



REBUILD HOUSTON PHASE 2



February 2, 2011

**ORDINANCE – MUNICIPAL DRAINAGE UTILITY
SYSTEM**

Presentation Focus

2

- ❑ Process
- ❑ Background – Charter Provision
- ❑ Local Government Code Ch. 552 – Municipal Drainage Utility System
- ❑ Ordinance Structure
- ❑ Key Definitions

Process

3

- ❑ Under state law, we must:
 - ❑ Publish notice of draft drainage ordinance (3X)
 - ❑ Publish notice of draft schedule of rates (3X)
 - ❑ Hold hearings on both -- the schedule of rates and the ordinance -- after a 30-day period following first publication
 - ❑ Both are projected to be published on February 6, 2011
- ❑ Formal public hearings will be held in early March, 2011
- ❑ During these 30 days, a drainage presentation will be shown at district CIP meetings

Background

4

City Charter, Article IX, Sec. 22. “Dedicated Pay-As You-Go Fund for Drainage and Streets.”

□ Funding Sources

- ▣ Developer impact fees
- ▣ Drainage fees, calculated to generate at least \$125 million during FY 2012 and each FY thereafter
- ▣ 11.8¢ of the City’s property tax
- ▣ Proceeds from Metro, TxDOT, federal or other contracts or grants

Local Government Code Ch. 552

5


- Requirements to establish Municipal Drainage Utility System: Notice and Public Hearings:
 - ▣ Publish Notice (3x) containing:
 - Time and place of public hearing to consider draft ordinance and schedule of drainage charges
 - First publication (projected for Feb. 6, 2011) must be on or before the 30th day before the public hearing (LGC 552.045)
 - Public hearing projected for no earlier than March 9, 2011

Draft Ordinance – Div. 1., Sec. 47-802.


Definitions.

6

 ***Impervious Surface*** - an area:

 Compacted or covered such that it does not readily absorb water or does not allow water to percolate through to underlying soil

 Surface materials considered impervious:

 bricks, pavers, concrete, asphalt, compacted oil-dirt, compacted or decomposed shale, oyster shell, gravel, granite, similar materials

Definitions – *Impervious surface (continued)*

7

- Surface features considered impervious:
 - ▣ decks
 - ▣ foundations (whether pier and beam or slab)
 - ▣ building roofs
 - ▣ parking and driveway areas and sidewalks
 - ▣ compacted or rolled areas
 - ▣ paved recreation areas
 - ▣ swimming pools
 - ▣ other features or surfaces built or laid on surface of land which increase, concentrate, or otherwise alter water runoff so that flows are not readily absorbed.

Definition Impervious Surface

8

- Definition matters since State law requires us to use “benefitted property”
- City definition is the same as Fort Worth and is also similar to San Antonio which states “Any structure or any street, driveway, sidewalk, patio or other surface area covered with asphalt, concrete, brick, paving, tile or other material preventing water to penetrate the ground”
- Several other Texas cities such as Austin, Dallas, El Paso use lot size and create a “standardized” category based on amount of impervious cover per lot.

Definition Impervious Surface

9

- Calculation of impervious surface may be adjusted by the director based on utilization of specific storm water management techniques on the benefitted property.
- Examples of techniques for possible adjustment of determination are:
 - ▣ Porous pavement (based on demonstrated infiltration rate exceeding minimum standard)
 - ▣ Infiltration trenches (with capacity exceeding Chapter 9 mitigation standards)
 - ▣ Rain barrels

Draft Ordinance – Div. 1., Sec. 47-802.

Definitions.

10

- ***Residential property*** – property with two or less single family residential units.
- ***Nonresidential property*** – any property not classified as residential.

Draft Ordinance – Division 2. Funding

11

- **Sec. 47-822. Drainage charge established.**
 - Annual charge (billed periodically)
 - Rate for each square foot of impervious surface (rates will be contained in separate schedule)
 - Residential
 - Non-residential
 - Determination of impervious area by digital map data

Draft Ordinance – Division 2. Funding

12

- **Sec. 47-822. Drainage charge established.** (continued)
Exemptions. State law mandates exemption of:
 - Property appraised for use and designated as agricultural by the county appraisal district
 - Property served by a wholly-sufficient and privately-owned drainage system
 - No charges may be collected from:
 - A state agency
 - A public or private institution of higher education (TX Education Code § 51.602(5))

Schedule of Possible Rates

13

<u>Exemption(s)</u>	<u>Resulting Rate</u> (per sq ft of impervious surface)	<u>Example Annual/ Monthly Charge</u> (1875 sq ft impervious cover, 5000 sq ft lot)
No exemption	Residential curb & gutter, nonresidential 3.20¢ Residential open ditch 2.60¢	\$60.00 ÷ 12 = \$5.00 mo. \$48.75 ÷ 12 = \$4.06 mo.
County	Residential curb & gutter, nonresidential 3.28¢ Residential open ditch 2.67¢	\$61.50 ÷ 12 = \$5.13 mo. \$50.06 ÷ 12 = \$4.17 mo.
School Districts	Residential curb & gutter, nonresidential 3.29¢ Residential open ditch 2.67¢	\$61.69 ÷ 12 = \$5.14 mo. \$50.06 ÷ 12 = \$4.17 mo.
Religious Organizations	Residential curb & gutter, nonresidential 3.28¢ Residential open ditch 2.67¢	\$61.50 ÷ 12 = \$5.13 mo. \$50.06 ÷ 12 = \$4.17 mo.
County & School Districts	Residential curb & gutter, nonresidential 3.36¢ Residential open ditch 2.73¢	\$63.00 ÷ 12 = \$5.25 mo. \$51.19 ÷ 12 = \$4.27 mo.
County & Religious Organizations	Residential curb & gutter, nonresidential 3.34¢ Residential open ditch 2.71¢	\$62.63 ÷ 12 = \$5.22 mo. \$50.81 ÷ 12 = \$4.23 mo.
School Districts & Religious Orgs	Residential curb & gutter, nonresidential 3.38¢ Residential open ditch 2.74¢	\$63.38 ÷ 12 = \$5.28 mo. \$51.38 ÷ 12 = \$4.28 mo.
County, School Districts, & Religious Organizations	Residential curb & gutter, nonresidential 3.44¢ Residential open ditch 2.80¢	\$64.50 ÷ 12 = \$5.38 mo. \$52.50 ÷ 12 = \$4.38 mo.

Draft Ordinance – Div. 1., Sec. 47-802.

Definitions.

14

Notification letter:

- Initially mailed by the City to every user to inform user of the:
 - ▣ exact drainage charge the user shall be billed per year, beginning July 1, 2011
 - ▣ frequency of billing for drainage charges and the amount due
- Changes to the drainage charge caused by changes in impervious surface may prompt new notification letter

Draft Ordinance – Division 2. Funding

Sec. 47-824. Verification, correction, appeal.

15

- **Verification and correction request procedures:**
 - User may provide documentation to City by internet or on a form provided by City
 - Documentation: drawing with measurements, affidavit
 - Must show correction of at least 2% or \$3 annually, whichever is greater
 - Any adjustment applied to future charges, but will be calculated as of date of request for verification/correction

Draft Ordinance – Division 2. Funding

16

□ **Sec. 47-824. Verification, correction, appeal.**

□ **Appeals.**

- If user is not satisfied with results of verification and correction
- Submit online or in writing, 15 days after end of verification and correction process
- Independent hearing examiner, decision final

Draft Ordinance – Division 3. Billing

17

- **Sec. 47-841. Billing and payment.**
 - ▣ If in water/sewer bill, annual charge ÷ 12 billing cycles
 - ▣ Separate drainage bill, if no water/sewer account
- **Sec. 47-842. Delinquent charges and penalties.**
 - ▣ Late charges, discontinuance of utility services, reconnection fees, legal action
- **Ch. 40 Paving assessments will be extinguished**

Draft Ordinance – Division 3. Billing

18

- **Sec. 47-843. Payment responsibility (multiple users).**
 - ▣ Multiple utility accounts on parcel(s) belonging to same owner – City may bill owner
 - ▣ Rental property where tenants change 2 or more times in 12 month period – City may bill owner
 - ▣ Multiple residential owners grouped into single association for payment of collective water/sewer - City may designate the association as the official user

Draft Ordinance – Division 2. Funding

19

- **Sec. 47-823. Review and adjustment of rates.**
 - ▣ Rates will not be raised for 10 years
 - unless necessitated by enactment of state law which negatively impacts collection of fees under current rate structure
 - ▣ After 10 years, any increase shall require a super majority vote of 2/3 of City Council
 - ▣ PWE will regularly review available data to verify impervious surface, adjust where appropriate

Draft Ordinance – Division 4. Use of Funds

20

□ **Sec. 47-861. Oversight committee.**

- Members will advise on project priorities and process
- Members with significant backgrounds in community development, infrastructure assessments, and other appropriate qualifications
- No contractors, engineers or firms participating in any City drainage system project
- Composition: Mayor appoints 5 members (including chair)
City Council appoints 4 members