

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE TOWN’S CODE OF ORDINANCES BY MODIFYING SECTION 82-821(C) (STORMWATER (DRAINAGE) UTILITY FEES, SCHEDULE OF MONTHLY FEES AND RATES) THEREOF, BY ADJUSTING THE MONTHLY STORMWATER (DRAINAGE) UTILITY FEES FOR FISCAL YEAR 2014 TO BE THE SAME AS FOR FISCAL YEAR 2013 (REDUCING THE PREVIOUSLY ADOPTED FISCAL YEAR 2014 FEES TO THE AMOUNTS PREVIOUSLY ADOPTED FOR FISCAL YEAR 2013); PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas (the “City”) is a home rule city acting under and pursuant to its Charter and Article XI, Section 5, Texas Constitution; and

WHEREAS, as set forth in Section 82-261 of the City’s Code of Ordinances (the “Code”), the City Council previously adopted the Municipal Drainage Utility System Act (being Subchapter C of Chapter 552 of the Texas Local Government Code) (the “Act”); and

WHEREAS, Section 82-262 of the Code provides in part that the City will provide stormwater (drainage) service for all real property within its boundaries upon payment of the stormwater (drainage) charges applicable thereto as may be included in this Article or otherwise adopted by the Town, excluding real property exempt under the Act or other law and certain real property exempted by the Town, and such stormwater (drainage) service will be based on nondiscriminatory, reasonable and equitable terms; and

WHEREAS, the City Council, in accordance with law, including after providing notice and holding a public hearing, previously adopted stormwater (drainage) fees and rates for a 10 year period beginning with the Town’s Fiscal Year 2013 and ending with the Town’s Fiscal Year 2022, and those fees and rates are included in Section 82-281(c) of the Code; and

WHEREAS, the City Council is authorized by Section 552.047(c), Loc. Gov. Code, to change, adjust, and readjust the rates and charges for stormwater (drainage) service from time to time, and is further authorized by Sections 82-266(c) and 82-281(e) of the Code to revise (increase or decrease) the stormwater (drainage) fees and rates included in the Code upon a determination that the increase or decrease is warranted; and

WHEREAS, the City Council deems it necessary and warranted and desires to amend and revise the stormwater (drainage) fees and rates previously adopted and included in Section 82-281(c) of the Code for its 2014 Fiscal Year by adjusting the Fiscal Year 2014 stormwater (drainage) utility fees so that they are the same as the Fiscal Year 2013 stormwater (drainage) utility fees, that is, by reducing the previously adopted stormwater (drainage) fees and rates for Fiscal Year 2014 to be the same as the previously adopted stormwater (drainage) fees and rates for Fiscal Year 2013; and

WHEREAS, the City Council finds that the adoption of this Ordinance is in the best interests of the health, safety and welfare of the citizens of the City.

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

Section 1. Amendment of Stormwater (Drainage) Utility Fees and Rates for Fiscal Year 2014. The Code of Ordinances of the Town of Addison, Texas (the “City”) is hereby amended by adjusting the stormwater (drainage) utility fees for Fiscal Year 2014 of the City so that they are the same as the stormwater (drainage) utility fees for Fiscal Year 2013, as set forth in Exhibit A attached hereto and incorporated into this Ordinance for all purposes.. Such adjustment is a reduction in the stormwater (drainage) utility fees for Fiscal Year 2014 previously adopted by the City.

Section 2. Savings; Repealer. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Provided, however, that the repeal of such ordinances or parts of such ordinances, and the amendments and changes made by this Ordinance, shall not affect any right, property or claim which was or is vested in the City, or any act done, or right accruing or accrued, or established, or any suit, action or proceeding had or commenced before the time when this Ordinance shall take effect; nor shall said repeals, amendments or changes affect any offense committed, or any penalty or forfeiture incurred, or any suit or prosecution pending at the time when this Ordinance shall take effect under any of the ordinances or sections thereof so repealed, amended or changed; and to that extent and for that purpose the provisions of such ordinances or parts of such ordinances shall be deemed to remain and continue in full force and effect. Further, if the amendment to the Code of Ordinances described in Section 1 is determined by an order of a court of competent jurisdiction to be invalid, unlawful, or unconstitutional, the stormwater (drainage) utility fees and rates previously adopted by the City pursuant to Ordinance No. 012-034 (adopted October 23, 2012) shall be automatically, and without further action of the City Council, reinstated as if the amendment described in Section 1 had never been adopted, and such rates and fees shall be deemed for all purposes to have been in place and applicable and enforceable for the entire Fiscal Year 2014.

Section 3. Severability. The provisions of this Ordinance are severable, and if any phrases, clauses, sentences, paragraphs, sections, subsections, words, or provisions of this Ordinance or the application of any phrases, clauses, sentences, paragraphs, sections, subsections, words, or provisions hereof to any person, firm, corporation, entity, situation or circumstance is for any reason adjudged invalid or held unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the same shall not affect the validity of any other phrases, clauses, sentences, paragraphs, sections, subsections, words, or provisions of this Ordinance or the application of any other phrases, clauses, sentences, paragraphs, sections, subsections, words, or provisions of this Ordinance to any person, firm, corporation, entity, situation or circumstance, and the City Council declares that it would have adopted the valid portions of this Ordinance adopted herein without the invalid or unconstitutional phrases, clauses, sentences, paragraphs, sections, subsections, words or provisions, and to this end the remainder of this Ordinance shall remain in full force and effect.

Section 4. Incorporation of Recitals. The above and foregoing recitals and premises to this Ordinance are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage and publication as required by law, , including but not limited to the City Charter and ordinances.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this ____ day of _____, 2013.

Todd Meier, Mayor

ATTEST:

By: _____
Chris Terry, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney

EXHIBIT A

Amendments, Revisions to Section 82-281(c), Code of Ordinances

Section 82-281(c) of the Town of Addison's Code of Ordinances is amended and revised to read as follows (additions are underlined; deletions are ~~struck-through~~):

- (c) *Schedule of monthly fees and rates.* The monthly Stormwater (Drainage) Utility fee shall be as follows:
- (1) *Tier 1 residential fees.* The monthly Stormwater (Drainage) Utility fee for each residential dwelling unit in Tier 1 shall be as follows for each fiscal year (FY) that begins October 1 and continues through and ends the following September 30, with the first such fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):
- FY2013 shall be \$4.80, FY2014 shall be \$5.10, FY2015 shall be \$5.40, FY2016 shall be \$5.70, FY2017 shall be \$6.00, FY2018 shall be \$6.30, FY2019 shall be \$6.60, FY2020 shall be \$6.90, FY2021 shall be \$7.20, FY2022 shall be \$7.50. Notwithstanding the foregoing, FY2014 shall be the same as FY2013, or \$4.80.
- (2) *Tier 2 residential fees.* The monthly Stormwater (Drainage) Utility fee for each residential dwelling unit in Tier 2 shall be as follows for each fiscal year (FY) that begins October 1 and continues through and ends the following September 30, with the first such fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):
- FY2013 shall be \$8.00, FY2014 shall be \$8.50, FY2015 shall be \$9.00, FY2016 shall be \$9.50, FY2017 shall be \$10.00, FY2018 shall be \$10.50, FY2019 shall be \$11.00, FY2020 shall be \$11.50, FY2021 shall be \$12.00, FY2022 shall be \$12.50. Notwithstanding the foregoing, FY2014 shall be the same as FY2013, or \$8.00.
- (3) *Tier 3 residential fees.* The monthly Stormwater (Drainage) Utility fee for each residential dwelling unit in Tier 3 shall be as follows for each fiscal year (FY) that begins October 1 and continues through and ends the following September 30, with the first such fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):
- FY2013 shall be \$12.00, FY2014 shall be \$12.75, FY2015 shall be \$13.50, FY2016 shall be \$14.25, FY2017 shall be \$15.00, FY2018 shall be \$15.75, FY2019 shall be \$16.50, FY2020 shall be \$17.25, FY2021 shall be \$18.00, FY2022 shall be \$18.75. Notwithstanding the foregoing, FY2014 shall be the same as FY2013, or \$12.00.

- (4) *Tier 4 residential fees.* The monthly Stormwater (Drainage) Utility fee for each residential dwelling unit in Tier 4 shall be as follows for each fiscal year (FY) that begins October 1 and continues through and ends the following September 30, with the first such fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):

FY2013 shall be \$20.00, FY2014 shall be \$21.25, FY2015 shall be \$22.50, FY2016 shall be \$23.75, FY2017 shall be \$25.00, FY2018 shall be \$26.25, FY2019 shall be \$27.50, FY2020 shall be \$28.75, FY2021 shall be \$30.00, FY2022 shall be \$31.25. Notwithstanding the foregoing, FY2014 shall be the same as FY2013, or \$20.00.

- (5) *Nonresidential fees.* The monthly Stormwater (Drainage) Utility fee per 1,000 square feet (SF) of impervious area on each nonresidential property or allocated portion of a nonresidential property shall be as follows for each fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):

FY2013 shall be \$2.59 per 1,000 SF, FY2014 shall be \$2.75 per 1,000 SF, FY2015 shall be \$2.91 per 1,000 SF, FY2016 shall be \$3.07 per 1,000 SF, FY2017 shall be \$3.23 per 1,000 SF, FY2018 shall be \$3.39 per 1,000 SF, FY2019 shall be \$3.55 per 1,000 SF, FY2020 shall be \$3.71 per 1,000 SF, FY2021 shall be \$3.88 per 1,000 SF, FY2022 shall be \$4.04 per 1,000 SF. Notwithstanding the foregoing, FY2014 shall be the same as FY2013, or \$2.59.