

AN ORDINANCE 2013 - 01 - 31 - 0074

AMENDING THE METHODOLOGY FOR CALCULATING THE FEE-IN-LIEU-OF ONSITE DETENTION; INCREASING FEES TO ALL LAND USE CATEGORIES; AND AMENDING ARTICLE V, CHAPTER 35 OF THE UNIFIED DEVELOPMENT CODE.

* * * * *

WHEREAS, the Municipal Drainage Utility Systems Act (the “Act”) codified in Subchapter C of Chapter 552 of the Local Government Code permits a local government to establish a municipal drainage utility system and to provide rules for the use, operation, and financing of the system to protect the public health and safety in the municipality; and

WHEREAS, Ordinance No. 86711, approved on September 25, 1997, adopted the City of San Antonio Drainage Utility as a municipally operated public utility pursuant to the Act and charged it with protecting the public health and safety against loss of life and property caused by surface water runoff, surface water stagnation, and pollution arising from nonpoint source runoff within the boundaries of the drainage utility service area; and

WHEREAS, pursuant to Ordinance No. 86711, the City Council created the Regional Storm Water Management Program (“RSWMP”) tasked with protecting public health and safety by requiring new developments to mitigate increases in storm water runoff caused by the developments that could otherwise result in the flooding of downstream properties and infrastructure; and

WHEREAS, the RSWMP gives developers the ability to mitigate storm water through one of three options: (a) construction of onsite detention facilities (not allowed in certain portions of a watershed where an adverse impact is identified); (b) participation in the construction of an existing mitigation project such as over-sizing existing facilities or other means; or (c) payment of the fee-in-lieu-of onsite detention (the “FILO Fee”); and

WHEREAS, there are three primary watersheds in Bexar County covering most of the City of San Antonio consisting of: (a) Leon Creek Watershed (West), (b) San Antonio River Watershed (Central), and (c) Salado Creek Watershed (East); and

WHEREAS, the City has developed a Watershed Master Plan that identifies drainage infrastructure needs in the three watersheds totaling approximately \$2.5 billion and accounting for an estimated \$1.6 billion for *local* storm water projects (covering

contributing areas of 1.5 square miles or less) and \$900 million in *regional* storm water projects (covering contributing areas greater than 1.5 square miles); and

WHEREAS, the FILO Fee is intended to cover the cost of *regional* storm water projects, and associated administrative and operational expenses, and since its inception in 1997 has contributed \$59 million to such *regional* projects (approximately \$4 million per year); and

WHEREAS, this amendment to the FILO Fee will change the methodology for calculating the fee from one based on land use and amount of acreage devoted to the development, to one based on land use and amount of impervious cover created by the development; and

WHEREAS, under the new fee methodology, the FILO Fee will increase in all land use categories and will be implemented in two phases – the first fee amendment projected to recover \$7 million annually becomes effective April 1, 2013, while the second fee amendment projected to recover \$8.4 million annually will become effective December 1, 2015; and

WHEREAS, implementation of the new FILO Fee rate schedule is subject to the “grandfathering” of the existing fees for a two year period based on the issuance of Plat ID Numbers prior to the effective date of the new fees; and

WHEREAS, in developing the adjustments to the FILO Fees, Public Works worked closely with members of the development community, engineering professionals, school districts, Real Estate Council, San Antonio Apartment Association, and San Antonio Restaurant Association represented through the following stakeholder groups: (i) FILO Stakeholder Working Group, (ii) Development Process Task Force, and (iii) Professional Engineers in Private Practice (PEPP); and

WHEREAS, Public Works has briefed stakeholders on the new fee methodology, including the FILO Stakeholder Working Group (October 30, 2012), Development Process Task Force (November 9, 2012), Planning Commission (December 12, 2012), and Infrastructure and Growth Council Committee (January 16, 2013); and

WHEREAS, after conducting a public hearing on this day and after due consideration, City Council finds it necessary and appropriate to adjust the FILO Fee to more appropriately fund *regional* storm water projects while continuing to incentivize support for such projects under the RSWMP; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The rate adjustments to the FILO Fee are hereby approved and shall be implemented in two phases. The first fee adjustment shall become effective April 1, 2013. The second fee adjustment shall become effective December 1, 2015. The new FILO Fees will impact all land use categories in the following manner:

Land Use (fee categories)	2013 Rate (per square foot of impervious cover)	2015 Rate (per square foot of impervious cover)
Single Family	\$0.15	\$0.15
Multi Family	\$0.15	\$0.20
Industrial	\$0.15	\$0.20
Public Facilities	\$0.15	\$0.20
	All school projects funded through either a bond or maintenance tax note prior to April 1, 2013 are to be assessed 50% of new fee for public facilities.	All school projects funded through either a bond or maintenance tax note prior to April 1, 2013 are to be assessed 50% of new fee for public facilities.
Commercial	\$0.20	\$0.25
Inner City Reinvestment Infill Policy (ICRIP)-all land uses	50% of new fee categories	50% of new fee categories
Infill Development Zone (IDZ) -all land uses	No fee	No fee
Impervious Cover Increases Less Than 100 Square Feet	No fee	No fee

SECTION 2. The FILO Fee implementation schedule shall be subject to the following grandfathering of rates:

- Plats for which an Application for Plat Identification Number/Letters of Certification was submitted in accordance with Section 35-431 prior to April 1, 2013 shall be assessed fees per Ordinance 86711 dated September 25, 1997.
- Projects for which fees were not assessed at the platting stage and for which a Building Permit Application was submitted prior to April 1, 2013 shall be assessed fees per Ordinance 86711 dated September 25, 1997.
- Plats for which an Application for Plat Identification Number/Letters of Certification was submitted in accordance with Section 35-431 on or after April 1, 2013 and prior to December 1, 2015 shall be assessed fees per the rates effective April 1, 2013.
- Projects for which fees were not assessed at the platting stage and for which a Building Permit Application was submitted on or after April 1, 2013 and prior to December 1, 2015 shall be assessed fees per the rates effective April 1, 2013.

In the event a developer fails to have the plat released for recordation within two years of being assigned a Plat ID Number, the RSWMP fee in effect at the time of plat release will apply.

SECTION 3. Article V (*Development Standards*), Division 2 (*Infrastructure Standards*), Section 35-504 (*Stormwater Management*), Appendix C, Section 35-C109 (*Regional Storm Water Management Program (RSWMP) Fees*) of the Unified Development Code of the City of San Antonio is hereby amended adding the words that are underscored, and deleting the words that are bracketed and struck through as they appear in Exhibit “A” which is incorporated to this Ordinance in all respects. All other provisions of Chapter 35, Article V of the San Antonio Unified Development Code shall remain unchanged and in full force and effect.

SECTION 4. The publisher of the San Antonio Municipal Codes is authorized to amend and format the Unified Development Code to reflect the changes adopted herein and as illustrated in Exhibit “A” to this Ordinance.

SECTION 5. The City Council finds that the adjustments to the FILO Fee are nondiscriminatory, reasonable, equitable, and necessary in order to incentivize new developments to continue to support and fund *regional* storm water facilities under the RSWMP.

SECTION 6. Should any article, section, part, paragraph, sentence, phrase, clause, or word of this Ordinance, or any appendix hereof, for any reason, be held illegal, or invalid, or any exception to or limitation upon any general provision contained in this Ordinance or its attachments be held unconstitutional or invalid, the remainder shall, nevertheless stand as effective and as valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid.

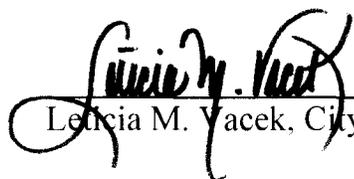
SECTION 7. This Ordinance shall become effective immediately upon passage of eight (8) affirmative votes of the City Council or ten (10) days following a majority vote approving the Ordinance.

PASSED AND APPROVED, this 31st day of January, 2013.



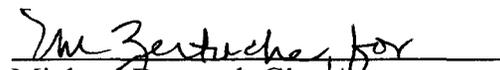
M A Y O R
Julián Castro

ATTEST:

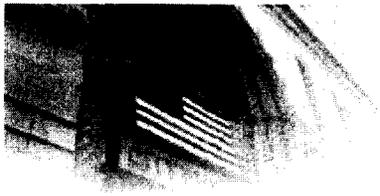


Leticia M. Yacek, City Clerk

APPROVED AS TO FORM:

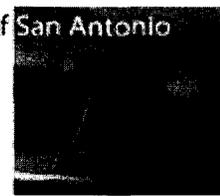


Michael Bernard, City Attorney



Request for
COUNCIL
ACTION

City of San Antonio



Agenda Voting Results - 16

Name:	6, 8, 9, 11, 12, 13, 14, 15, 16, 17, 19A, 19B, 19C, 19D, 19E						
Date:	01/31/2013						
Time:	10:29:14 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance amending the methodology for calculating the Fee-In-Lieu-of Onsite Detention; increasing fees to all land use categories; and amending Article V, Chapter 35 of the Unified Development Code. [Peter Zaroni, Deputy City Manager; Majed A. Al-Ghafry, Director, Public Works]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				
Leticia Ozuna	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				x
Ray Lopez	District 6		x			x	
Cris Medina	District 7	x					
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				

EXHIBIT A

35-C109. Regional Storm Water Management Program (RSWMP) Fees.

The following fees are established as fee-in-lieu of providing detention for participation in the Regional Storm Water Management Program of the City of San Antonio. When approved by the Director of Public Works (requirements are defined in section 35-504) the fees must be paid before a subdivision plat is recorded for single family and two family (duplex) developments or a building or site work permit is released. For for all other types of development associated with Application for Plat Identification Number/Letters of Certification or Building Permit Application, as applicable, submitted on or after the effective date specified in Table I, the fee will be based on 1) the proposed impervious cover identified in the accepted storm water management plan for single family and two family (duplex) developments, 2) impervious cover identified in the building or site work permit for all other types of development, or 3) impervious area of the proposed construction of roadways and sidewalks not identified on the Major Thoroughfare Plan.

{(A) Development Type}	{(B) Minimum Fees}
{Detached single family and two family duplex residential developments}	[\$1,200.00 per participating acre or \$750.00 per lot, whichever is less}
{Residential development other than single family or two family}	[\$1,600.00 per participating acre}
{Nonresidential with less than sixty five (65) percent impervious cover (e.g. schools, churches, parks)}	[\$2,600.00 per participating acre}
{Nonresidential with impervious cover of sixty five (65) percent or greater (e.g. commercial development)}	[\$3,000.00 per participating acre}
{Building permits with additional impervious cover less than one tenth of an acre (<0.1 Ae.)}	[\$300.00}

<u>Table I: Effective Date of RSWMP Fees</u>		
<u>Development Type/ Land Use</u>	<u>Fee Effective April 1, 2013 (per sq ft of impervious cover)</u>	<u>Fee Effective December 1, 2015 (per sq ft of impervious cover)</u>
<u>Single Family or Two Family (Duplex)</u>	<u>\$0.15</u>	<u>\$0.15</u>
<u>Multi Family</u>	<u>\$0.15</u>	<u>\$0.20</u>
<u>Industrial</u>	<u>\$0.15</u>	<u>\$0.20</u>
<u>Commercial</u>	<u>\$0.20</u>	<u>\$0.25</u>
<u>Public Facilities</u>	<u>\$0.15</u>	<u>\$0.20</u>

(including schools)		
<u>All school projects funded through either a bond or maintenance tax note prior to April 1, 2013 are to be assessed 50% of the proposed fee.</u>		
<u>Inner City Reinvestment Infill Policy (ICRIP) - all land uses as approved by City Council on January 10, 2013</u>	<u>50% of proposed fee</u>	<u>50% of proposed fee</u>
<u>Infill Development Zone (IDZ)-all land uses</u>	<u>No fee</u>	<u>No fee</u>
<u>Impervious Cover Increases Less Than 100 Square Feet</u>	<u>No fee</u>	<u>No fee</u>
<ul style="list-style-type: none"> • <u>Plats for which an Application for Plat Identification Number/Letters of Certification was submitted in accordance with Section 35-431 prior to April 1, 2013 shall be assessed fees per Ordinance 86711 dated September 25, 1997.</u> • <u>Projects for which fees were not assessed at the platting stage and for which a Building Permit Application was submitted prior to April 1, 2013 shall be assessed fees per Ordinance 86711 dated September 25, 1997.</u> • <u>Plats for which an Application for Plat Identification Number/Letters of Certification was submitted in accordance with Section 35-431 on or after April 1, 2013 and prior to December 1, 2015 shall be assessed fees per the rates effective April 1, 2013.</u> • <u>Projects for which fees were not assessed at the platting stage and for which a Building Permit Application was submitted on or after April 1, 2013 and prior to December 1, 2015 shall be assessed fees per the rates effective April 1, 2013.</u> 		

In the event a developer fails to have the plat released for recordation within two years of being assigned a Plat ID Number, the RSWMP fee in effect at the time of plat release will apply.

~~[Development type refers to the maximum possible development allowed by the current zoning. Development type for "unzoned" parcels (e.g. In the city extra territorial jurisdiction, or "ETJ") shall be based on the current development patterns.]~~

Development types for public rights-of-way (with the exception of roadways on the major thoroughfare plan) shall be equivalent to the adjacent development type(s). Where development types are different from one side of the right-of-way to the other, each development type shall be assumed to extend to the centerline of the right-of-way fronting, adjacent, and/or abutting the development. Roadways on the major thoroughfare plan shall be exempt from payment of RSWMP fees.

For redevelopment projects, the RSWMP fees will only be assessed for the increase in impervious cover based on the land use categories and fees in Table I. No refunds will be provided for any reductions in impervious cover or if the calculated difference is less than previous fees paid.

In a case where the fees were not previously assessed, but will be assessed at the permit stage, the fees in effect at the time the permit application is submitted will apply to the building or site work permit.

For mixed use developments, the predominant land use shall be used to determine the fee rate category.

Low Impact Development (LID) features and open drainage channels lined with impervious material are considered as pervious areas for the purpose of determining the RSWMP fees.

RSWMP fees shall be paid at either the platting stage or at the building permit stage. Proof of payment of RSWMP fees will be required for development projects outside the city limits and in the City's Extra Territorial Jurisdiction (ETJ). No building and site work permit authorizations will be issued in the ETJ without proof of payment of RSWMP fees to the City of San Antonio.

~~{Acreage of participation shall be the entire area of the platted property less any areas specifically designated by restricting easement as being "pervious" and restricted from placement of impervious cover.}~~

~~{RSWMP fees shall be paid at either the platting stage or at the building permit stage. Any RSWMP fees not previously collected will be due prior to plat recordation or building permit release. Examples of RSWMP fees to be paid may include the remaining fee balance when fees were previously paid based on less adverse development types or were paid based solely on impervious cover. The remaining fee balance for the available development area will not be required for building permits with additional impervious cover less than one tenth of an acre (<0.1 Ac.), however the minimum fee will still be required.}~~