

To Be Published in the  
**McKINNEY COURIER-GAZETTE**  
Sunday, March 1, 2015  
Sunday, March 8, 2015  
Sunday, March 15, 2015  
THREE (3) TIMES

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## LEGAL NOTICE

NOTICE IS HEREBY GIVEN THAT A PUBLIC HEARING WILL BE HELD BY THE CITY COUNCIL OF THE CITY OF MCKINNEY AT 6:00 P.M. ON TUESDAY, APRIL 7, 2015 IN THE COUNCIL CHAMBERS OF CITY HALL LOCATED AT 222 N. TENNESSEE STREET TO CONSIDER AND ORDINANCE MAKING REVISIONS TO THE CITY'S MUNICIPAL SURFACE WATER DRAINAGE UTILITY SYSTEM AS FOLLOWS:

### ORDINANCE NO. 2014-04-\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS AMENDING THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS, THROUGH THE AMENDMENT OF CHAPTER 110, ENTITLED "UTILITIES," THROUGH THE AMENDMENT OF ARTICLE VII, ENTITLED "MUNICIPAL SURFACE WATER DRAINAGE UTILITY SYSTEM," BY ADDING NEW DIVISION MARKERS TO AID IN THE ORGANIZATION OF ARTICLE VII, BY AMENDING SECTION 110-394, "DEFINITIONS," IN PART, BY UPDATING THE STATE LAW REFERENCE IN THE FIRST LINE OF SAID SECTION AND BY AMENDING CERTAIN OF THE EXISTING DEFINITIONS AND ADDING A DEFINITION FOR THE PHRASE "SYSTEM-WIDE FEE COMPONENT," BY AMENDING SECTIONS 110-395 AND 110-396 BY REPLACING SAID SECTIONS IN THEIR ENTIRETY WITH NEW SECTIONS 110-395 AND 110-396 BEARING THE SAME RESPECTIVE TITLES, BY AMENDING SECTION 110-397, "EXEMPTIONS," IN PART, BY AMENDING PARAGRAPH (a) TO ADD "INSTITUTIONS OF HIGHER EDUCATION" TO THE LIST OF GOVERNMENTAL ENTITIES EXEMPTED FROM THE SDUS FEE AND RE-NUMBERING THE LIST ACCORDINGLY, BY AMENDING SECTION 110-398, "BILLING, DEPOSITS AND EXPENDITURES," IN PART, BY AMENDING PARAGRAPHS (a), (c) AND (d), RE-LETTERING A PORTION OF EXISTING PARAGRAPH (d) AS PARAGRAPH (e) AND ADDING A NEW PARAGRAPH (f), AND BY ADDING NEW SECTIONS 110-399 THROUGH 110-404; BY AMENDING APPENDIX A – "SCHEDULE OF FEES" BY DELETING SECTION 110-395, "SCHEDULE OF CHARGES," IN ITS ENTIRETY AND REPLACING SAID SECTION WITH A NEW SECTION 110-395, "SCHEDULE OF CHARGES"; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; RESERVING ALL EXISTING RIGHTS AND REMEDIES; PROVIDING FOR IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING 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 XI, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code and its Home Rule Charter; and

**WHEREAS,** the City previously recognized a need to address drainage improvements and the operation and maintenance of the City's surface water management program designed to assist in the protection of public health and safety from loss of life and property caused by surface water overflows, surface water stagnation, and pollution arising from water runoff within the boundaries of the City; and

**WHEREAS,** the City established a Surface Water Drainage Utility System (SDUS) pursuant to then Chapter 402 of the Texas Local Government Code by and through the adoption of Ordinance No. 2002-03-017, on or about March 5, 2002, and which Ordinance has since been amended, in part, on two occasions; and

**WHEREAS,** the Municipal Drainage Utility Systems Act is now codified at Section 552.041, *et seq.* of the Texas Local Government Code; and

**WHEREAS,** the City finds it necessary to amend certain provisions of its Municipal Surface Water Drainage Utility System regulations; and

**WHEREAS,** the City Council has determined that all legal requirements of notice and hearing have been met regarding the original adoption of the City's Municipal Surface Water Drainage Utility System regulations and the amendments thereto proposed by this Ordinance specifically including, but not limited to, notice of the time and place of the public hearing to consider this ordinance and schedule of drainage fees, along with its text being published three times in a newspaper of general circulation in the City with the first date of such publication being more than thirty (30) days prior to the date of the public hearing to consider this Ordinance; and

**WHEREAS,** the City Council of the City of McKinney desires to amend certain of its Municipal Surface Water Drainage Utility System regulations as provided herein-below.

**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 and are incorporated into the body of this Ordinance as if set forth in their entirety.

Section 2. The City's Municipal Surface Water Drainage Utility System is hereby amended and updated in accordance with, and pursuant to the Municipal Drainage Utility Systems Act, Texas Local Government Code Sections 552.041, *et seq.*, which legislation was previously codified in Texas Local Government Code, Subchapter C, Chapter 402.

Section 3. From and after the effective date of this Ordinance, Chapter 110, entitled "Utilities," is hereby amended through the amendment of Article VII, entitled "Municipal Surface Water Drainage Utility System," by adding new division markers to aid in the organization of Article VII as follows:

- (a) "Division 1. - Generally" to include Section 110-394;
- (b) "Division 2. - Schedule of Charges" to include Section 110-395 through Section 110-398;
- (c) "Division 3. - Credits" to include Section 110-399 through Section 110-403; and
- (d) "Division 4. - Review" to include Section 110-404.

Section 4. From and after the effective date of this Ordinance, Chapter 110, entitled "Utilities," is hereby amended through the amendment of Article VII,

entitled "Municipal Surface Water Drainage Utility System," by amending Section 110-394, "Definitions," in part, by updating the state law reference in the first line of said Section and by amending the definitions of the phrases "Single-Family Living Unit Equivalent (SFLUE)," and "Surface Water Drainage Utility System (SDUS) Fee," and adding a definition for the phrase "System-Wide Fee Component" such that hereafter said Section 110-394 entitled "Definitions" shall be and read as follows:

**"Sec. 110-394. Definitions**

The definitions of Texas Local Government Code § 552.044 are hereby adopted, except as modified here:

*Drainage charge* means:

The levy imposed to recover the cost of service of the city in furnishing drainage for any benefited property; and

An amount made in contribution to funding of future drainage system construction by the city.

*Impervious surface* means the area of a structure or other improvement upon land that causes an impervious coverage of the soil under the structure or improvement.

*Property area* means the property area of each lot or tract as shown on the land area data maintained by the county appraisal district.

*Service area* means the geographic areas within the municipal boundaries of the city.

*Single-family living unit equivalent (SFLUE)* means a unit of measurement of impervious surface area determined as the average residential house structure or a garage, driveway and other impervious area within the city, to wit: 3,000 square feet.

*Structure* means any change or improvement upon land that causes an impervious coverage of the soil.

*Surface water drainage utility system (SDUS) fee* means the total drainage charge for a property, including the system-wide fee component and the applicable lake drainage basin fee components based on the number of SFLUEs determined for the property.

*System-wide fee component* means the component of the SDUS fee used for the recovery of costs associated with furnishing drainage for all benefitted properties as well as funding of future drainage system construction save and except costs associated solely with NRCS lake drainage basins. The dollar amount of the system-wide fee component is determined, from time to time as provided herein-below, by the City Council and is set at a dollar figure reflecting the impacts generated on the drainage system by a single-family living unit having approximately 3,000 square foot of impervious surface."

Section 5. From and after the effective date of this Ordinance, Chapter 110, entitled "Utilities," is hereby amended through the amendment of Article VII,

entitled "Municipal Surface Water Drainage Utility System," by amending Section 110-395, "Schedule of Charges," and Section 110-396, "Levy of Fees," by replacing said sections in their entirety with a new Section 110-395 entitled "Schedule Of Charges" and a new Section 110-396 entitled "Levy Of Fees," to read as follows:

**"Sec. 110-395. Schedule of Charges**

Every property owner and city service customer shall be responsible for paying the SDUS fee for the benefited property. Such benefitted properties are charged monthly based on the amount of impervious area on a parcel of property. The SDUS fee has two components: the system-wide component and the lake drainage basin component. The SDUS fee for all properties is computed using the same formula, which calculates all properties in relation to a single-family living unit equivalent (SFLUE) based on the impervious surface area on the improved lot or tract save and except as set forth otherwise herein-below multiplied by the amount of the drainage charges as determined from time to time by the city council.

(1) Determination of SFLUE.

- a. For single-family residential and townhome parcels, one SFLUE per month per parcel.
- b. For duplex and quadplex properties, one SFLUE per month per dwelling unit.
  - (i) The SDUS fee shall be calculated, based on the number of dwelling units, for the entire property and shall be paid by the property owner. The city shall place the SDUS fee on a master meter account billed to the owner or his agent.
  - (ii) At its sole discretion, the city may pro rate the SDUS fee among the separate meters in relation to the number of dwelling units served by the meters; provided the customer provides adequate assurance for payment and documentation of the number of dwelling units served by each meter.
- c. For mobile home parks, one SFLUE per month per each mobile home pad or trailer pad.
  - (i) The SDUS fee for the entire complex shall be placed on a master meter within the property, or, at the city's sole discretion, may be billed separately to the property owner.
  - (ii) For individually metered trailer pads, the city may, at its sole discretion, bill the SDUS fee on the individually metered accounts.
- d. For multifamily properties, the number of SFLUE applicable to the property will be individually determined based on the actual impervious surface area of the property rounded up to the nearest whole number.

- (i) In the case of multiple meters on a single parcel, the SDUS fee shall be calculated for the entire property and shall be paid by the property owner. The city shall place the SDUS fee on a master meter account billed to the owner or the owner's agent.
  - (ii) At its sole discretion, the city may pro rate the SDUS fee among the separate meters in relation to the area served by the meters provided the customer provides adequate assurance for payment, complete documentation of impervious area pro rata calculations, and documentation of concurrence by all owners and/or tenants.
- e. For nonresidential, commercial and/or industrial properties, the number of SFLUE applicable to the property will be individually determined based on the actual impervious surface area of the property rounded up to the nearest whole number.
  - (i) In the case of multiple meters on a single parcel, the SDUS fee shall be calculated for the entire property and shall be paid by the property owner. The city shall place the SDUS fee on a master meter account billed to the owner or the owner's agent.
  - (ii) At its sole discretion, the city may pro rate the SDUS fee among the separate meters in relation to the area served by the meters provided the customer provides adequate assurance for payment, complete documentation of impervious area pro rata calculations, and documentation of concurrence by all owners and/tenants.
- (2) The minimum SDUS fee for any multi-family, nonresidential, commercial and/or industrial property shall be based on one SFLUE per month.
- (3) The system-wide component. The monthly system-wide fee for all property within the city shall be as determined from time to time by city council.
- (4) The lake drainage basin component.
  - a. The NRCS lake drainage basins are hereby established as shown on exhibit B, attached to Ord. No. 2002-03-017, which exhibit is not set out herein, but is on file and available for inspection in the office of the city secretary. The city engineer shall determine whether an improved lot or tract is within a lake drainage basin. In the event of a dispute, the property owner may be requested to provide topographical data to assist in such determination. If an improved lot or tract is located partially within a lake drainage basin, or within more than one lake drainage basin, the improved lot or tract shall be deemed to be

completely located within the basin that contains the largest percentage of its impervious area.

- b. Every property owner and city service customer within a lake drainage basin shall be responsible for paying the lake drainage basin fee associated with that drainage basin, as shown on exhibit A, attached to Ord. No. 2002-03-017, which exhibit is not set out herein, but is on file and available for inspection in the office of the city secretary.
- c. The monthly lake drainage basin component is determined by multiplying the fee shown on exhibit A, attached to Ord. No. 2002-03-017, which is not set out herein, by the SFLUE calculated for the property.

**Sec. 110-396. Levy of fees.**

The drainage charges, SFLUE calculations, and resulting SDUS fees adopted by and through this Ordinance amending Ord. No. 2002-03-017 shall be levied commencing with the May, 2015, utility billing cycle.”

Section 6. From and after the effective date of this Ordinance, Chapter 110, entitled “Utilities,” is hereby amended through the amendment of Article VII, entitled “Municipal Surface Water Drainage Utility System,” by amending Section 110-397, “Exemptions,” in part, by amending Paragraph (a) to re-number existing subparagraph (2) as subparagraph (3) and inserting a new subparagraph (2) to add “Institutions Of Higher Education” to the list of governmental entities, such that hereafter said Paragraph (a) shall be and read as follows:

“(a) The city exempts the following governmental entities and all lots or tracts in which it holds a freehold interest and that are being used by the governmental entity exclusively for public purposes from the levy of drainage charge:

- (1) All independent school districts;
- (2) All institutions of higher education; and
- (3) The city.”

Section 7. From and after the effective date of this Ordinance, Chapter 110, entitled “Utilities,” is hereby amended through the amendment of Article VIII, entitled “Municipal Surface Water Drainage Utility System,” by amending Section 110-398, “Billing, Deposits and Expenditures,” in part, by amending Paragraphs (a), (c) and (d), re-lettering a portion of existing Paragraph (d) as paragraph (e) and adding a new Paragraph (f) such that hereafter Section 110-398 entitled “Billing, Deposits and Expenditures” shall hereafter be and read as follows:

**“Sec. 110-398. Billing, deposits and expenditures.**

(a) The city will bill for drainage services on the monthly utility bill along with water, sewer and solid waste services, as may be applicable. In the event the property has no associated utility bill, the city may place the charge on an adjacent property under the same ownership, or may establish a separate utility account. If the occupant of the property is not also the owner of the property, the owner of the property shall be responsible to the City for payment of any SDUS fee due and owing on the property not paid by the occupant.

(b) There will be no separate deposit required for initial service. A deposit will be required following any discontinuance for delinquent payment.

(c) In the case of a delinquent payment of the monthly utility bill, which includes the drainage charge, pursuant to Texas Local Government Code § 552.050, the city manager is hereby authorized to discontinue service of all city utilities for nonpayment, even if the amount in dispute is the drainage charge component of the monthly utility bill. The city manager is also authorized to employ other remedies at law to recover any charge not paid when due.

(d) The income of the SDUS fee shall be segregated and completely identifiable in the city accounts. The moneys received from surface water drainage utility system charges shall be used only for purposes that are directly or indirectly related to the surface water drainage utility system. These uses may include, by way of example and not limitation, any of the following items that are necessary or incident to the provision and operation of draining the benefitted property:

- (1) study of entire watersheds, subwatersheds or individual projects;
- (2) design, engineering, construction and maintenance of watershed improvements in existing or potentially high or rapid growth areas including NRCS dams;
- (3) design, engineering, construction and maintenance of watershed improvements in areas where the costs of such improvements deprive an area of economic benefit;
- (4) study and resolution of erosion issues now existing, anticipated or appearing in the future;
- (5) design, engineering, construction and maintenance of watershed improvements in areas that will open up new drainage basins for development;
- (6) acquisition of staff, equipment, software and hardware, etc., necessary to implement the above; and
- (7) payment of any expenditure attributable to unfunded or partially funded state or federal mandates related to stormwater.

(e) Moneys received from the lake drainage basin component of the charge shall be used only for purposes that are directly related to the surface water drainage utility system of the applicable drainage basin.

(f) All billings, credits, exemptions and other procedures relating to these fees shall be subject to the provisions of the Municipal Drainage Utility Systems Act, Tex. Loc. Gov't Code §§ 552.041, et seq., and other applicable law.”

Section 8. From and after the effective date of this Ordinance, Chapter 110, entitled “Utilities,” is hereby amended through the amendment of Article VII, entitled “Municipal Surface Water Drainage Utility System,” by adding new Sections 110-399 through 110-404 to read as follows:

**“Sec. 110-399. Credit Program.**

Nonresidential, commercial and/or industrial properties may apply for and the City may grant to such users credit against that portion of their respective SDUS fees attributable to the SFLUE based on their voluntary use of stormwater management techniques or best management practices (“BMPs”) to offset the impacts of their property on stormwater runoff (the “Stormwater Credit Program” or “Program”). The BMP credit is applied as a percent discount to regular monthly surface water drainage utility system fees and will be administered pursuant to the City’s Stormwater Credit Program. The City’s approved Stormwater Credit Program Manual is hereby adopted herein by reference for all purposes allowed by law.

**Sec. 110-400. Administration of BMP Credit Program.**

- (a) The Stormwater Administrator will be responsible for the overall administration of the program including, but not limited to, the following:
  - (1) accepting and reviewing applications;
  - (2) approving applications;
  - (3) certifying the total amount of the BMP credit;
  - (4) amending the stormwater account records to reflect changes in the BMP credit;
  - (5) receiving and reviewing annual self-inspection reports; and,
  - (6) requesting independent inspections as appropriate to ensure proper maintenance.
  
- (b) Any property owner or city service customer aggrieved by a decision of the Stormwater Administrator regarding (1) a determination as to whether a certain parcel of property is exempt from the levy of a drainage charge or (2) the application of the BMP Credit Program to a certain parcel of property may appeal the determination of the Stormwater Administrator to the Director of Engineering. The property owner or city service customer shall file an appeal in writing with the Director of Engineering within ten days from the date of the decision being appealed.

The written appeal filed by the property owner or city service customer shall identify the facts supporting (1) any claim that the property in question is exempt from the levy of a drainage charge or (2) any claim that the property in question is entitled to more BMP credits than approved by the Stormwater Administrator. If no resolution of the appeal can be reached with the Director of Engineering, the city council shall hear the appeal within 30 days from the date received by the Director of Engineering. The Director of Engineering shall maintain the records of all appeal actions, including any applicable technical information submitted by the appellant.



The burden of proof shall be on the appellant to demonstrate that the property is exempt from the levy of a drainage charge or the amount of the BMP credit was not calculated according to the applicable schedule of BMP credits or the guidelines established for determining BMP credits.”

**Sec. 110-401. Application for BMP Credit.**

All required attachments indicated in the forms or specified above must be included for the application to be considered complete. The Stormwater Administrator will, following review of the complete application, determine the appropriate amount of the BMP credit to which a property is entitled pursuant to the City’s Stormwater Credit Program and subject to this Ordinance. Such BMP credit will be valid for a period of time, as set forth in Section 110-402, below, subject to continuing compliance of the BMP credit options on the property in question with the Stormwater Credit Program.

**Sec. 110-402. Expiration of BMP Credit, Renewal Application and Annual Reporting.**

- (a) *BMPs with Annual Renewal.* A BMP credit approved by the Stormwater Administrator pursuant to the City’s Stormwater Credit Program for one of the following BMPs shall be valid for a period of one year from the date of approval, at which time the right to receive the BMP credit will expire:
  - 1. Voluntary Community Cleanup Program (Onsite or Downstream); and
  - 2. Parking Lot Sweeping.

For the continuation of the foregoing BMP credits, a renewal application must be filed annually prior to the expiration of the then-current BMP credit year approved by the Stormwater Administrator. Annual self-reports and maintenance records together with any other documentation identified by the Stormwater Credit Program will be required to be submitted with the renewal application annually prior to expiration to document program compliance for the preceding year. If the complete renewal application is not received by the City by the expiration date, the BMP credit will automatically expire and the full amount of the SDUS fees collected for the property will be charged.

Timely filing of the complete renewal application with the City will stay the expiration of the BMP credit for the property in question until such time as the Stormwater Administrator reviews and approves, or disapproves, the renewal application. The Stormwater Administrator may increase, decrease, or terminate the amount of the BMP credit a particular property is eligible to receive pursuant to the City’s Stormwater Credit Program based upon the Stormwater Administrator’s review and evaluation of the renewal application, the annual self-report, and

any and all other information then available. Failure to provide any required information in support of the renewal application shall result in the denial of the BMP credit for the property.

(b) *BMPs of Continuous Duration.* A BMP credit approved by the Stormwater Administrator pursuant to the City’s Stormwater Credit Program for one of the following BMPs shall be valid from the date of approval and for so long as the BMPs are inspected, properly maintained, and remain compliant with the applicable program requirements:

1. Single Stage Detention/Retention Facilities;
2. Aeration Fountain;
3. Industrial Facility Compliance;
4. Riparian Preservation
5. Multi-Stage Detention;
6. Extended Detention;
7. Permanent Structural Controls; and
8. Zero Discharge Credit.

Notwithstanding the continuous duration of the foregoing BMPs, the property owner or city service customer shall cause the BMPs to be inspected annually and maintained in accordance with the City’s Stormwater Credit Program.

**Sec. 110-403. Types of BMP Credit.**

Individual properties may be eligible for BMP credit against SDUS fees up to a maximum total combined BMP credit per property of 40%. Types of BMP credit are available up to the maximum percentage identified for the following onsite BMP credit options, which BMP credit options are further explained in the City’s Stormwater Credit Policy along with the process to qualify for and obtain each BMP credit option.

**Table 1 BMP Credit Options**

<b>BMP Credit Option</b>	<b>Maximum Percent BMP Credit Allowable</b>
1. Voluntary Community Cleanup Program (Onsite or Downstream)	5
2. Single Stage Detention/Retention Facilities	5
3. Aeration Fountain	5
4. Parking Lot Sweeping	5
5. Industrial Facility Compliance	5
6. Riparian Preservation	10
7. Multi-Stage Detention	15
8. Extended Detention	20
9. Permanent Structural Controls	40
10.Zero Discharge Credit	40

Each BMP credit option listed above is given to encourage voluntary practices that will benefit the surface water drainage utility system and stormwater management program.

**Sec. 110-404. Review of Surface Water Drainage Utility System Program.**

The City will routinely review this Surface Water Drainage Utility System Program (“Program”) not less than once every five years to evaluate the overall effectiveness of the program, the recurring and special maintenance needs of the drainage system, the construction costs for needed capital improvements to the drainage system, and whether the SFLUE and/or the SDUS fee should be increased, decreased, or otherwise recalculated.”

Section 9. From and after the effective date of this Ordinance, Chapter 110, entitled “Utilities,” is hereby amended through the amendment of Article VII, entitled “Municipal Surface Water Drainage Utility System,” by amending Appendix A – “Schedule of Fees” by deleting Section 110-395, “Schedule of Charges,” in its entirety and replacing said section with a new Section 110-395 that is also entitled “Schedule Of Charges” to read as follows:

“Sec. 110-395. *Schedule of charges.*

[Surface water drainage utility system (SDUS) fee]

- (1) Determination of SFLUE.
  - a. Single-family residential and townhomes: One (1) SFLUE per parcel;
  - b. Duplexes and quadplexes: One (1) SFLUE per dwelling unit.
  - c. Mobile home parks: One (1) SFLUE per each mobile home pad or trailer pad.
  - d. Multifamily properties: No. of SFLUE for property = Square footage of impervious surface on property / 3,000 square feet, rounded up to the nearest whole number with a minimum of One (1) SFLUE;
  - e. Nonresidential, commercial and/or industrial properties: No. of SFLUE for property = Square footage of impervious surface on property / 3,000 square feet, rounded up to the nearest whole number with a minimum of One (1) SFLUE;
- (2) The system-wide component. The monthly system-wide fee, per SFLUE for all property situated within the city shall be calculated based on the following classifications:
  - a. For all residential uses including single-family, townhomes, duplexes, quadplexes, mobile home parks, and multi-family properties .....\$4.00
  - b. For nonresidential, commercial and/or industrial properties .....\$3.00
- (3) The lake drainage basin component. The monthly system-wide fee, per SFLUE for all property within the city .....\$0.00
- (4) The preferred method for calculating the SDUS fee due and payable from a user and/or benefited property on a

monthly basis is to multiply the number of SFLUE for the particular use of the property by the sum of the system wide component fee and the lake drainage basin component fee, which calculation reads as follows:

No. of SFLUE X (system wide component fee + lake drainage basin fee)

(5) For those properties identified herein-above in subparagraphs (1)d. and (1)e. the following alternative calculation may be performed on a monthly basis to determine the SDUS fee due:

(Square footage of impervious surface / 1,000 square feet)  
X [(system wide component fee + lake drainage basin fee) / 3], rounded up to the nearest whole number.

(6) The amount of the SDUS fee billed to a nonresidential, commercial or industrial property may be reduced by a percentage equal to the BMP credit approved for the property pursuant to the City's Stormwater Credit Program."

- Section 10. 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 11. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or 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 the Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.
- Section 12. 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 13. 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 14. 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 15. 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 7<sup>th</sup> DAY OF APRIL, 2015.

CITY OF McKINNEY, TEXAS

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BRIAN LOUGHMILLER  
Mayor

CORRECTLY ENROLLED:

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SANDY HART, TRMC, MMC  
City Secretary  
DENISE VICE, TRMC  
Assistant City Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:

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MARK S. HOUSER  
City Attorney

WITNESS MY HAND AND SEAL OF OFFICE THIS THE 26<sup>th</sup> DAY OF FEBRUARY,  
2015.

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SANDY HART, TRMC, MMC  
City Secretary