

ORDINANCE NO. 30-2003

AN ORDINANCE AMENDING CHAPTER 32. UTILITIES, OF THE CITY OF ABILENE MUNICIPAL, CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR ENFORCEMENT; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, the City Council of the City of Abilene recognizes the need to assist in mitigation of storm water runoff whenever possible to help decrease flooding in the City of Abilene; and

WHEREAS, the City Council of the City of Abilene also recognizes the need to address storm water quality issues; and

WHEREAS, the creation of a Municipal Drainage Utility will assist in continued flood control measures and address storm water quality issues; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

- PART 1:** That Chapter 32. Utilities, of the City of Abilene Municipal Code be amended as set out in EXHIBIT A, attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** That if any provision or section of this Ordinance is held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining Ordinance provisions or sections, which shall remain in full force and effect.
- PART 3:** That any person, firm, or corporation, violating any provisions of this Ordinance shall be assessed a water surcharge fee and be subject to other penalties as set forth in Section 32-166. Each day such violation shall continue or be permitted to continue shall be deemed a separate offense.

PASSED ON FIRST READING on the 17th day of July, A.D. 2003.

PASSED ON SECOND AND FINAL READING AT A PUBLIC HEARING on the 28th day of August, A.D. 2003.

ATTEST:




CITY SECRETARY



MAYOR

APPROVED:



CITY ATTORNEY

EXHIBIT A

ADD THE FOLLOWING TO CHAPTER 32, UTILITIES:

ARTICLE VII. MUNICIPAL DRAINAGE UTILITY

Sec. 32-160. Adoption of State Law and Creation of Municipal Drainage Utility.

The provisions of Subchapter C of Chapter 402 of the Local Government Code are hereby adopted by the City of Abilene, and a Municipal Drainage Utility is hereby created in the City of Abilene. The City shall have the full authority to operate a municipal drainage utility system pursuant to Section 5 of the Texas Constitution, the Charter of the City of Abilene and state law. The municipal drainage utility shall be a public utility. The proposed service area shall be the incorporated city limits of the City of Abilene, Texas. The City of Abilene will offer drainage service on nondiscriminatory, reasonable and equitable terms.

Sec. 32-161. Definitions.

As it relates to the requirements of section 402.053 of the Local Government Code, the issuance of a "certificate of occupancy" for residential structures in the City shall be defined as the installation of the initial tie-in to water or wastewater service for the residential parcel.

Sec. 32-162. Deposit not required.

The City of Abilene shall not require a deposit for drainage charges as a precondition to accepting surface flow into the drainage system.

Sec. 32-163. Billing; delinquent charges.

All billings, credits, exemptions and other procedures, including penalties for delinquent payments, shall be as specified in Subchapter C of Chapter 402, Local Government Code. In addition, such penalties and procedures for collection as are used for other utility billings by the City, where not in conflict with Subchapter C of Chapter 402, Local Government Code, are hereby adopted for use as rules of the municipal drainage utility.

Sec. 32-164. Schedule of drainage charges.

The Abilene City Council will set a schedule of drainage charges against all real property in the proposed service area and will provide drainage for all real property in the proposed service area on payment of drainage charges, except for any real property required to be exempt under 402.053 of the Local Government Code. A schedule of charges shall be adopted by resolution of the City Council following a public hearing as required by section 402.045 of the Local Government Code. Said resolution shall be placed on file at the office of the City Secretary following passage and made available upon request to the public. Such charges may be changed, adjusted or readjusted by City Council resolution as required and a current copy of such drainage charges shall be kept available at the office of the City Secretary.

Sec. 32-165. Appeals.

Ordinary billing and payment disputes shall be subject to informal hearing and dispute resolution procedures used for other utility billing disputes by the City of Abilene. Certain other matters may be appealed to the City Engineer or his designee as follows:

- (1) Residential property billing can be appealed when the owner can offer proof that the property is unimproved and therefore not subject to the municipal drainage utility fee or may be appealed when proof can be offered that the amount of imperviousness of the property is inaccurate.
- (2) Nonresidential property billing can be appealed when the owner can offer proof that an error was made with regard to the category of land development, that the land is unimproved, or the amount of imperviousness of the land development.
- (3) The City Engineer or his designee shall render a written decision on such appeals within thirty (30) days after receiving a written notice of appeal from the landowner.

Sec. 32-166. Administrative Enforcement, Injunctive Relief.

Violations of this article, including failure to pay, are declared to be civil in nature, which may be enjoined by civil proceedings in state court, remedied as allowed by Chapter 402, or termination of water services on the account for which this fee is assessed.