

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 12.5, “ENVIRONMENTAL PROTECTION AND COMPLIANCE,” ARTICLE III “STORMWATER PROTECTION,” DIVISION 4 “MUNICIPAL DRAINAGE UTILITY SYSTEM,” OF THE CODE OF THE CITY OF FORT WORTH (2015), AS AMENDED, BY AMENDING SECTIONS 12.5-336, 12.5-340, AND 12.5-343 TO REVISE DEFINITIONS; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, in 2019, the City Council amended Section 12.5-336 and Section 12.5-340 of the City Code to increase the Stormwater Utility fee (“2019 Amendment”);

**WHEREAS**, in order to simplify the billing categories, the 2019 Amendment changed the names of the definition of Nonresidential Property to Non-Single Family Residential Property, changed the name of the definition of Residential Property to Single Family Residential Property and deleted the definition of Multifamily Residential Property in its entirety;

**WHEREAS**, although the names of the defined terms were changed, the 2019 Amendment did not revise the meanings of the defined terms;

**WHEREAS**, the City Council finds it necessary to further clarify the defined terms and the use of the defined terms in Chapter 12.5 of the City Code;

**WHEREAS**, this clarification will not increase fees or apply new fees to properties that would not have been subject to the fees previously and is simply a clarifying measure to ensure the meanings of each defined term accurately reflects the new definitions themselves.

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

**SECTION 1.**

Section 12.5-336, “Definitions” of the City Code of the City of Fort Worth (2015), as amended, is hereby amended as follows:

The term ***NON-SINGLE-FAMILY RESIDENTIAL PROPERTY*** and its subsequent definition shall be deleted in its entirety and replaced with the following:

***HIGH OCCUPANCY RESIDENTIAL/NON-RESIDENTIAL PROPERTY.*** All developed properties within the city that do not fall under the definition of Low Occupancy Residential Property, generally consisting of commercial, industrial, institutional, and apartment type land uses.

The term ***SINGLE FAMILY RESIDENTIAL PROPERTY*** and its definition shall be deleted in its entirety and replaced with the following:

***LOW OCCUPANCY RESIDENTIAL PROPERTY.*** Any property platted, zoned or used for one-family or two-family residential purposes including manufactured homes, or any triplex or quadplex used for residential purposes.

**SECTION 2.**

Section 12.5-340, “Categories of Drainage Utility Rates” of the City Code of the City of Fort Worth (2015), as amended, is hereby amended in its entirety to be read as follows:

**SECTION 12.5-340 CATEGORIES OF DRAINAGE UTILITY FEE RATES.**

- (a) The City Council finds that impervious cover increases runoff and associated pollutants. For the purposes of calculating the drainage utility fee, an ERU shall be the established standard billing unit. One ERU shall be billed at \$5.75 per month. Each benefitted property shall be categorized as one of the following:
  - (1) *Low Occupancy Residential Property.* A Low Occupancy Residential Property shall be placed in one of four billing tiers based on residential square footage, identified below, with building permits or the most recent appraisal district data used as a means of estimating the total amount of impervious area on the property. The median single-family residential parcel in Fort Worth has been determined to have approximately 2,600 square feet of impervious area or surface or one ERU.
  - (2) *High Occupancy Residential/Non-Residential Property.* Fees for High Occupancy Residential/Non-Residential Properties shall be based on the total estimated impervious area on each parcel, with building permit information, aerial photography, or actual measurement used as a means of estimating the total amount of impervious area on the property, divided by 2,600 square feet to determine the number of ERUs or billing units.
- (b) The City Council finds that it is equitable to assess the drainage utility fee to each Low Occupancy Residential Property user on the basis of four Low Occupancy Residential Property billing tiers and such rates are hereby established.

Low Occupancy Billing Tier	Billing Unit – Equivalent Residential Units (ERU)	Billing Basis	Proposed Monthly Rate, Effective January 1, 2020
----------------------------	---	---------------	--

Tier 1	0.5 ERU	Up to 1,300 square feet	\$2.88
Tier 2	1.0 ERU	1,300 to 2,475 square feet	\$5.75
Tier 3	1.5 ERU	2,476 to 3,394 square feet	\$8.63
Tier 4	2.0 ERU	3,394+ square feet	\$11.50

- (c) The City Council finds that it is equitable to assess the drainage utility fee to each High Occupancy Residential/Non-Residential Property on the basis of the number of ERU’s in a parcel, which shall be obtained by dividing the estimated impervious area or surface by 2,600 square feet. The calculated number of ERU’s will be rounded to the nearest whole integer other than zero, to determine the monthly fee.
- (d) The City Council finds it equitable to provide for funding of future construction of the drainage utility system through a contribution from the drainage utility fee.
- (e) The City Council may review the schedule of rates at any time and may, by ordinance, increase or decrease said rates within the schedule, upon a reasonable determination that said increase or decrease is warranted.

**SECTION 3.**

Section 12.5-343, “Administration; Rules.” of the City Code of the City of Fort Worth (2015), as amended, is hereby amended in its entirety to be and read as follows:

**SECTION 12.5-343 ADMINISTRATION; RULES.**

- (a) The director shall administer this Division 4.
- (b) The director shall promulgate rules necessary to administer this Division 4.
- (c) The director may take into consideration those High Occupancy Residential/Non-Residential Properties on which stormwater runoff management techniques are being used and may grant credits on their monthly billings for such techniques.

**SECTION 4.**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (2015), as amended, except where the provisions of this ordinance are in

direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

**SECTION 5.**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 6.**

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of the Code of Fort Worth 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 7.**

This ordinance shall take effect upon adoption.

**APPROVED AS TO FORM AND LEGALITY:**

**ATTEST:**

\_\_\_\_\_  
Thomas R. Hansen  
Assistant City Attorney

\_\_\_\_\_  
Jannette S. Goodall, City Secretary

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