

**ORDINANCE NO. 23722-08-2019**

**AN ORDINANCE AMENDING CHAPTER 12.5, ARTICLE III, DIVISION 4: “MUNICIPAL DRAINAGE UTILITY SYSTEM,” OF THE CODE OF THE CITY OF FORT WORTH, TEXAS (2015), AS AMENDED, BY ADDING A NEW SECTION 12.5-348 REGULATING PUBLIC ACCESS TO CERTAIN DRAINAGE INFRASTRUCTURE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL PRIOR ORDINANCES AND REPEAL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Fort Worth (“City”) seeks to provide for the health, safety, and welfare of its citizens; and

**WHEREAS**, the City is the owner of drainage infrastructure, consisting of both real and personal property, that is used in providing stormwater capabilities and capacity to manage and control stormwater runoff for the drainage utility system; and

**WHEREAS**, the City’s drainage infrastructure includes, but is not limited to, bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, retention ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works and related appurtenances; and

**WHEREAS**, certain City-owned drainage infrastructure is accessible to the public; and

**WHEREAS**, it is in the legitimate interest of the City of Fort Worth to protect the health, safety, and welfare of its citizens by placing reasonable regulations on public access to drainage infrastructure; and

**WHEREAS**, the City Council finds this Ordinance to be reasonable and necessary.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, THAT:**

**SECTION 1**

Chapter 12.5, Article III, Division 4: “Municipal Drainage Utility System,” of the Code of the City of Fort Worth (2015), as amended, is hereby revised to add a new section to read as follows:

**§ 12.5-348 ACCESS TO STORMWATER DRAINAGE INFRASTRUCTURE; HOURS OF OPERATION.**

- (a) Absent the express permission of the Director of the Department of Transportation and Public Works, it shall be unlawful for any person to enter or remain in any portion of City-owned Drainage Infrastructure unless such Drainage Infrastructure has been

designated by the Director of the Department of Transportation and Public Works as open to the public. The Director of the Department of Transportation and Public Works shall have the authority to designate City-owned Drainage Infrastructure as open to the public and to determine the hours during which any such Drainage Infrastructure shall be open to the public. Unless otherwise posted by the Director of the Department of Transportation and Public Works, any City-owned Drainage Infrastructure which has been designated as open to the public shall be open to the public from dawn until dusk.

- (b) Absent the express permission of the Director of the Department of Transportation and Public Works, it shall be unlawful for any person to wade, swim, boat, or fish in any City-owned Drainage Infrastructure at any time.
- (c) Any person violating the provisions of this section shall be guilty of a misdemeanor punishable by a fine not to exceed \$500.

## **SECTION 2**

That these ordinances shall be cumulative of all other ordinances of the City of Fort Worth, Texas, and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

## **SECTION 3**

That all rights or remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the City Code, or any amendments thereto that 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, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

## **SECTION 4**

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of these ordinances are severable, and if any phrase, clause, sentence, paragraph or section of these ordinances shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of these ordinances, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

## **SECTION 5**

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of these ordinances shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation exists shall constitute a separate offense.

**SECTION 6**

That the City Secretary of the City of Fort Worth, Texas, is hereby directed to publish these ordinances for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by the V.T.C.A. Local Government Code Subsection 52.013.

**SECTION 7**

These ordinances shall take effect after adoption and publication as required by law.

**APPROVED AS TO FORM AND LEGALITY:**

**ATTEST:**

\_\_\_\_\_  
Matt Murray  
Assistant City Attorney

\_\_\_\_\_  
Mary J. Kayser, City Secretary

Date: \_\_\_\_\_

ADOPTED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_