinances of the city or laws of the State of Texas that relate to flooding, drainage, drainage management, or drainage improvements.
- (b) The establishment of the drainage utility does not imply or warrant that a benefitted property will be free from flooding, 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 part of 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 immunity under law or reduce the need or necessity for flood insurance.
- (c) This article is intended to be read in harmony with all other provisions of this Code. To the extent this article conflicts with any other provision in this code, the provisions shall be harmonized when possible, however, this article shall control and supersede any other provision regarding the drainage utility system.
- (d) A wholly sufficient and privately owned drainage system must have volume to capture runoff for storms of magnitude up to and included in the 1% annual chance (100-year) storm event, 24-hour duration. Captured runoff must be removed from the retention system of a wholly sufficient and privately owned drainage system within 72 hours of the rainfall event without discharging into the drainage utility system. Owner of the wholly sufficient and privately owned drainage system must provide evidence to the city to show the facility meets the above requirements. Failure to comply with this provision shall result in a wholly sufficient and privately owned drainage system being deemed to be a benefitted property and subject to the SDUS charge and other provisions of this article.

Section 78.606 Delinquencies.

Any charge due hereunder which is not paid when due may be recovered in an action at law by the city. In addition to any other remedies or penalties provided in Subchapter C or other law, failure of a user within the service area to pay the charges promptly when due shall subject such user to discontinuance of any utility services provided by the city. City employees of the utility drainage system shall have access, at all reasonable times, to any benefitted properties served by the drainage utility for inspection or repair or for the enforcement of the provisions of this article.

Section 78.607 Appeals.

- (a) Billing and payment disputes for administrative issues shall be subject to appeals procedures used by the city for other utility billing disputes.

(b) Appeals for the following reasons shall be directed to the public works director or his designee for evaluation and determination:

- (1) exempt property has been assessed a charge under this article;
- (2) a charge under this article for an individual property is based on an incorrect determination of the property's contribution to the drainage utility system, as established in accordance with the schedule of charges referenced in Section 78.603(b);
- (3) a charge under this article for an individual property is assessed on more than one utility account;
- (4) a charge under this article is assessed to individual property outside the service area; or
- (5) a benefitted property has boundaries or dimensions that deviate from the city's determination of the boundaries or dimensions for such benefitted property.

(c) The public works director or his designee shall render a written decision on such appeals within thirty (30) days after receiving a written notice of appeal from the user.

(d) Any user who disagrees with the decision of the public works director or his designee may appeal to the city council. The city council shall render a written decision on such appeals within thirty (30) days after receiving a written notice of appeal from the user. The city council's decision is final. If the city council does not render a decision within thirty (30) days of an appeal, it shall be deemed to have sustained the decision of the public works director.

SECTION 2. Savings, Severability and Repealing Clauses.

All ordinances of the City in conflict with the provisions of this ordinance are repealed to the extent of that conflict. If any provision of this ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof. The City declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that anyone or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 3. Publication of the Caption Hereof and Effective Date.

This ordinance shall be in full force and effective from and after its passage and upon the posting and/or publication, if required by law, of its caption and the City Secretary is hereby directed to implement such posting and/or publication.

PASSED by the city council of the City of Princeton, Texas, this ___ day of _____, 2016.

ATTESTED:

APPROVED:

Lesia Gronemeier
City Secretary, Lesia Gronemeier

John-Mark Caldwell
Mayor, John-Mark Caldwell

