



ORDINANCE NO. 3298

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 86 "UTILITIES," TO ADD ARTICLE VII "MUNICIPAL DRAINAGE UTILITY SYSTEM," DIVISION 1 "CREATION AND ADMINISTRATION" TO ESTABLISH A MUNICIPAL DRAINAGE UTILITY SYSTEM; PROVIDING FOR DRAINAGE SERVICE, BILLING, EXEMPTIONS, DRAINAGE CHARGES, AND APPEALS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE, PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A CRIMINAL PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Farmers Branch, Texas, has investigated and determined that it would be advantageous and beneficial to the citizens of the City to promote the public health, safety and welfare of the citizens to adopt a Municipal Drainage Utility System; and

WHEREAS, the City Council further investigated and determined that it would be in the best interest of the citizens to adopt the Municipal Drainage Utility Systems Act as set forth in Chapter 552, Subchapter C, Texas Local Government Code, as amended ("Act"); and

WHEREAS, the City Council hereby adopts the Act and incorporates it herein in its entirety for all purposes; and

WHEREAS, the City Council finds that the drainage of the City is a public utility within the meaning of the Act; and

WHEREAS, the City Council further finds that the City will establish a schedule of drainage charges against all real property in the proposed service area(s) which includes the entire City subject to charges under this Ordinance; and

WHEREAS, the City Council further finds that the City will provide drainage for all real property in the proposed service area(s) on payment of drainage charges, except real property exempted under the Act or pursuant to this Ordinance; and

WHEREAS, the City Council further finds that the City will offer drainage service on nondiscriminatory, reasonable and equitable terms;

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

SECTION 1. Chapter 86 “Utilities” of the Code of Ordinances of the City of Farmers Branch, Texas, is amended by adding Article VII, “Municipal Drainage Utility System,” Division 1, “Creation and Administration” to read as follows:

ARTICLE VII. Municipal Drainage Utility System

Division 1. Creation and Administration

Sec. 86-501. Municipal Drainage Utility System Established.

The Municipal Drainage Utility Systems Act, Chapter 552, Subchapter C, Texas Local Government Code, as amended (the “Act”), is hereby adopted and shall be fully implemented as provided by the Act and by the City Council; and the drainage of the City is hereby found to be a public utility within the meaning of the Act.

Sec. 86-502. Drainage Service Provided.

The City will provide storm water drainage for all real property within its boundaries upon payment of the determined drainage charges, as defined in the Act, and excluding property exempt under the Act and certain real property exempted pursuant to this Article, and that the fees, assessments, and charges will be based on nondiscriminatory, reasonable and equitable terms. The drainage charges established herein shall be for all non-exempt benefitted property as defined in the Act within the City drainage system.

Sec. 86-503. Billing for Drainage Service.

The City is hereby authorized to bill the drainage charges incurred as a result of the adoption of the Act and through the establishment of the municipal drainage utility system. The drainage charge shall be separately identified from other public utility billings. Drainage charges may only be expended for the costs of service as defined by the Act.

Sec. 86-504. Authority to Levy Drainage Charges; Findings.

The City may levy a schedule of drainage charges upon satisfaction of the procedural requirements provided in the Act and this Article. Prior to the levy of any drainage charges, the City Council shall conduct a public hearing on the drainage charges pursuant to the Act. Prior to adoption of this Article, the City Council found and determined:

- (1) The City will establish a schedule of drainage charges against all real property in the proposed area which includes the entire City subject to the charges under the Act;

(2) The City will provide drainage for all real property in the proposed service area on payment of the drainage charges, except real property exempt under the Act; and

(3) The City will offer drainage service on nondiscriminatory, reasonable and equitable terms.

Sec. 86-505. Exemptions Authorized.

The City is authorized to exempt certain property, entities or persons from all ordinances, resolutions, and rules which the City may adopt from time to time in connection with the adoption of the Act and the establishment of its municipal drainage utility system. Any exemptions to the drainage charges established herein other than the exemptions required by the Act shall be set forth in the drainage charge schedule.

Sec. 86-506. Charges.

(a) The City Council shall, following the adoption of this Article, from time to time establish by ordinance a drainage charge schedule for charges which shall be collected through the City's bill for public utilities pursuant to the Act and other applicable law. There shall be a drainage charge on each monthly public utility statement for the City drainage system as set forth in the drainage charge schedule. The City Manager, or designee, is authorized to collect such charges in a manner consistent with the City Charter, the Act and this Article. The drainage charges shall be a separate line item on the public utility statement, and shall be clearly identified as a separate charge. Except, as otherwise provided herein, the billing, charges and collection procedures shall be consistent with City collection procedures for water and sewer services provided by the City.

(b) The drainage charges established pursuant to this Article will apply to the accounts maintained by the City for public utility services.

(c) All billings, credits, exemptions and other procedures relating to drainage charges established pursuant to this Article shall be subject to the provisions of the Act and other applicable law.

(d) A deposit for the drainage services as a precondition to accepting surface flow from benefited property into the City drainage utility system shall not be required. All real property of the City will be provided with drainage utility system service on timely payment of drainage charges established herein.

Sec. 86-507. Appeals.

(a) Billing and payment disputes for administrative issues relating to the drainage charges shall be subject to appeals procedures used by the City for other public utility billing disputes. A person or entity that owns or occupies a benefitted property may

appeal the drainage charges established herein pursuant to this procedure set forth in this section.

(b) Appeals for the following reasons shall be directed to the Managing Director of Finance & Administration for evaluation and determination. An appeal shall be in writing and submitted to the Managing Director of Finance & Administration within thirty (30) days after the public utility billing statement containing the matter to be disputed. During all periods of appeal the person or entity that owns or occupies the benefitted property and/or the account holder shall be responsible for payment of the charges in full:

- (1) exempt property has been assessed a drainage charge;
- (2) drainage charge for an individual property is assessed on more than one public utility account; or
- (3) drainage charge is assessed to individual property outside the City's jurisdictional area.

(c) The Managing Director of Finance & Administration shall render a written decision on such appeals within thirty (30) days after receiving a timely written notice of appeal from the person or entity that owns or occupies the benefitted property and/or the account holder. The Managing Director of Finance & Administration shall deliver a copy of the appeal decision to the person or entity that owns or occupies the benefitted property and/or the account holder by U.S. mail to the address of the landowner/account holder according to the most recent records in the possession of the City.

(d) Appeals for claims that the drainage charge for an individual property is based on an incorrect determination of the property's contribution to the drainage utility system as established in the City drainage charge schedule shall be directed to the Director of Public Works for evaluation and determination. An appeal pursuant to this Section 86-507(d) shall be in writing and submitted to the Director of Public Works within thirty (30) days after the public utility billing statement containing the matter to be disputed. During all periods of appeal the person or entity that owns or occupies the benefitted property and/or the account holder shall be responsible for payment of the charges in full.

(e) Any person or entity who owns or occupies the benefitted property and/or the account holder who disagrees with the decision of the Managing Director of Finance & Administration or the Director of Public Works, as the case may be, may appeal such decision to the City Manager in writing within ten (10) days after receipt of the decision of the Managing Director of Finance & Administration or the Director of Public Works, as the case may be. The City Manager shall render a written decision within thirty (30) days after receipt of a timely appeal. The decision of the City Manager shall be final.

Sec. 86-508. Penalties; Enforcement.

Failure to pay the drainage charges promptly when due shall subject such user to discontinuance of any public utility services provided by the City, in accordance with the procedures adopted by the City for discontinuance of any City public utility service including water and/or sewer service and other applicable laws.

SECTION 2. All provisions of the ordinances of the City of Farmers Branch 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 Farmers Branch not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 3. 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 4. An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 5. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Farmers Branch as heretofore amended and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day such violation shall continue shall be deemed and constitute a separate offense.

SECTION 6. This ordinance shall take effect from and after its passage and the publication of the caption of said ordinance as the law and the City Charter in such cases provides.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THE 16th DAY OF SEPTEMBER, 2014.

ATTEST:

APPROVED:

Angela Kelly, City Secretary

Bob Phelps, Mayor

APPROVED AS TO FORM:

Peter G. Smith, City Attorney
(kbl:8/13/14:67559)