

ORDINANCE NO. 2020-12-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 130, ENTITLED "LAND DEVELOPMENT REGULATIONS," OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS, THROUGH THE AMENDMENT OF EXISTING ARTICLE II, ENTITLED "WATER AND WASTEWATER IMPACT FEES," BY DELETING ARTICLE II IN ITS ENTIRETY AND REPLACING SAID ARTICLE WITH A NEW ARTICLE II THAT IS ALSO ENTITLED "WATER AND WASTEWATER IMPACT FEES," BY ADOPTING A NEW EXHIBIT 1 REGARDING THE 2019 LAND USE ASSUMPTIONS FOR UTILITY IMPACT FEES, BY ADOPTING A NEW EXHIBIT 2 REGARDING THE 2019 WATER & WASTEWATER IMPACT FEE UPDATE ("WATER & WASTEWATER IMPROVEMENTS PLANS"), BY ADOPTING A NEW SCHEDULE 1 REGARDING THE MAXIMUM ASSESSABLE WATER AND WASTEWATER IMPACT FEES, AND BY ADOPTING A NEW SCHEDULE 2 REGARDING THE ASSESSMENT AND COLLECTION OF WATER AND WASTEWATER IMPACT FEES; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; RESERVING ALL EXISTING RIGHTS AND REMEDIES; PROVIDING FOR IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING A PENALTY; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of McKinney, Texas (the "City") is a home-rule city possessing the full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code and its Home Rule Charter; and

WHEREAS, the City adopted the Code of Ordinances, City of McKinney, Texas ("McKinney Code"), for the protection of the public health and general welfare of the people of the City; and

WHEREAS, the City established utility impact fees to be imposed within its corporate limits and within its extraterritorial jurisdiction by Ordinance No. 1868, and as amended by Ordinance No. 1996-03-013, Ordinance No. 2001-08-092, Ordinance No. 2003-05-056, Ordinance No. 2008-11-103, Ord. No. 2013-11-109, and Ord. No. 2013-12-118 in compliance with Chapter 395 of the Texas Local Government Code (the "Utility Impact Fee Ordinances"); and

WHEREAS, the Utility Impact Fee Ordinances have been codified in Article II of Chapter 130 of the McKinney Code; and

WHEREAS, Texas Local Government Code Section 395.052 requires a city imposing utility impact fees to update the land use assumptions and capital improvements plans at least once every five years; and

WHEREAS, the City held a public hearing and approved the updated Land Use Assumptions For Utility Impact Fees in conjunction with Resolution No. 2019-09-114 (R), which Resolution and Assumptions are attached hereto as Exhibit 1 and incorporated herein by reference for all purposes allowed by law; and

WHEREAS, the City held a public hearing and approved the 2019 Water & Wastewater Impact Fee Update ("Water & Wastewater Improvements Plans") in conjunction with Resolution No. 2020-12-XXX (R), which Resolution and Update are attached hereto as Exhibit 2 and incorporated herein by reference for all purposes allowed by law; and

WHEREAS, the City Council finds that the provisions governing the administration of utility impact fees and Schedules 1 and 2 setting forth the water and wastewater impact fees to be assessed and collected established in the

Utility Impact Fee Ordinances and codified in Article II of Chapter 130 of the McKinney Code should be amended; and

WHEREAS, the City Council finds that the City has complied with Chapter 395 of the Texas Local Government Code in the amendment of the land use assumptions, capital improvements plans, and utility impact fees; and

WHEREAS, the City Council finds and determines that deleting Article II, "Water and Wastewater Impact Fees," of Chapter 130 of the McKinney Code and replacing it with a new Article II, also entitled "Water and Wastewater Impact Fees," is in the best interest of the citizens of McKinney to assure the availability of adequate water and wastewater facilities and services in order to serve new development consistent with the policies set forth in the City's Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

Section 1. All of the above premises are found to be true and correct legislative determinations and are incorporated into the body of this Ordinance as if set forth in their entirety.

Section 2. From and after the effective date of this Ordinance, Chapter 130 of the McKinney Code is hereby amended by deleting Article II, entitled "Water and Wastewater Impact Fees," in its entirety and replacing said article with a new Article II that is also entitled "Water and Wastewater Impact Fees," to read as provided in Exhibit "A," attached hereto and incorporated herein by reference for all purposes allowed by law.

SEE ATTACHED EXHIBIT A

Section 3. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

Section 4. If any section, subsection, paragraph, sentence, phrase or clause in this Ordinance, or the application thereof to any person or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining provisions shall remain in full force and effect, and to this end, the provisions of this Ordinance are declared to be severable.

Section 5. All rights and remedies of the City of McKinney are expressly saved as to any and all violations of the provisions of any ordinances which 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 6. All of the regulations provided in this Ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this Ordinance, acting for the City of McKinney in the discharge of his duties, shall not thereby render himself personally liable; and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties.

- Section 7. Any violation of this Ordinance can be enjoined by a suit filed in the name of the City of McKinney in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this Ordinance or in the Code of the City of McKinney.
- Section 8. Any person, firm or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined a an amount not to exceed Two Thousand Dollars and No Cents (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.
- Section 9. The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney following the City Council's adoption hereof as provided by law.
- Section 10. This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 1st DAY OF DECEMBER, 2020.

CITY OF MCKINNEY, TEXAS

GEORGE FULLER
Mayor

CORRECTLY ENROLLED:

EMPRESS DRANE
City Secretary
JOSHUA STEVENSON
Deputy City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney