

ORDINANCE NO. 3594

AN ORDINANCE OF THE CITY OF NORTH RICHLAND HILLS, TEXAS, AMENDING CHAPTER 78 OF THE CODE OF ORDINANCES OF THE CITY OF NORTH RICHLAND HILLS BY AMENDING AND RESTATING ORDINANCE NO. 1741 AND ADDING ARTICLE IX MUNICIPAL DRAINAGE UTILITY SYSTEM; AMENDING APPENDIX A FEE SCHEDULE TO INCLUDE RELATED FEES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES AND REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of North Richland Hills, Texas (“the City”) is a home rule city acting under its power adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, on September 23, 1991, by adoption of Ordinance No. 1741, the City Council of the City of North Richland Hills, Texas established a Municipal Drainage Utility System to provide rules for the use and operation of such system and prescribe and establish fees, together with the assessment, levy, and collection thereof, to finance and fund such system; and

WHEREAS, Subchapter C of Chapter 552 of the Texas Local Government Code (formerly Subchapter C of Chapter 402 of the Texas Local Government Code) requires any revision to those fees to be adopted by ordinance after notice and public hearings as required by law; and

WHEREAS, the City Council of the City of North Richland Hills, Texas finds it is in the public interest to protect the health and safety of citizens from loss of life and property caused by surface water overflows and surface water stagnation, and recognizes the need for drainage charges in the manner prescribed by Subchapter C of Chapter 552 of the Texas Local Government Code, as amended; and

WHEREAS, the City Council of the City of North Richland Hills, Texas finds that the basis for the drainage charges set forth herein is directly related to drainage; and

WHEREAS, the City Council of the City of North Richland Hills, Texas finds the subsequent classification of benefitted properties to be nondiscriminatory, equitable, and reasonable; and

WHEREAS, the City Council of the City of North Richland Hills, Texas, in setting the schedule of charges for drainage services set forth herein, has based its

calculations upon an inventory of the lots and tracts within the municipal boundaries of the City of North Richland Hills, Texas; and

WHEREAS, the City Council of the City of North Richland Hills has considered the average annual rate of inflation since 1992; a market analysis of the average Equivalent Residential Unit of similarly situated cities; and an increase in customers and uses of the benefitted properties which indicate growth of a 44% increase in residential customers and single family lots, and a 66% increase of non-residential customers; and

WHEREAS, using official zoning maps of the City of North Richland Hills, Texas with consideration given to size, topography and use of the parcels of the benefitted property, in adopting the methodology for assessing the drainage charges as set forth in Appendix A, the City Council finds that the size of the average residential lot has decreased significantly since 1992 increasing density of development and concentration of drainage runoff, and the City is now 90% improved parcels with 52% single family uses, 6% multi-family uses, and 32% commercial and institutional uses resulting in more impervious surface that has significantly changed the natural surface of the land increasing and altering runoff; and

WHEREAS, the City Council of the City of North Richland Hills, Texas finds that the schedule of charges set forth herein, and the rates upon which the schedule of charges was calculated, are equitable for similar services in all areas of the City of North Richland Hills, Texas; and

WHEREAS, the City Council of the City of North Richland Hills, Texas held a public hearing on the charges levied and imposed herein, after publishing notice of such public hearing in accordance with Chapter 552 of the Texas Local Government Code;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH RICHLAND HILLS, TEXAS, THAT:

SECTION 1: The City Council hereby finds the recitals above to be true and correct, and such recitals are hereby incorporated into this Ordinance as if written herein.

SECTION 2: All prior references to Subchapter C of Chapter 402 of the Texas Local Government Code, wherever it may appear in the Code of Ordinances, shall be replaced to reference Subchapter C of Chapter 552 of the Texas Local Government Code.

SECTION 3: All prior references to Zoning Districts R-4-SD and R-5-D, wherever they may appear in the Zoning Code or the Code of Ordinances, shall be replaced to reference Zoning District R-4-D.

SECTION 4: Ordinance No. 1741 is hereby amended and restated as set forth herein, and Chapter 78 of the Code of Ordinances of the City of North Richland Hills, Texas is hereby amended to add Article IX which shall be titled Municipal Drainage Utility System, and shall read as follows:

ARTICLE IX – MUNICIPAL DRAINAGE UTILITY SYSTEM

Sec. 78-500. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Benefitted property means an improved parcel, lot or tract to which drainage service is made available.

Drainage means bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, ditches, draws, 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 water away, collect, store, or treat the water, or divert the water into natural or artificial watercourses.

Drainage system means the drainage owned or controlled in whole or in part by the City and dedicated to the service of benefitted property, including provisions for additions to the system.

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 or crushed stone surfaces, asphalt or concrete pavement, parking lots, driveways, sidewalks and private roadways, and buildings, and other man-made structures, surfaces, or uses that change the natural surface of the land and have the effect of increasing, concentrating, or otherwise altering runoff.

Improved parcel means a lot or parcel that has been changed from its natural state by construction of a structure or other improvement on it that causes an impervious surface or coverage of the soil on the property.

Owner means the person(s) or entity(ies) recorded as the owner of a parcel as recorded in the records of the Tarrant 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 not more than four dwelling units are constructed.

Sec. 78-501. – Establishment of the Municipal Drainage Utility System.

The City of North Richland Hills, Texas Municipal Drainage Utility System was established within the boundaries of the city, by Ordinance No. 1741 after notice and hearing as required by state law, and declared to be a public utility.

Sec. 78-502. – Municipal Drainage Utility System Charges and Billing.

A schedule of drainage charges is hereby levied against all real property lying within the city of North Richland Hills, Texas, subject to drainage charges under Subchapter C of Chapter 552 of the Texas Local Government Code. The schedule of drainage charges is set forth in Appendix A – Fee Schedule of the City of North Richland Hills Code of Ordinances.

- (a) *Basic Drainage Charge.* The rates set forth herein are calculated on a basis of a drainage charge per Equivalent Residential Unit (“ERU”) per month. Runoff coefficients and corresponding rates per acre for various land uses may be modified by the City Council from time to time by a modification of said Basic Drainage Charge. The Basic Drainage Charge and associated cost per acre of impervious land per month is located in Appendix A – Fee Schedule.
- (b) *Single-Family Residential* (R1, R2, R3, R-4-D, R-6-T, and R-8). The City Council finds that the single-family residential lots within the City of North Richland Hills, Texas will be charged at a monthly rate per platted lot based on their zoning when a building exists on the platted lot. The charge per lot is based on the Basic Drainage Charge. A table of the associated charges is located in Appendix A – Fee Schedule.
- (c) *Other Lots.* Except as provided by subsection (e) below, all other lots, tracts, and parcels of land within the city of North Richland Hills, Texas, shall be charged monthly on the basis of the acreage contained in said lot, tract or parcel of land, and the use made of such property, in accordance with the associated schedule of drainage charges, located in Appendix A – Fee Schedule, which are hereby levied against all such remaining lots, tracts and parcels of land within the City of North Richland Hills, Texas.
- (d) *Unplatted Tracts.* All unplatted tracts, platted lots with other than residential zoning, or parcels of land which have solely a residential use are to be charged a drainage fee the same as a platted lot zoned R1 with a house on it. The rate per R1 use shall apply for each residential house which exists on the tract or parcel of land. If in the option of the City the tract or parcel contains an above average amount of impervious cover, an analysis of the tract can be conducted to determine the accurate runoff coefficient for the property. The rate for each such case will be adjusted in accordance with the analysis.

(e) Properties exempted from paying a drainage charge as described in this ordinance are the following:

- (1) Property with proper construction and maintenance of a wholly sufficient and privately owned drainage system.
- (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.
- (3) Subdivided lots, until a structure has been built on the lot and a certificate of occupancy has been issued by the City.
- (4) Property owned by the City of North Richland Hill, Texas.

(f) Billing for the charges described in this Article IX shall be monthly and included on the utility billing for water and sewer services.

Sec. 78-503 – Adjustment of Municipal Drainage Utility System Charges.

The City Council of the City of North Richland Hills, Texas, may change, adjust, and readjust the rates and charges established herein for drainage services from time to time by ordinance, in accordance with Chapter 552 of the Texas Local Government Code.

Sec. 78-504. – Implementation of the Municipal Drainage Utility System.

By adoption of Ordinance No. 1741, and this Ordinance, the city makes no representation that all of the city's drainage 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 becomes available to meet the drainage needs of the city. The adoption of this article shall not be construed to relieve private land owners, developers or other individuals or entities from providing drainage improvements pursuant to the ordinances of the city and the laws of this state which relate to drainage or drainage improvements. Further, the City does not waive any immunity granted under any law.

Sec. 78-505 – Rules of Operation and Conduct

The City Council of the City of North Richland Hills, Texas, may by subsequent ordinance, adopt rules for the operation and conduct of the North Richland Hills Municipal Drainage Utility System, including exemptions, if any, from the drainage charges levied therein, consistent with its authority and state law.

SECTION 5: Exhibit “A,” which is attached hereto and incorporated herein, amends Appendix A – Fee Schedule, to set forth the drainage charges as authorized by this Ordinance. The drainage charges shall be evaluated annually for any adjustments needed to maintain the various programs

and systems associated with them. Any adjustments shall be approved by the City Council by ordinance and in accordance with Chapter 552 of the Texas Local Government Code.

SECTION 6: This Ordinance shall be cumulative of all provisions of the Code of Ordinances of the City of North Richland Hills, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 7: All rights and remedies of the City of North Richland Hills are expressly saved as to any and all violations of the provisions of any ordinances in the Code of Ordinances of the City of North Richland Hills that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 8: It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 9: The City Secretary is hereby authorized and directed to cause the publication of this ordinance three times as required by law.

SECTION 10: This ordinance shall be effective as of October 1, 2019.

AND IT IS SO ORDAINED.

PASSED AND APPROVED on this 26th day of August, 2019.

CITY OF NORTH RICHLAND HILLS

By: _____
Oscar Trevino, Mayor

ATTEST:

Alicia Richardson, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Maleshia B. McGinnis, City Attorney

APPROVED AS TO CONTENT:

Mark C. Mills, Director of Finance

EXHIBIT "A"

Location in Code	Description	Fee
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CHAPTER 78. UTILITY

Section 78-501 Establishment of Municipal Drainage System Utility Charges and Billing

Section 78-502(a)	Basic Drainage Charge (BDC)	\$ 5.50
	Charge Per Impervious Acre	\$ 35.31

Section 78-502(b)	Single-Family Residential Drainage Charges (rates are per lot)	
	Zoning - R-1	\$ 6.31
	Zoning - R-2	\$ 4.77
	Zoning - R-3	\$ 4.08
	Zoning - R-4-D *	\$ 2.09
	Zoning - R-6-T	\$ 1.78
	Zoning - R-8	\$ 2.63

Note: above rates based on a Basic Drainage Charge of \$5.49 per Equivalent Residential Unit per month
 * Previous Zoning Districts R-4-SD and R-5-D are now combined into a single Zoning District referred to as R-4-D

Section 78-502(c)	All Other Lots, Tracts, and Parcels (rates are per acre)	
	Church & Institutional	\$ 21.89
	Multi-Family	\$ 23.30
	Offices	\$ 27.54
	Commercial	\$ 28.25
	Industrial	\$ 28.60
	Schools (Rate Code):	
	R2	\$ 4.73
	S8	\$ 13.77
	S1	\$ 18.00
	S2	\$ 19.06
	S3	\$ 19.41
	S4	\$ 19.78
	S5	\$ 20.13
	S6	\$ 20.47
	S7	\$ 21.54
	S9	\$ 21.89
	SA	\$ 24.36
	SB	\$ 26.12

Section 78-502(d)	All unplatted tracts, platted lots with other than residential zoning, or parcels of land which have solely a residential use are to be charged a drainage fee the same as a platted lot zones R1 with a house on it. The rate per R1 shall apply for each residential house which exists on the tract or parcel of land. If in the opinion of the City the tract or parcel contains an above average amount of impervious cover, an analysis of the tract can be conducted to determine the accurate runoff coefficient for the property. The rate for each such case will be adjusted in accordance with the analysis.	
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Section 78-502(e)	<p>Properties exempt from paying a drainage charge as described in this ordinance are the following:</p> <ol style="list-style-type: none"> 1. Property with proper construction and maintenance of a wholly sufficient and privately owned drainage system. 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. 3. Subdivided lots, until a structure has been built on the lot and a certificate of occupancy has been issued by the City. 4. Property owned by the City of North Richland Hills. 	
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Section 78-503	The City Council of the City of North Richland Hills, Texas may change, adjust, and readjust the rates and established herein for drainage services from time to time by ordinance.	
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