

PUBLIC HEARING NOTICE

The City Council of the City of Willow Park, Texas will hold a Public Hearing during its Regular Meeting on Tuesday, February 23, 2021, at 7:00 p.m. at the Willow Park City Hall located at 516 Ranch House Road, Willow Park, Texas, to hear public opinion regarding the adoption of an Ordinance adopting the Municipal Drainage Utility Systems Act, Subchapter C of Chapter 552, Local Government Code, V.T.C.A., and declaring the City’s drainage system to be a public utility so that the City may establish rates and charges to be charged by the City’s Municipal Drainage Utility System.

This notice is being published in accordance with the public notice requirements set forth in Subchapter C of Chapter 552, Local Government Code, V.T.C.A. for public hearings. As required by the aforementioned statute, this public notice is being published in a newspaper of general circulation to the residents of the City of Willow Park thirty (30) days or more prior to the date of the public hearing and will be published a total of three times before the scheduled hearing.

All interested persons are encouraged to attend the public hearing and express their opinions on the proposed Ordinance. Council may vote on the proposed Ordinance immediately following the public hearing. A separate public hearing will be conducted at the same meeting on the proposed rates and charges to be charged by the City’s Municipal Drainage Utility System. State law provides that approval of the proposed Ordinance shall require an affirmative vote of a majority of the members of the City Council.

The entire proposed Ordinance to establish the City of Willow Park’s drainage system as a public utility so that the City may establish rates and charges to be charged by the City’s Municipal Drainage Utility System is set forth below, in accordance with requirements set forth in Subchapter C, Chapter 552, Local Government Code, V.T.C.A:

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILLOW PARK, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY BY AMENDING CHAPTER 13 UTILITIES TO ADD ARTICLE 13.13 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 PENALTY IN AN AMOUNT NOT TO EXCEED THE SUM OF \$2,000.00; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Willow Park, Texas has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Willow Park, Texas (the “City”) to promote the public health, safety and welfare of the citizens by adopting 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 (the “Act”); 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, 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 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; and

WHEREAS, the City has complied with public notices, including the printing of this entire ordinance in a newspaper of general circulation, the notice being advertised three times, the first being at least 30 days prior to a public hearing; and

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

SECTION 1. That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct.

SECTION 2. That Chapter 13 of the Code of Ordinances of the City of Willow Park, Texas is amended by adding an Article 13.13, Municipal Drainage Utility System, to read as follows:

“ARTICLE 13.13 MUNICIPAL DRAINAGE UTILITY SYSTEM

Sec. 13.13.001 -Municipal drainage utility system established.

The Municipal Drainage Utility Systems Act, V.T.C.A., Local Government Code ch. 552, subch. C, 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. 13.13.002 - Drainage service provided.

The city will provide stormwater 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 exempted real property by the city, 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 nonexempt benefitted property as defined in the Act within the city drainage system.

Sec. 13.13.003 - 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. Revenues generated through the drainage charges authorized herein shall be classified as committed resources according to the city financial policies, as amended. Drainage charges may only be expended for the costs of service as defined by the Act.

Sec. 13.13.004 - Authority to levy drainage charges.

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 that: 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; 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 this ordinance; and the city will offer drainage service on nondiscriminatory, reasonable, and equitable terms.

Sec. 13.13.005 - 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. 13.13.006 - Charges.

- (a) The city council shall, following the adoption of this article, establish a drainage charge schedule, by resolution of the city council, from time to time, 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 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 the water and sewer services.
- (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 benefitted 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. 13.13.007 - 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 director of finance for evaluation and determination. An appeal shall be in writing and submitted to the director of finance within 30 days after the public utility billing statement containing the matter to be disputed. During all periods of appeal the person or entity who 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 director of finance shall render a written decision on such appeals within 30 days after receiving a timely written notice of appeal from the person or entity who owns or occupies the benefitted property and/or the account holder. The director of finance shall deliver a copy of the appeal decision to the person or entity who 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 city engineer for evaluation and determination. An appeal pursuant to this subsection (d) shall be in writing and submitted to the city engineer within 30 days after the public utility billing statement containing the matter to be disputed. The city engineer 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 who owns or occupies the benefitted property and/or the account holder. The city engineer shall deliver a copy of the appeal decision to the person or entity who 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. During all periods of appeal the person or entity who 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 director of finance or the city engineer, as the case may be, may appeal such decision to the city manager in writing within ten days after receipt of the decision of the director of finance or the city engineer, as the case may be. The city manager shall render a written decision within 30 days after receipt of a timely appeal. The decision of the city manager shall be final. The city manager shall deliver a copy of the appeal decision to the person or entity who 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.

Sec. 13.13.008 - Credits.

- (a) A property owner may petition to the city to reduce the drainage charge fee for an individual property to account for on-site stormwater management controls that reduce the property's impact to the drainage utility system.
- (b) The petition will be evaluated, and the fee adjustment decision determined by the city engineer. The city engineer's evaluation and determination shall be based on nondiscriminatory, reasonable, and equitable terms and shall be based solely on stormwater-related factors.

Sec. 13.13.009 - 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 3. That all provisions of the ordinances of the City of Willow Park 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 Willow Park not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 4. That 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 provisions 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 5. That 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 6. That any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to a penalty and 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. Compliance with this ordinance may also be sought through injunctive relief in district court.

SECTION 7. That this Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provide.

[End of Proposed Ordinance]

All persons interested in the above-referenced Ordinance are invited to attend the public hearing and to provide comments at that time. Written comments on this proposed Ordinance may also be delivered to the City Council prior to 3:00 p.m. on the day of the public hearing at the following address:

Alicia Smith
City Secretary
City of Willow Park
516 Ranch House Road
Willow Park, TX 76087
Or by email at asmith@willowpark.org