

ORDINANCE NO. 2013-12-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS AMENDING ORDINANCE NO. 2013-11-109 AND 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 ADOPTING A NEW "SCHEDULE 2" REGARDING THE ACTUAL WATER AND WASTEWATER IMPACT FEES TO BE PAID AND COLLECTED IN ACCORDANCE WITH SECTION 130-28, ENTITLED "PAYMENT AND COLLECTION OF IMPACT FEES," PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; 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 II, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code and its home rule charter; 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; and Ordinance No. 2008-11-103 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 Code of Ordinances, City of McKinney, Texas; 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 Council has held the public hearings required by Chapter 395 of the Texas Local Government Code to consider and approve Updated Land Use Assumptions For Utility Impact Fees and the 2012-2013 Water & Wastewater Impact Fee Update ("Water & Wastewater Improvements Plans"); and

WHEREAS, the City Council found 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 Code of Ordinances, City of McKinney, Texas, should be amended; and

WHEREAS, the City Council has previously adopted a new Schedule 1 in conjunction with Ordinance No. 2013-11-109; and

WHEREAS, there were certain typographical errors in Ordinance No. 2013-11-109 regarding the adoption of a new Schedule 2 that do not accurately reflect the City Council's determination of the amount of impact fees to be paid and collected for eligible water and wastewater improvements and which errors the City Council hereby desires to correct; and

WHEREAS, the City Council desires to replace the Schedule 2 adopted by and attached to Ordinance No. 2013-11-109 and adopt a new Schedule 2 regarding the impact fees to be paid and collected in accordance with Section 130-28, entitled "Payment and Collection of Impact Fees," to accurately reflect the earlier determination of the City Council; and

WHEREAS, the adoption of a revised Schedule 2 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 hereby found to be true and correct legislative and factual findings of the City of McKinney, and they are hereby approved and incorporated into the body of this Ordinance as if restated herein in their entirety.
- Section 2. From and after the effective date of this Ordinance, Schedule 2 attached to Ordinance No. 2013-11-109 and the application of which Schedule 2 is referenced in Section 130-28, entitled "Payment and Collection of Impact Fees," of the Code of Ordinances is hereby amended and replaced in its entirety with a new Schedule 2 to read as set forth in Exhibit "A" attached hereto and incorporated herein by reference for all purposes allowed by law. Said Schedule 2 may hereafter be amended from time to time by Ordinance. All references to "Schedule 2" contained in this Ordinance, Ordinance No. 2013-11-109, and Article II of Chapter 130 of the Code of Ordinances, City of McKinney, Texas, are hereby declared to be references to Schedule 2 attached as Exhibit "A" to and incorporated by reference into this Ordinance.
- Section 3. This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of McKinney, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby superseded.
- Section 4. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.
- Section 5. 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 6. 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 7. The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney, and this Ordinance shall become effective upon publication.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THIS THE 17TH DAY OF DECEMBER, 2013.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary
BLANCA I. GARCIA, TRMC
Assistant City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney