

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF AMARILLO, TEXAS, AMENDING THE AMARILLO MUNICIPAL CODE TO ADD CHAPTER 18-4 ESTABLISHING THE CITY OF AMARILLO DRAINAGE UTILITY AND ITS SERVICE AREA; DEDICATING CITY ASSETS TO THE UTILITY; PROVIDING FOR EXEMPTIONS; PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEALER; AND AN EFFECTIVE DATE.

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WHEREAS, the Amarillo City Commission finds that to protect the public health and safety from loss of life and property caused by surface water overflows, surface water stagnation, and pollution arising from nonpoint source runoff within the city; and

WHEREAS, the Commission finds that funding for improvement of the existing drainage system and construction of future drainage projects is best funded by users of the drainage system on a prorated basis; and

WHEREAS, the Commission desires to establish a municipal drainage utility system and this section is adopted for that purpose pursuant to the Texas Local Government Code, Subchapter C, Sections 552.041 through 552.054 and the Charter of the City of Amarillo, Texas, Article II, Sections 10 and 13; and

WHEREAS, the Commission finds that pursuant to the Local Government Code, Section 552.045:

- (a) it will establish a schedule of drainage charges against all real property in the service area subject to charges as permitted by Subchapter C, Chapter 552, Texas Local Government Code ("Subchapter C"), subject to any exemptions as required or permitted by Subchapter C;
- (b) it will provide drainage for all real property in the service area on payment of drainage charges, except real property exempted in accordance with Subchapter C;
- (c) it will offer drainage service on nondiscriminatory, reasonable, and equitable terms; and
- (d) notice as required by Subchapter C shall be provided; and

WHEREAS, the Commission finds that certain persons and entities shall be exempt from the rules, regulations, and charges imposed by this Section.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AMARILLO, TEXAS:

SECTION 1. That the Amarillo Municipal Code, Title XVIII, is amended to add Chapter 18-4, Drainage Utility, Article I, Creation of Utility, to read as follows:

**Chapter 18-4. Drainage Utility**

**Article I. Creation of Utility**

**Sec. 18-4-1. Establishment of Drainage Utility, Calculation of Drainage Charges; Service Area; Exemptions, and Dedication of Assets**

(a) The provisions of the Texas Local Government Code, Chapter 552, Subchapter C are hereby adopted to create a drainage utility for the City. Accordingly, drainage of the City of Amarillo is hereby declared to be a public utility.

(b) The service area for the drainage utility shall include all real property within the city limits of the City of Amarillo as now existing and all which may be annexed hereafter from time to time.

(c) The Commission finds that:

(1) impervious cover increases runoff and associated pollutants; and

(2) it is equitable to assess the drainage charge to each User based on impervious cover.

(d) Pursuant to the Texas Local Government Code, Section 552.053 and Section 580.003, the following shall be exempt from the provisions of this chapter:

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 municipality in which the property is located for maintenance;
3. a subdivided lot, until a structure has been built on the lot and a certificate of occupancy has been issued by the City;
4. state agencies;
5. public or private institutions of higher education.

(e) The City incorporates into the drainage utility system all existing property, facilities, materials, and supplies constituting the City's drainage system on the effective date of this Ordinance. All future acquisitions by the City of real or personal property used in the City's drainage system shall be maintained as a part of the drainage utility.

**Sec. 18-4-2. No Effect on Land Owner Obligations under City Ordinances; No Waiver of Immunity.**

(a) The establishment of the drainage utility by the City does not relieve private land owners, developers, other individuals and entities from responsibility for providing drainage improvements in connection with land development pursuant to the other ordinances of the City or laws of the State of Texas that relate to stormwater runoff, drainage management, or drainage improvements.

(b) The establishment of the drainage utility does not imply or warrant that a benefitted property will be free from flooding, stormwater pollution, or stream erosion. The City makes no representation that all drainage problems will be remedied. This ordinance does not create additional duties on the part of the City or create new liability or remedies for any flooding, stream erosion, deterioration of water quality, or other damages. Nothing in this ordinance shall be deemed to waive the City's immunity under law or reduce the need or necessity for flood insurance.

**Sec. 18-4-3. Other Laws.**

(a) This Chapter is intended to be read in harmony with Chapter 4-8 Flood Mitigation, Chapter 18-3 Storm Sewers, and all other provisions of this Code. To the extent this Chapter conflicts with Chapter 4-8, 18-3, or any other Chapter in this code, the provisions shall be harmonized when possible, however, this Chapter shall control and supersede any other provision regarding the Drainage Utility System.

**Sec. 18-4-4 through 18-4-10. Reserved.**

SECTION 2. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Commission of the City of Amarillo, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 3. Repealer. All ordinances, parts of ordinances resolutions and parts of resolutions in conflict with this ordinance that cannot be harmonized, are hereby repealed to the extent of conflict with this ordinance.

SECTION 4. Publishing and Effective Date. This ordinance shall be published and become effective according to law.

2/22/12 Cgm

INTRODUCED AND PASSED by the City Commission of the City of Amarillo, Texas, on First Reading this the \_\_\_\_\_day of \_\_\_\_\_, 2012; and PASSED on Second and Final Reading the \_\_\_\_\_day of \_\_\_\_\_, 2012.

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Paul Harpole, Mayor

ATTEST:

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Donna DeRight, City Secretary