

Chapter 22. Utilities

ARTICLE 22.07. MUNICIPAL DRAINAGE UTILITY

[1] *Editor's note—Effective April 1, 2009, all references in this article to chapter 402 of the Local Government Code will change to chapter 552 of the Local Government Code.*

§ 22.07.001. Findings.

The city council has found and does find that:

- (1) The city will provide drainage to protect the public health and safety in the service area from loss of life and property caused by surface water overflows, surface water stagnation, and pollution arising from nonpoint source runoff for all real property in the proposed service area on payment of drainage charges, except real property exempted under sections 552.053 or 580.003 of the Texas Local Government Code.
- (2) The city will offer drainage service on nondiscriminatory, reasonable and equitable terms.
- (3) The city shall prescribe an impervious area basis on which the municipal drainage utility system is funded, and fees in support of the system may be assessed, levied and collected. As it relates to this charge, impervious area is defined as a surface which has become compacted or covered with a layer of material to the extent that it is resistant to infiltration by water. Impervious area includes, but is not limited to, compacted soils, graveled surfaces subject to motorized vehicular traffic, walkways, buildings, parking lots, pavement, and ingress/egress driveways. Impervious area shall not include sidewalks located in the public right-of-way. For purposes of this definition a "walkway" is a pedestrian way in the interior of a lot or tract that is not located in the public right-of-way.
- (4) The city shall establish a schedule of drainage charges against all non-exempt real property located in the proposed service area, based on classification of the property as residential or nonresidential. For the purposes of this article, the following terms are defined:
 - (A) Residential property is a tract of real property, upon which is located as the primary structure, a one-family dwelling unit or a two-family dwelling unit, as those terms are defined in section 40.01.003(59) and (60), including all impervious surfaces located on said real property.
 - (B) Nonresidential property is a contiguous tract of real property under common ownership, and not residential property, except property exempt pursuant to sections 552.053 or 580.003 of the Texas Local Government Code.
- (5) As it relates to the requirements of section 552.053 of the Texas Local Government Code, charges shall initiate:
 - (A) For residential property, at such time the city building official has completed all required inspections and approved the property for release; or
 - (B) For nonresidential property, at such time an original "certificate of occupancy" has been issued by the city pursuant to article **28.06** of the Code of Ordinances.

(1983 Code, sec. 28-200; Ordinance 9634, sec. 1, adopted 8/26/1993; Ordinance 2014-O0124, sec. 1, adopted 10/23/2014)

§ 22.07.002. Adoption of state law; creation of utility.

The provisions of subchapter C of chapter 552 of the Texas Local Government Code are hereby adopted by the city. The city shall have full authority to operate a municipal drainage utility system pursuant to subchapter C, chapter 552, Texas Local Government Code; article 11, section 5, of the Texas Constitution; and the city charter. The drainage of the city is hereby declared to be a public utility.

(1983 Code, sec. 28-201; Ordinance 9634, sec. 1, adopted 8/26/1993; Ordinance 2014-O0124, sec. 2, adopted 10/23/2014)

§ 22.07.003. Injunction; penalty.

Any violation of this article may be enjoined by a civil proceeding filed in the name of the City of Lubbock in a court of competent jurisdiction in addition to such violation being a class C misdemeanor punishable by a fine not exceeding such amount as is provided by the general laws of the State of Texas for such offenses.

(1983 Code, sec. 28-206; Ordinance 9634, sec. 1, adopted 8/26/1993)

§ 22.07.004. Deposit not required.

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

(1983 Code, sec. 28-202; Ordinance 9634, sec. 1, adopted 8/26/1993)

§ 22.07.005. Billing; delinquent charges; discontinuation of other service.

- (a) All billings, credits, exemptions and other procedures, including penalties for delinquent payments, shall be as specified in chapter 552, subchapter C, Texas Local Government Code.
- (b) Penalties and procedures for collection as are used for other utility billings by the city, where not in conflict with chapter 552, subchapter C, Texas Local Government Code, are hereby adopted for use as rules of the municipal drainage utility.
- (c) Pursuant to Texas Local Government Code, section 552.050, failure by a user of the municipal utilities within the service area to pay the charges when due shall subject such user to discontinuance of any utility services provided by the municipality.

(1983 Code, sec. 28-203; Ordinance 9634, sec. 1, adopted 8/26/1993; Ordinance 2014-O0124, sec. 3, adopted 10/23/2014)

§ 22.07.006. Schedule of drainage charges.

- (a) Drainage charges shall be set in accordance with Texas Local Government Code, section. 552.047, and shall be based on classifications directly related to drainage on and from the property. Revenue collected from the stormwater utility will be used solely to provide drainage to real property located within the service area.

(b) Drainage charges shall be in accordance with a schedule of charges adopted by resolution of the city council following a public hearing, as required by section 552.045 of the Texas 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 may be required, and a current copy of such drainage charges shall be kept available at the office of the city secretary.

(1983 Code, sec. 28-204; Ordinance 9634, sec. 1, adopted 8/26/1993; Ordinance 2014-O0124, sec. 4, adopted 10/23/2014)

§ 22.07.007. Disputes; appeals.

(a) All disputes in connection with this article shall be brought initially, and within six (6) months from the date it is claimed that said dispute arose, to the city engineer or his designee for resolution, which decision shall be rendered within thirty (30) days after having received written notice of the dispute from the landowner. Matters which may be disputed and appealed include, but are not limited to, the following:

- (1) Ordinary billing and payment disputes;
- (2) Assessment of a stormwater utility fee to exempt property, or property outside the city's jurisdictional area;
- (3) Incorrect determination of a certain property's contribution of stormwater into the stormwater system;
- (4) Duplicate assessment of a stormwater utility fee on utility accounts.

(b) Any appeal of the city engineer's decision shall be brought within fifteen (15) days of the date of the city engineer's decision to the permit and license appeal board for an informal hearing and dispute resolution procedure used in other utility disputes by the city. Such appeal shall be made in writing and filed with the city secretary. The permit and license appeal board shall render a written decision on such appeal within thirty (30) days after having received a written notice of appeal from the landowner. A decision of the permit and license appeal board shall be final.

(1983 Code, sec. 28-205; Ordinance 9634, sec. 1, adopted 8/26/1993; Ordinance 2014-O0124, sec. 5, adopted 10/23/2014; Ordinance 2023-O0071 adopted 6/27/2023)