AN ORDINANCE 2016-09-29-0737

AMENDING CHAPTER 34 (STORMWATER) OF THE SAN ANTONIO CITY CODE RELATING TO RATES OF THE MONTHLY STORM WATER UTILITY FEE AND RESTRUCTURING THE BILLING METHODOLOGY USING AN IMPERVIOUS COVER APPROACH.

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WHEREAS, the Municipal Drainage Utility Systems Act (the "Act") 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. 77949, passed and approved by the City Council on May 13, 1993, established and implemented a schedule of storm water drainage fees based on the cost of providing drainage service to benefitted properties within the San Antonio city limits, and directed the San Antonio Water System ("SAWS") to collect the drainage fees as an agent for the City using its billing system; and

WHEREAS, Ordinance No. 86711, approved on September 25, 1997, declared the drainage of the City to be a public utility to be known as the City of San Antonio Drainage Utility (the "Drainage Utility"), and authorized the assessment on every benefitted property within the service area of the Drainage Utility the storm water drainage service fee, the monthly usage fee that was originally created by Ordinance No. 77949; and

WHEREAS, the storm water drainage service fee prior to FY 2016 was based on lot size and land use and was last increased in FY 2008; and

WHEREAS, after nearly a two-year process and significant stakeholder outreach, the City Council adopted Ordinance No. 2015-09-10-0761 on September 10, 2015, and the fee methodology was revised to be based on impervious area, which has a direct relationship to the amount of storm water runoff generated from a property; and

WHEREAS, the revised rate structure approved in Ordinance No. 2015-09-10-0761 improves ratepayer equity, recovers the required funding to support the utility's cost of service, promotes storm water best management practices, and the effect of this revised rate structure on most residential properties was minimal; approximately 72% of residential properties remained at or below their previous monthly fee; non-residential properties experienced a more equitable rate treatment compared to the previous rate design; and approximately 27% of non-residential properties remained at or below their current monthly fee with the revised rate structure and 71% increased by less than $100 per month; and

WHEREAS, Ordinance No. 2015-09-10-0761 included a phased-in five-year rate increase to support increased revenue requirements and corresponding service improvements, and the second year of the five-year plan proposes an overall revenue increase of approximately 7%; and

WHEREAS, prior to adoption of Ordinance No. 2015-09-10-0761, the previous rate structure included four types of storm water customers, defined as: Residential, Multi-Family, Commercial, and Public; and

WHEREAS, pursuant to Ordinance No. 2015-09-10-0761, the revised rate structure based on impervious cover includes two types of properties, "Residential" and "Non-Residential"; and

WHEREAS, since the creation of the storm water fee in 1993, the residential storm water customers included properties with less than or equal to two dwelling units, while the triplexes and quadplexes had been considered multi-family (non-residential) storm water customers; and

WHEREAS, pursuant to Ordinance 2015-09-10-0761, the definition of "Residential Properties" was changed to single-family home, duplex, or mobile home land use and the remaining three categories were consolidated to form the "Non-Residential Properties"; and

WHEREAS, Residential Properties typically have very similar land use characteristics when comparing neighboring properties; therefore, the Drainage Utility Charge adopted in 2015 assessed among Residential Properties is tiered based upon a range of Impervious Area; and

WHEREAS, Non-Residential Properties can vary widely when comparing neighboring properties; therefore, the rate structure was developed differently, the Drainage Utility Charge developed for non-residential properties includes two components, a flat monthly "Base Fee" assessed among Non-Residential benefitted properties and a monthly "Impervious Fee" assessed on a per square foot basis and prorated based on the percentage of Impervious Area; and

WHEREAS, after the new rate structure became effective in January 2016, there were concerns about the inclusion of triplex and quadplex properties in the "Non-Residential" rate category; on average, these types of parcels experienced a monthly fee increase from $7.19 to $58.71, which is the total fee per parcel (base fee plus amount of impervious area) and should be prorated by the number of accounts (three for a triplex or four for a quadplex) unless otherwise determined by the property owner; and

WHEREAS, staff conducted an account review of approximately 2,300 small multi-family accounts to identify 277 triplex properties and 664 quadplex properties; and

WHEREAS, this Ordinance will reclassify triplex and quadplex properties as Residential Properties; and

WHEREAS, the financial impact of reclassification of the triplex and quadplex properties as Residential Properties is minimal and the rates per tiers do not need to be adjusted; and

WHEREAS, reclassification of triplex and quadplex properties as Residential Properties reduces the amount of funds needed to be recovered from Non-Residential Properties, and reduces the number of parcels and impervious area to spread the "base" and "impervious" fees among the remaining Non-Residential Properties; and

WHEREAS, this Ordinance will also provide for an overall revenue increase of approximately 7% as part of the five-year rate increase to support a phase-in of increased revenue requirements and corresponding service improvements; and

WHEREAS, approval of this Ordinance is estimated to provide an additional $3,100,000 in Storm Water Operating Fund revenue for FY 2017; **NOW THEREFORE**:

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

SECTION 1. The City Code of the City of San Antonio, Texas, Chapter 34, Article VII "Drainage Utility", Division I "Creation of a Drainage Utility", Section 34-1111 entitled "Definitions" and Section 34-1114 entitled "Drainage utility charges" is hereby amended by adding the language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the existing text as set forth in this Ordinance.

SECTION 2. Chapter 34, Article VII "Drainage Utility", Division 2 "Administration of Drainage Utility", Section 34-1111 entitled "Definitions" is hereby amended as follows:

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Residential properties shall mean all benefitted properties within the service area used for single-family home, duplex, triplex, quadplex properties, or mobile home land use.

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SECTION 3. Chapter 34, Article VII "Drainage Utility", Division 2 "Administration of Drainage Utility", Section 34-1114. "Drainage utility charges." is hereby amended as follows:

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(d) Residential properties shall be assigned a rate category and assessed a drainage utility charge based on impervious area as provided in the following table:

Residential Rate Category	Impervious Area in Square Feet	Monthly Fee ~~FY 2016~~
Tier 1	≤ 2,750	$3.45 ~~3.22~~
Tier 2	> 2,750 - 4,220	$4.55 ~~4.25~~
Tier 3	> 4,220	$9.61 ~~8.98~~

(e) Non-residential properties shall be assigned a rate category and assessed a drainage utility charge determined by a base fee and impervious fee in accordance with the values provided in subsections (e)(1) and (2):

(1) *Base fee* shall mean a flat monthly fee assessed among all non-residential benefitted properties as determined by Bexar County Appraisal District property records. The FY

2017 amount ~~2016~~ is calculated at sixty-one ~~fifty-five~~ dollars and ninety-two ~~seventy-seven~~ cents ($61.92 ~~55.77~~).

(2) *Impervious fee* shall mean a monthly fee assessed on all non-residential benefitted properties on a per square foot basis and prorated based on the percentage of impervious area within the benefitted property.

Non-Residential Rate Category	Percent Impervious Area	Monthly Fee per 1,000 Square Feet ~~FY 2016~~
Tier 1	≤ 20%	$0.28 ~~0.00025/sf~~
Tier 2	> 20% - 40%	$0.41 ~~0.00037/sf~~
Tier 3	> 40% - 65%	$0.54 ~~0.00050/sf~~
Tier 4	> 65%	$0.68 ~~0.00062/sf~~

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SECTION 4. The City Clerk published notice of this Ordinance in the San Antonio Express News on August 21, 2016, August 28, 2016, and September 4, 2016.

SECTION 5. The City Council finds that the adjusted rates are nondiscriminatory, reasonable, equitable, and necessary in order to fund the storm water programs adopted as part of the City of San Antonio fiscal year 2017 budget.

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. The publishers of the City Code are authorized to amend and format said Code to reflect the changes adopted herein. In the event that the subsection assigned above has been previously assigned by Ordinance or by the publisher, then, in that event, the publisher is authorized to renumber the addition made by this section with the next available number.

SECTION 8. It is officially found, determined, and declared as a matter of legislative finding that (1) the meeting at which this Ordinance is adopted was open to the public and (2) public notice of the time, place and subject matter of the public business to be considered at such meeting, including consideration and adoption of this Ordinance, was appropriately given, all as required by Texas Government Code, §551.043.

SECTION 9. All other provisions of Chapter 34, Article VII "Drainage Utility", Division 2 entitled "Administration of Drainage Utility" of the City Code of the City of San Antonio shall remain unchanged and in full force and effect except as expressly amended by this Ordinance.

The effective date for imposition of the fees enacted herein shall be October 1, 2016, otherwise, as soon as legally permissible on or after October 1, 2016.

PASSED AND APPROVED this 29th day of September, 2016.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

City Attorney

Agenda Item:	**19 (in consent vote: 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 42A, 42B, 43A, 43B, 43C, 43D)**
Date:	09/29/2016
Time:	09:18:41 AM
Vote Type:	Motion to Approve
Description:	An Ordinance increasing the Storm Water Utility fee consistent with the City's FY 2017 Budget and reclassifying triplex and quadplex accounts from non-residential to residential, thereby lowering the monthly fee for these accounts. [Peter Zanoni, Deputy City Manager; Mike Frisbie, Director, Transportation & Capital Improvements]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				
Alan Warrick	District 2		x				x
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5	x					
Ray Lopez	District 6	x					
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9	x					
Michael Gallagher	District 10		x			x	