



City of Huntsville Stormwater Utility Fee Appeal Form

Please fill out and return to the Engineering Department of Attn: Engineering@huntsvilletx.gov

Owner/Applicant:

Name: _____

Mailing Address: _____

City: _____ Zip: _____ Daytime Phone: _____

Service Location Information:

Property Address _____ Utility Account No.: _____

Reason for Appeal: (Check all that apply and attach documents and descriptions as indicated)

Inaccurate Impervious Area Calculation

Owner shall provide a copy of sealed survey indicates the material and square feet on impervious surface and/or sealed engineering site plan created within the past 12 months, indicating area in square feet of all impervious surfaces on the parcel, according to Ordinance 2024-18. All measurements are subject to verification by City staff.

Impervious Area Removed from Site

Owner shall provide a description of the structure or area modified. Provide a sealed Survey, approved site plan, and before & after photos.

Appeal Description and Documentation:

Describe the conditions as indicated above. Use the space provided to describe the areas. Appeal missing required information will be returned to the applicant without review. Attach any required documentation (plats, surveys, photos, etc.) or additional pages as needed.

Certification:

I certify that the information contained in the application is, to the best of my knowledge, correct and represents a complete and accurate statement. By signing below, I agree to allow City staff or inspector on site to review and verify the above information (if needed).

(Signature) (Print Name) (Date)

CITY OF HUNTSVILLE USE ONLY

Date Received: _____ Reviewed by: _____
__ Insufficient Information __ Approved __ Denied __ Adjusted __ Other: _____

	Before Review	After Review
Impervious Area/Lot Size		
Fee		

Notes: _____

Date sent to UB: _____ Date determination sent to Applicant: _____

ORDINANCE NO. 2024 - 18

AN ORDINANCE OF THE CITY OF HUNTSVILLE, TEXAS, AMENDING THE HUNTSVILLE MUNICIPAL CODE BY AMENDING CHAPTER 46 "UTILITIES," TO ADD ARTICLE A NEW ARTICLE IV "STORMWATER UTILITY SYSTEM," ESTABLISHING A MUNICIPAL DRAINAGE UTILITY SYSTEM AND ADOPTING A SCHEDULE OF RATES AND CHARGES TO BE ASSESSED; PROVIDING FOR DRAINAGE SERVICE, BILLING, EXEMPTIONS, DRAINAGE CHARGES, AND APPEALS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Huntsville, 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 finds that the drainage of the City is a public utility within the meaning of the Act and the Service Area is the municipal boundaries, meaning the City Limits; 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 included 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; and

WHEREAS the City Council finds notice of a public hearing was published in a newspaper the required number of times pursuant to Chapter 552 and after public notice, City Council held a public hearing on September 3, 2024; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS,

Section 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Huntsville, Texas, and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

Section 2. Huntsville Code of Ordinances Chapter 46 "Utilities" is hereby amended by adding an

new Article IV as shown in the attached Exhibit "A".

Section 3: All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

Section 4: Should any paragraph, sentence, 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 declared to be invalid, illegal or unconstitutional.

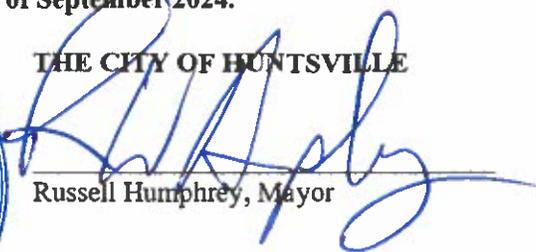
Section 5: This Ordinance shall take effect upon adoption.

Section 6: 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 the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED this 3rd day of September 2024.



THE CITY OF HUNTSVILLE


Russell Humphrey, Mayor

ATTEST:

APPROVED AS TO FORM:


Kristy Doll, City Secretary

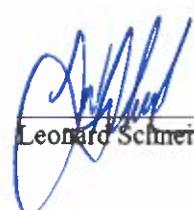

Leonardo Schneider, City Attorney

EXHIBIT A

Chapter 46 Utilities

Article IV. Stormwater Utility System

Division 1. -Generally

Section 46-470. – Creation within the Meaning of the Act. The City hereby adopts the provisions of Subchapter C of Chapter 552 of the Texas Local Government Code, (the “Act”), and hereby creates and establishes a stormwater utility system to serve the City, which boundaries shall be the boundaries of the City. The City declares the stormwater utility system to be a public utility and further finds that the City shall:

- (a) establish a schedule of stormwater (drainage) charges against all real property in the City subject to charges under Subchapter C of Chapter 552 of the Texas Local Government Code; and
- (b) provide stormwater (drainage) facilities and services for real property in the City on payment of stormwater charges, except such real property which may be exempted therefrom as authorized by law; and
- (c) offer such drainage (stormwater) service on non-discriminatory, reasonable and equitable terms.

Section 46-471. – Duty of City Manager or his/her designee. It shall be the duty of the City Manager or his/her designee to administer the stormwater utility system. The City shall keep an accurate record of all properties benefited or served by the stormwater utility system and the stormwater utility fee charged for each parcel or portion of a parcel. The record may be maintained within the City's utility billing system or in other record keeping systems that may be developed.

Secs. 46-472---46-480- Reserved.

Division 2- Implementation

Section 46-481. – Program Implementation. The City makes no representation that all of stormwater problems will be remedied; and the City Council is given full discretion in establishing the time and quantitative priorities in expending funds on a reasonable basis as the same become available to meet the stormwater needs of the City. This Section shall not be construed to relieve private landowners, developers or other individuals or entities from providing stormwater improvements pursuant to the ordinances of the City and the laws of this state which relate to stormwater or stormwater improvements. Further, the City does not waive any immunity granted under any law.

Section 46-482. – Access to Benefited Properties. Employees of the City shall have access, at all reasonable times, to any benefited properties served by the stormwater utility system for inspection

or repair or enforcement of the provisions of this Article and Chapter 522, Subchapter C, Local Government Code.

Section 46-483. – Definitions. The following definitions apply to the establishment and the operation of the Stormwater Utility System:

Act: means Chapter 552, Subchapter C “Municipal Drainage Utility Systems”, of the Texas Local Government Code, as amended.

Benefited Property: means an improved parcel, lot or tract to which stormwater service is made available. All parcels within the City receive stormwater service in some manner directly or indirectly.

City: means the City of Huntsville.

City Manager: means the City Manager as designated pursuant to the City Charter as adopted and as amended.

Customer: means the person(s) or entity(ies) recorded as the customer or user of utility services for a parcel as recorded in the records of the City’s utility billing.

Equivalent Residential Unit (ERU): An area of impervious coverage on an improved lot or tract that is generally equal to the median impervious area on a single-family property in the City limits, calculated as 3,300 square feet.

Impervious Area (or Impervious Surface): means a surface that has been compacted or covered with a layer of material so that it is resistant to infiltration by water and does not have a natural state of vegetative cover. Impervious areas include, but are not limited to, compacted soils with a surface treatment, gravel, crushed stone surfaces or soil compacted by vehicle traffic, asphalt or concrete pavement, parking lots, driveways, sidewalks and private roadways, buildings, swimming pool, detention pond, and other man-made structures, surfaces, or any uses that change the natural surface of the land and have the effect of increasing, concentrating, or otherwise altering stormwater runoff from that experienced under natural vegetative conditions.

Improved Lot or Parcel: means a lot or parcel that has been changed from its natural state by construction of a structure or other improvement on all or a portion of it that causes an impervious surface or change in the natural state of the vegetated soil on the property.

Non-Residential Property: means an improved parcel which is not a residential property, including but not limited to commercial, industrial, institutional, governmental, apartments, condominiums, homeowners’ association and similar properties.

Owner: means the person(s) or entity(ies) recorded as the owner of a parcel as recorded in the records of the Walker County Appraisal District.

Parcel: means one or more lots or tracts, or portions of lots or tracts.

Residential Property: means an improved parcel upon which is classified Residential or Residential - Manufactured Home(s) per City of Huntsville property type classification.

Service Area: means the area for the drainage utility. This area shall include all real property within the boundaries of the City Corporate Limits.

Stormwater Infrastructure or Drainage Infrastructure: means the property, real, personal or mixed, that is used in providing stormwater capacity to manage and control stormwater runoff for the stormwater utility system, including bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, retention ponds, ditches, draws, creeks, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the stormwater runoff away, collect, store, or treat the stormwater runoff, or divert the stormwater runoff into natural or artificial watercourses. Drainage infrastructure has the same meaning as stormwater infrastructure.

Stormwater Operations and Maintenance Expenditures: means any expenditures that are required to finance, operate and maintain stormwater infrastructure including debt service, equipment, personnel, educational and administrative expenditures.

Stormwater Only Account: means a utility billing account established for the sole purpose of billing applicable stormwater utility fees where other utility services are provided privately or through suppliers other than the City or its contractors.

Stormwater Utility Fee or Drainage Utility Fee: means the charge, including interest and penalties, paid by the owner or customer of a benefited property for stormwater services provided by the stormwater utility system, including, but not limited to, the items described in the definition of “cost-of-service” in Section 552.044(2) of the Act. Stormwater utility fee has the same meaning as the drainage utility fee.

Stormwater Utility Ordinance: means this Ordinance, as codified into the Huntsville Code of Ordinances as Article IV. “Stormwater Utility System”, as amended from time to time.

Stormwater Utility Fee Ordinance: means the section of the Huntsville Code of Ordinances as amended, Article IV. “Stormwater Utility System”, Section V. “Stormwater Utility Fees”, as amended for the purpose of providing stormwater service for real property in the proposed service area.

Stormwater Utility System or Drainage Utility System: means the stormwater utility system owned or controlled, in whole or in part by the City, including the City’s existing stormwater facilities, materials, and supplies and any stormwater facilities, materials, and supplies hereafter constructed or utilized, and dedicated to the service of benefited property, and including provision for additions to the system. The stormwater utility system has the same meaning as the drainage utility system.

Wholly Sufficient and Privately Owned Stormwater System: means land and facilities owned and operated by a person or entity other than the City and from which stormwater

does not discharge under any storm frequency event or conditions into a creek, river, slough, culvert, culvert, channel or other infrastructure that is part of the City's stormwater utility system.

Section 46-484. – Establishment of a Stormwater Utility Fee and Billing.

(a) Stormwater Utility Rate Classes. A stormwater utility fee is established, and the fee shall be imposed on each benefited property within the City for services and facilities provided by the stormwater utility system. For purposes of imposing the stormwater utility fee, all eligible parcels within the City are classified into the following categories:

- (1) Residential
- (2) Non-Residential

(b) Responsible Party.

- (1) The stormwater utility fee shall be billed monthly along with other utilities provided to the property, including water, wastewater or solid waste (garbage) services.
- (2) The bill imposing the stormwater utility fee will be mailed to either the owner or customer who is currently established as the responsible party for water, wastewater and solid waste service for the parcel; and, the owner or customer recorded in the utility billing system will be responsible for payment of the fee.
- (3) Where an improved parcel is not occupied by a customer that might use water, wastewater, solid waste or other utility service and considered by the City to be vacant, either on a temporary or permanent basis, the City may bill the owner of the parcel for the stormwater utility fee.
- (4) Where an improved parcel is not billed for water, wastewater, solid waste or other service to an owner or customer of the City, the City is hereby authorized to establish a "stormwater only account" and to bill the stormwater utility fee to either the owner or customer, as the City Manager determines is appropriate.

(c) Revision of Rates. The City shall establish the initial rates for the stormwater utility fee by ordinance. The City may review the schedule of rates at any time and may, by ordinance, increase or decrease the rates within the schedule, upon a determination that said increase or decrease is warranted.

(d) Billing Procedures and Policies.

- (1) Any partial payment of the stormwater utility fee will be applied against the amount due in accordance with the policies and procedures established by the City regarding all utility services provided by the City.
- (2) A late charge and interest may be imposed in accordance with the policies and procedures established by the City regarding all utility services.

- (e) Non-Payment. The City may file suit to recover any charges due hereunder, together with maximum interest, attorney fees and other costs and charges that may be allowed by the Act or other law, which is not paid when due. In addition to any other remedies or penalties provided by law or in this Ordinance, failure of a customer or owner of the stormwater utility system to pay the charges promptly when due shall subject such customer or owner to discontinuance of any utility services provided by the City and/or placement of a lien against the property.

Section 46-485. – Calculation of Storm Water Utility Fees.

- (a) Rates in Accordance with Act. The stormwater utility fee shall be established in accordance with the provisions of the Act.
- (b) Fee Calculation. The stormwater utility fee shall be based on an inventory of parcels within the City which also evaluates the benefited property's impact on the drainage utility system. Due to impervious area causing increases in stormwater runoff and associated pollutants to the drainage utility system, it is fair and equitable to calculate the impact and assess the drainage charge to each benefited property based on impervious cover, subject to limitation set forth below for residential properties. The stormwater utility fee shall be established for the stormwater utility system in a fair and equitable manner, and if so determined by the City Council, an amount to establish one or more funds to provide financing for future stormwater system construction and for implementing programs to improve stormwater quality. The City Council hereby imposes a drainage charge to be paid by users of benefited property to cover the cost of service of the drainage utility system. Said drainage charge shall be calculated as follows:
- (1) Residential Class: Includes City of Huntsville properties with property type classifications of Residential or Residential – Mobile Home(s).
- (i) For the purpose of Residential Class, the Equivalent Residential Unit (ERU) is defined as being 3,300 square feet of impervious area.
- (ii) Residential properties shall be assessed (1) ERU per month as follows: Each residential property = 3,300 square feet being the Equivalent Residential Unit (ERU).
- (iii) Monthly fees for each residential property are included in Annual published Fee Schedule "Stormwater Utility Fees".
- (2) Non-Residential Class: All properties that are not included in the Residential Class will be billed Stormwater utility fees as Non-Residential Properties. Monthly fees shall be calculated in accordance with Annual published City Fee Schedule "Stormwater Utility Fees".

Section 46-486. – Appeal.

- (a) Appeal of Stormwater Utility Fees to the City Manager or his/her designee. An owner or customer who has been charged a stormwater utility fee for a non-residential parcel and believes that the calculation of the stormwater utility fee is incorrect or inapplicable, may appeal the fee to the City Manager or his/her designee by filing a notice of appeal application.

(b) Process.

(1) An Appeal can be filed by completing a form created by the City Manager or his/her designee that describes the basis for the claimant appealing the data, including the provision of independent engineering reports supporting a more accurate impervious area calculation.

(2) The appeal shall set forth in detail the grounds upon which relief is sought. The City Manager or his/her designee shall decide on the appeal based upon a preponderance of the evidence.

(3) The information submitted to the City must be complete in order to conduct an evaluation of the appeal. A response regarding receipt and completeness by the City Manager or his/her designee will be provided within fifteen (15) business days of the receipt of the completed appeal form and supporting material.

(4) Properties classified as residential shall not have an individual appeals process separate from that offered in the public hearing prior to the initial implementation of the utility system fee.

(5) The Utility Billing Office shall refer questions of impervious fee calculations to the Engineering Department.

(6) The City Manager or his/her designee shall make determinations of impervious area appeals.

(7) Billing and payment disputes for administrative issues shall be subject to appeals procedures used by the City for other billing disputes.

(8) Appeals for the following reasons shall be directed to the City Manager or his/her designee for evaluation and determination.

(i) the applicability of a stormwater utility fee for a parcel;

(ii) the calculation of applicable stormwater runoff potential for a parcel;

(iii) the calculation of the stormwater utility fee for a parcel; or

(iv) the discontinuance of utility service, or other legal actions for non-payment of stormwater utility fees.

(9) The City Manager or his/her designee shall render a written decision on such appeals within thirty (30) days after receiving a complete written notice of appeal from the landowner.

(10) The City Manager's decision shall be final.

(c) Supporting Information for Appeal. The person filing the appeal may be required, at the person's cost, to provide supplemental information to the City Manager or his/her designee,

including but not limited to survey data sealed by a Texas licensed professional land surveyor, engineering reports sealed by a Texas licensed professional engineer qualified in civil engineering, or other documentation that the City Manager or his/her designee deems necessary to properly evaluate the appeal. Failure to provide requested information in a timely manner may result in denial of the appeal.

- (d) Delinquencies. Any charge due hereunder which is not paid when due may be recovered in an action at law by the City, in addition to any other remedies or penalties provided in the Act or other law, failure of a use within the Service Area to pay the charges promptly when due shall subject such user to discontinuance of any utility services provide by the City. City employees of the utility drainage system shall have access, at all reasonable times, to any benefited properties served by the drainage utility for inspection or repair or for the enforcement of the provisions of this division.

Section 46-487. – Stormwater Utility Fund.

(a) Stormwater Fund. A stormwater utility fund is established and may consist of one or more accounts. All stormwater utility fees shall be deposited as collected and received into this fund, and shall be used exclusively for stormwater services as stated in Section 522.044(2) of the Act, including, but not limited to the following:

- (1) The cost of the acquisition of land, rights-of-way, options to purchase land, easements, and interests in land relating to structures, equipment, and facilities used in draining the benefited property;
- (2) The cost of the acquisition, construction, repair, and maintenance of structures, equipment, and facilities used in draining the benefited property;
- (3) The cost of architectural, engineering, legal, and related services, plans and specifications, studies, surveys, estimates of cost and of revenue, and all other expenses necessary or incident to planning, designing, providing, or determining the feasibility and capability of structures, equipment, and facilities used in draining the benefited property;
- (4) The cost of all machinery, equipment, materials and appurtenances, and facilities necessary or incident to the provision and operation of draining the benefited property;
- (5) The prorated cost of funding and financing charges and interest arising from construction projects and the start-up cost of a stormwater facility used in draining the benefited property;
- (6) The prorated cost of debt service and reserve requirements for funding of stormwater infrastructure, equipment and facilities paid with revenue bonds or other securities or obligations issued by the City and supported by pledge of stormwater revenues including any fees and expenses incidental thereto;
- (7) To the extent permitted by law, the cost of constructing, sampling, monitoring, building, inspecting and maintaining structures needed for the State's regulation and permitting

requirements imposed on the City for providing stormwater quality improvements for the benefited property; and

(8) The administrative costs of the stormwater utility system.

(b) Stormwater Fund Accounting.

(1) The City shall clearly account for revenues and expenditures authorized for operation of the stormwater utility system.

(2) The revenues collected from stormwater utility fees shall be segregated and completely identifiable from other City funds and accounts.

(3) Funds and revenues in the stormwater utility fund may be transferred to the City's general fund as allowed by law.

(c) Stormwater Service Deposit. A deposit shall not be charged for initiation or continuation of stormwater utility service.

Section 46-488. – Exemptions. The following entities or persons shall be exempt from payment of the fees established by this ordinance:

(a) State Government Entities. A state governmental entity listed below, and a parcel in which the governmental entity holds a freehold interest is exempt from payment of the fees established by this ordinance:

(1) the State of Texas

(b) Institutes of Higher Education. A public or private institution of higher education is exempt from payment of the fees established by this ordinance.

(c) Undeveloped Property Exemption. Any property to which a mandatory exemption under Section 552.053 of the Act applies is exempt from this ordinance, including without limitation:

(1) property with proper construction and maintenance of a wholly sufficient and privately-owned stormwater system that does not discharge under any storm frequency event or conditions to waterways controlled or maintained by the City; and

(2) property held and maintained in its natural state, until such time that the property is developed, and all of the public infrastructure constructed has been accepted by the City for maintenance; and

(3) a subdivided parcel or lot, until a structure has been built on the lot and a certificate of occupancy has been issued, or the City has taken another official action to release the property for occupancy; and

(d) Other Exemptions. Any property owned by the following shall be exempt from this ordinance:

(1) property owned by a municipality.

(e) Any property owned by the following described or identified entities include a special rate set forth in Annual published Fee Schedule "Stormwater Utility Fees".

(1) property owned by a school district;

(2) property owned by a religious organization; or

(3) property owned by a county.

(f) Proof of Exemption. If the owner of property asserts that such property is exempt pursuant to this Section or any other applicable law, such property owner has the burden to assert such exemption by filing notice of eligibility for such exemption and sufficient evidence of entitlement to such exemption with the City Manager. If the exemption is not granted, the owner may appeal using the procedures for appeal provided in Section 46-477 "Appeal".

Secs. 46-489---46-500- Reserved.