

ORDINANCE NO. 2013-01-001

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FOREST HILL, TEXAS, ADDING ARTICLE VI, STORM WATER (DRAINAGE) UTILITY SYSTEM, TO CHAPTER 130, UTILITIES, ADOPTING THE MUNICIPAL DRAINAGE UTILITY SYSTEM ACT, SUBCHAPTER C OF CHAPTER 552 OF THE TEXAS LOCAL GOVERNMENT CODE, AND ESTABLISHING THE FOREST HILL MUNICIPAL DRAINAGE UTILITY SYSTEM IN THE CITY OF FOREST HILL, TEXAS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, within the City of Forest Hill there is an existing drainage system which has been developed over a number of years for the purpose of collecting and disposing of storm water runoff; and

WHEREAS, the present system is inadequate to control and manage storm water runoff within the City limits; and

WHEREAS, the City of Forest Hill desires to control and manage the drainage of storm water within the City for the public health, safety and welfare; and

WHEREAS, those elements of the drainage system which provide for the collection and disposal of storm water runoff are of benefit and provide services to all property within the City; and

WHEREAS, the Act authorizes the City to establish a municipal drainage utility system for the purpose of providing rules for the use, operation and maintenance of the storm water system and the financing of necessary repairs, replacements, improvements and extensions thereof; and

WHEREAS, all provisions for notice of a public hearing pursuant to Section 552.045 (c) of the Texas Local Government Code have been met;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FOREST HILL, TEXAS THAT:

SECTION 1: LEGISLATIVE FINDINGS: All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2: Chapter 130, "Utilities" of the City of Forest Hill City Code of Ordinances is hereby amended to hereinafter read as follows:

CITY OF FOREST HILL

CHAPTER 130: UTILITIES

“ARTICLE VI: MUNICIPAL STORM WATER (DRAINAGE) UTILITY SYSTEM

Sec. 130-190: Purpose and Adoption.

- A. Purpose. The City finds it to be in the public interest to protect the public health and safety from loss of life and property caused by surface water overflows and surface water stagnation within the boundaries of the City, and further finds that to protect such public interests:
1. The City will establish a schedule of drainage charges against all real property in the City subject to charges under TEXAS LOCAL GOV'T CODE, CHAPTER 552, SUBCHAPTER C, MUNICIPAL DRAINAGE UTILITY SYSTEMS, §552.041 et seq.; and
 2. The City will provide drainage for all real property in the City upon payment of drainage charges, except such real property exempted there from as authorized by the Act; and
 3. The City will offer such drainage service on nondiscriminatory, reasonable, and equitable terms.
- B. Adoption. The City of Forest Hill is authorized and does hereby declare under the Texas Constitution and Vernon's Texas Codes Annotated (V.T.C.A.), Local Government Code, Chapter 552, Subchapter C, entitled, "Municipal Drainage Utility Systems", § 552.041 et seq., that such act is hereby adopted, and it is declared that the drainage of the City shall be a public utility. Pursuant to the provisions of V.T.C.A., Local Government Code, §552.046, the City incorporates its existing drainage facilities, materials, equipment and supplies into the system. The boundaries of the drainage utility system service area shall be the municipal boundary of the City of Forest Hill.

Sec. 130-191: Director.

The Director will be assigned by the City Manager and a member on staff at the City of Forest Hill, knowledgeable with the management and operation of the system. The Director shall administer the storm water utility system. The Director shall keep an accurate record of properties benefitted or served by the storm water utility system and the storm water utility fee charged for each parcel or portion of a parcel.

Sec. 130-192: Program Implementation.

The City Council retains full discretion in establishing the time and quantitative priorities in expending funds on a reasonable basis as the same become available to meet the storm water needs of the City. The passage of this Ordinance shall not be construed to relieve private land owners, developers or other individuals or entities from providing storm water improvements pursuant to the ordinances of the City and the laws of this state which relate to storm water or storm water improvements. The Ordinance does not warrant, guarantee or provide any

assurance that a benefitted property will be free from flooding or erosion, and does not create additional duties nor waive any immunities on the part of the City.

Sec. 130-193: Billing for Service.

The City is hereby authorized to bill the drainage charges incurred as a result of the adoption of the Act through the establishment of the municipal drainage utility system. The storm water utility fee shall be separately identified from other public utility billings.

Sec. 130-194: Authority to Levy Charges.

The City may levy a schedule of drainage charges upon satisfaction of the procedural requirements provided in the Act, including public hearings and adoption of the requisite ordinances.

Sec. 130-195: Storm Water Utility Fund.

The Finance Director shall maintain a stormwater utility fund which may consist of one or more accounts. The income of the storm water utility shall be segregated and completely identifiable in the City accounts. Funds and revenues in the storm water utility fund may be paid over and transferred to the City's general fund as allowed by law."

SECTION 3: SEVERABILITY. If any section, subsection, article, paragraph, sentence, clause, phrase, or word in the Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

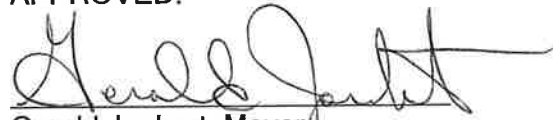
SECTION 4: REPEAL OF CONFLICTING ORDINANCES. All ordinances, orders, and resolutions heretofore passed and adopted by the City Council of the City of Forest Hill, Texas are hereby repealed to the extent said ordinances, orders, or resolutions or part thereof are in conflict herewith, except for the City's Zoning Ordinance unless repealed or amended consistent with state law and city ordinance.

SECTION 5: PROPER NOTICE AND MEETING. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by Section 552.045(c) of the Texas Government Code.


SECTION 6: EFFECTIVE DATE. This Ordinance shall become effective immediately upon and after its passage and publication as may be required by governing law.

DULY PASSED, APPROVED AND ADOPTED by the City Council of the City of Forest Hill, Texas on this 15th day of January, 2013.


APPROVED:


Gerald Joubert, Mayor

ATTEST:


Henrietta Roberts, City Secretary

APPROVED AS TO FORM:


Warren Spencer, City Attorney