

NOTICE TO THE PUBLIC

A Public Hearing is scheduled before the **River Oaks City Council on Tuesday, February 28, 2012 at 7:00 P.M.** in the City Council Chambers located at 4900 River Oaks Blvd., River Oaks, Texas in order to receive citizen comments on the City's adoption of the Municipal Drainage Utility Systems Act, the same being Subchapter C of Chapter 552 of the Texas Local Government Code by amending the River Oaks Code of Ordinances under Chapter 13 "Utilities" by incorporating Article 13.12 "Storm Water Utility System" that if adopted will establish the River Oaks Municipal Storm Water Utility System establishing storm water charges and monthly stormwater Utility System Fees for Residential and Non-Residential customers.

Pursuant to Chapter 552.045 (c) of the Texas Local Government Code, the City of River Oaks is required to publish Notice of the Public Hearing three times before the date of the hearing and the first publication must occur on or before the 30th day before the date of the hearing. The proposed Ordinance must be published in full as herein follows:

ORDINANCE NO. 913-2012

AN ORDINANCE OF THE CITY OF RIVER OAKS, TEXAS, ADOPTING THE MUNICIPAL DRAINAGE UTILITY SYSTEMS ACT, THE SAME BEING SUBCHAPTER C OF CHAPTER 552 OF THE TEXAS LOCAL GOVERNMENT CODE; AMENDING CHAPTER 13 "UTILITIES" OF THE RIVER OAKS CODE OF ORDINANCES (2006) AS AMENDED BY INCORPORATING ARTICLE 13.12 "STORMWATER UTILITY SYSTEM" THAT ESTABLISHES THE RIVER OAKS MUNICIPAL STORMWATER UTILITY SYSTEM IN THE CITY OF RIVER OAKS, TEXAS; SETTING FORTH DEFINITIONS; ESTABLISHING STORMWATER CHARGES AND MONTHLY STORMWATER UTILITY SYSTEM FEES; ESTABLISHING THE BILLING AND PAYMENT OF STORMWATER FEES; PROVIDING PENALTIES AND REMEDIES FOR FAILURE TO PAY FEES; PROVIDING EXEMPTIONS FROM AND ADJUSTMENT OF FEES; ESTABLISHING PROGRAM RESPONSIBILITIES AND A STORMWATER UTILITY SYSTEM FUND; PROVIDING PROCEDURES FOR APPEALS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, within the City of River Oaks (the "City") there is an existing stormwater system which has been developed over a number of years for the purpose of collecting and disposing of stormwater runoff; and

WHEREAS, on April 30, 2009 the Texas Commission on Environmental Quality (TCEQ) issued a Notice of Intent for Small Municipal Separate Storm Sewer System (MS4) General Permit under authorization Number TXR40146; and

WHEREAS, among the conditions and requirements of the Small MS4 General Permit, the city was required to implement a storm water management plan that was tailored to the city's MS4 of which the City adopted the Storm Water Management Plan (SWMP) under Ordinance # 806-08 on December 9, 2008 as amended by Ordinance # 866-2010 on December 14, 2010 that has been codified into the River Oaks Code of Ordinances specifically in Article 13.10 "Storm Water Management Plan (SWMP)"; and

WHEREAS, it has been determined by the City's Storm Water Task Force as created under the City's SWMP that portions of the present stormwater system are inadequate to control and manage stormwater runoff within the City limits; and

WHEREAS, pursuant to Section 13.10.010 "Measurable Goals" of the City's SWMP, the City was to establish a storm water utility fee in order to fund the necessary renovations of the present storm water system pursuant to the 2003 River Oaks Storm Water Drainage Master Plan; and

WHEREAS, it is necessary and essential to ensure that the collection of stormwater runoff and control of stormwater within the City limits adequately protect the health, safety, and welfare of the citizens of the City including, but not limited to, the protection from loss of life and damage to property caused by surface water overflows and surface water stagnation; and

WHEREAS, it is necessary and essential that the City address the various water quality and environmental issues that may further burden its stormwater infrastructure requirements; and

WHEREAS, the City Council has examined the manner and time of the giving and publishing of notice of a public hearing to consider this ordinance and has found that notice of said hearing was duly, properly and legally given pursuant to Section 552.045 (c) of the Texas Local Government Code , said notice having been published at least three times prior to the date of such hearing, in a newspaper of general circulation in the City, the first of which publications was made on or before thirty (30) days prior to the date of the public hearing; and

WHEREAS, the public hearing was held before the River Oaks City Council on February 28, 2012 at 7:00 P.M. in the River Oaks Council Chambers located at 4900 River Oaks Blvd., River Oaks, Texas in order to allow public comment and testimony regarding the creation of River Oaks Municipal Storm Water Utility System in the City of River Oaks; and

WHEREAS, following the public hearing the City Council has considered the public input and has concluded that it is necessary and essential that the City create the River Oaks Municipal Storm Water Utility System and to assess the fees and charges to support the system; and

WHEREAS, Chapter 552, Subchapter C, of the Texas Local Government Code, as amended (the "Act"), authorizes the City to establish a municipal drainage (stormwater) utility system within the boundaries of the City; and

WHEREAS, the Act authorizes the City to provide rules for the use, operation and financing of a drainage (stormwater) utility system; and

WHEREAS, the Act authorizes the City to prescribe bases upon which to fund a drainage (stormwater) utility system and to assess the fees and charges to support the system; and

WHEREAS, the Act authorizes the City to provide exemptions of certain governmental and other entities or persons from the payment of these charges; and

WHEREAS, the City desires to adopt the Act and establish a stormwater utility system as a public utility; and

WHEREAS, in setting the schedule of charges for stormwater service, the calculations are based on a certain type of inventory of the lots and tracts within the City and the typical area of and type of development on the benefitted properties; and

WHEREAS, it is the intent of the City to fund the stormwater utility system in a manner that fairly and equitably allocates the cost of stormwater control to properties in proportion to stormwater runoff potential for each class of property;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVER OAKS, TEXAS:

SECTION I.
ESTABLISHMENT OF A STORMWATER UTILITY

With the adoption of this Ordinance Chapter 13 “Utilities” of the River Oaks Code of Ordinances (2006) as adopted and as amended shall be revised by incorporating Section 13.12 “Storm Water Utility System” to now read as follows:

Chapter 13 Utilities

“Article 13.12 Stormwater Utility System

Section 13.12.001 Creation within the Meaning of the Act. The City hereby adopts the provisions of Subchapter C of Chapter 552 of the Texas Local Government Code, (the “Act”), and hereby creates and establishes a stormwater utility system to serve the City, which boundaries shall be the boundaries of the City. The City declares the stormwater utility system to be a public utility and further finds that the City shall:

- (a) establish a schedule of stormwater (drainage) charges against all real property in the City subject to charges under Subchapter C of Chapter 552 of the Texas Local Government Code; and
- (b) provide stormwater (drainage) facilities and services for real property in the City on payment of stormwater charges, except such real property which may be exempted therefrom as authorized by law; and
- (c) offer such drainage (stormwater) service on non-discriminatory, reasonable and equitable terms.

Section 13.12.002 Duty of City Administrator. It shall be the duty of the City Administrator to administer the stormwater utility system. The City Engineer shall keep an accurate record of all properties benefitted or served by the stormwater utility system and the stormwater utility fee charged for each parcel or portion of a parcel. The record may be maintained within the City's utility billing system or in other record keeping systems that may be developed.

Section 13.12.003 Program Implementation. The City makes no representation that all of stormwater problems will be remedied; and the City Council is given full discretion in establishing the time and quantitative priorities in expending funds on a reasonable basis as the same become available to meet the stormwater needs of the City. This Section shall not be

construed to relieve private land owners, developers or other individuals or entities from providing stormwater improvements pursuant to the ordinances of the City and the laws of this state which relate to stormwater or stormwater improvements. Further, the City does not waive any immunity granted under any law.

Section 13.12.004 Access to Benefited Properties. Employees of the City shall have access, at all reasonable times, to any benefited properties served by the stormwater utility system for inspection or repair or enforcement of the provisions of this Article and Chapter 522, Subchapter C, Local Government Code.

Section 13.12.005 Definitions. The following definitions apply to the establishment and the operation of the Stormwater Utility System:

Act: means Chapter 552, Subchapter C “Municipal Drainage Utility Systems”, of the Texas Local Government Code, as amended.

Allocated Portion of a Parcel: means that portion of a parcel which has been allocated to an owner or customer based on the area utilized by the owner or customer compared to the total area of a parcel.

Benefited Property: means an improved parcel, lot or tract to which stormwater service is made available. All parcels within the City receive stormwater service in some manner directly or indirectly.

City: means the City of River Oaks.

City Administrator: means the City Secretary/City Treasurer as designated pursuant to the City Charter as adopted and as amended.

City Engineer: means the engineering consultant firm as authorized by the City Council.

Customer: means the person(s) or entity(ies) recorded as the customer or user of utility services for a parcel as recorded in the records of the City’s utility billing.

Dwelling Unit: means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by applicable City codes, for not more than one family, or a congregate residence for 10 or less persons. A dwelling unit may be a single family house, a town home, a manufactured home or a portion of a duplex, triplex or quadplex.

Impervious Area (or Impervious Surface): means a surface that has been compacted or covered with a layer of material so that it is resistant to infiltration by water and does not have a natural state of vegetative cover. Impervious areas include, but are not limited to, compacted soils with a surface treatment, gravel, crushed stone surfaces or soil compacted by vehicle traffic, asphalt or concrete pavement, parking lots, driveways, sidewalks and private roadways, and buildings, and other man-made structures, surfaces, or any uses that change the natural surface of the land and have the effect of increasing, concentrating, or otherwise altering stormwater runoff from that experienced under natural vegetative conditions.

Improved Parcel: means a lot or parcel that has been changed from its natural state by construction of a structure or other improvement on all or a portion of it that causes an impervious surface or change in the natural state of the vegetated soil on the property.

Non-Residential Property: means an improved parcel which is not a residential property, including commercial, industrial, institutional, governmental, apartments, condominiums, home owners' association and similar properties.

Owner: means the person(s) or entity(ies) recorded as the owner of a parcel as recorded in the records of the Tarrant County Appraisal District.

Parcel: means one or more lots or tracts, or portions of lots or tracts.

Residential Property: means an improved parcel upon which not more than four (4) dwelling units are constructed.

Service Area: means the area within the boundaries of the City.

Stormwater Infrastructure or Drainage Infrastructure: means the property, real, personal or mixed, that is used in providing stormwater capacity to manage and control stormwater runoff for the stormwater utility system, including bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, retention ponds, ditches, draws, creeks, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the stormwater runoff away, collect, store, or treat the stormwater runoff, or divert the stormwater runoff into natural or artificial watercourses. Drainage infrastructure has the same meaning as stormwater infrastructure.

Stormwater Operations and Maintenance Expenditures: means any expenditures that are required to finance, operate and maintain stormwater infrastructure including debt service, equipment, personnel, educational and administrative expenditures.

Stormwater Only Account: means a utility billing account established for the sole purpose of billing applicable stormwater utility fees where other utility services are provided privately or through suppliers other than the City or its contractors.

Stormwater Runoff Potential: means relative potential for causing stormwater runoff quantities or velocities from a parcel based on the type of development or land use on the parcel and the size of the parcel.

Stormwater Utility Fee or Drainage Utility Fee: means the charge, including interest and penalties, paid by the owner or customer of a benefited property for stormwater services provided by the stormwater utility system, including, but not limited to, the items described in the definition of "cost-of-service" in Section 552.044(2) of the Act. Stormwater utility fee has the same meaning as the drainage utility fee.

Stormwater Utility Ordinance: means this Ordinance, as codified into the River Oaks Code of Ordinances as Article 13.12 "Stormwater Utility System", as amended from time to time.

Stormwater Utility Fee Ordinance: means the section of the River Oaks Code of Ordinances (2006) as amended, Article 13.12 “Storm Water Utility System”, Section 13.12.012 “Storm Water Utility Fees”, as amended for the purpose of providing stormwater service for real property in the proposed service area.

Stormwater Utility System or Drainage Utility System: means the stormwater utility system owned or controlled, in whole or in part by the City, including the City’s existing stormwater facilities, materials, and supplies and any stormwater facilities, materials, and supplies hereafter constructed or utilized, and dedicated to the service of benefited property, and including provision for additions to the system. The stormwater utility system has the same meaning as the drainage utility system.

Wholly Sufficient and Privately Owned Stormwater System: means land and facilities owned and operated by a person or entity other than the City and from which stormwater does not discharge under any storm frequency event or conditions into a creek, river, slough, culvert, culvert, channel or other infrastructure that is part of the City's stormwater utility system.

Section 13.12.006 Establishment of a Stormwater Utility Fee and Billing.

(a) Stormwater Utility Rate Classes. A stormwater utility fee is established, and the fee shall be imposed on each benefited property within the City for services and facilities provided by the stormwater utility system. For purposes of imposing the stormwater utility fee, all eligible parcels within the City are classified into the following categories:

- (1) Residential
- (2) Non-Residential

(b) Responsible Party.

- (1) The stormwater utility fee shall be billed monthly along with other utilities provided to the property, including water, wastewater or solid waste (garbage) services.
- (2) The bill imposing the stormwater utility fee will be mailed to either the owner or customer who is currently established as the responsible party for water, wastewater and solid waste service for the parcel; and, the owner or customer recorded in the utility billing system will be responsible for payment of the fee.
- (3) Where an improved parcel is not occupied by a customer that might use water, wastewater, solid waste or other utility service and considered by the City to be vacant, either on a temporary or permanent basis, the City may bill the owner of the parcel for the stormwater utility fee.
- (4) Where an improved parcel is not billed for water, wastewater, solid waste or other service to an owner or customer of the City, the City is hereby authorized to establish a "stormwater only account" and to bill the stormwater utility fee to either the owner or customer, as the City Administrator determines is appropriate.

(c) Revision of Rates. The City Council shall establish the initial rates for the stormwater utility fee by ordinance. The City Council may review the schedule of rates at any time and may, by ordinance, increase or decrease the rates within the schedule, upon a determination that said increase or decrease is warranted.

(d) Billing Procedures and Policies.

(1) Any partial payment of the stormwater utility fee will be applied against the amount due in accordance with the policies and procedures established by the City with regard to all utility services provided by the City.

(2) A late charge and interest may be imposed in accordance with the policies and procedures established by the City with regard to all utility services.

(e) Non Payment. The City may file suit to recover any charges due hereunder, together with maximum interest, attorney fees and other costs and charges that may be allowed by the Act or other law, which is not paid when due. In addition to any other remedies or penalties provided by law or in this Ordinance, failure of a customer or owner of the stormwater utility system to pay the charges promptly when due shall subject such customer or owner to discontinuance of any utility services provided by the City and/or placement of a lien against the property.

Section 3.12.007 Calculation of Storm Water Utility Fees.

(a) Rates in Accordance with Act. The stormwater utility fee shall be established in accordance with the provisions of the Act.

(b) Fee Calculation. The stormwater utility fee shall be based on an inventory of parcels within the City which also evaluates the stormwater runoff potential on those parcels and establishes a rate for each class of property. The stormwater utility fee shall be set to recover the cost-of-service that has been established for the stormwater utility system in a fair and equitable manner, and if so determined by the City Council, an amount to establish one or more funds to provide financing for future stormwater system construction and for implementing programs to improve stormwater quality. The proportional stormwater runoff potential for each class shall be distributed equitably between classes and among the parcels in each class in proportion to the relative contribution of stormwater runoff from each class as follows:

(1) Residential Class: There are six (6) Residential Districts (“R-1”, “R-2”, “R-3”, “R-4”, “R-5” and “R-6”) within the City pursuant to the City’s Comprehensive Zoning Ordinance as adopted and as amended. “R-3” is the middle type class of Residential Zoning that is used as the basis for establishing the development criteria within the city when no other provisions are applicable. The intent of the zoning ordinance is to maintain 40% open space on any residentially platted lot with 60% available for buildings, and other man-made structures, surfaces, or any uses that change the natural surface of the land.

(i) For the purpose of Residential Class, the Equivalent Residential Unit (ERU) is defined as being 4,500 square feet of impervious area.

- (ii) Single-family residential properties shall be assessed (1) ERU per month as follows: The minimum lot size in a R-3 Single Family District is 7,500 square feet X 60% (factor for improvements) = 4500 square feet being the Equivalent Residential Unit (ERU).
- (2) Non-Residential Class. All Non-Residential Properties will be billed Stormwater utility fees for non-residential property, shall be calculated for each improved parcel based upon the stormwater runoff potential on each parcel measured as impervious area in square feet (SF) at the following rate:

Non-Residential Parcel: Fee = Allocated Impervious Area on the Parcel(s)
in square feet (SF) X \$0.00177/SF/month.

- (c) Stormwater Runoff Potential. For purposes of establishing the stormwater runoff potential on parcels between and within each rate class, the impervious area for parcels may be inventoried from information established by Tarrant County Appraisal District, from Geographic Information System records, from aerial photography and/or from site plans or plats available for properties within the City. The impervious area measured in square feet as obtained from these database sources, site plans or other survey or engineering calculations shall be used to establish the relative stormwater runoff potential for each rate class and among parcels within each rate class.

Section 13.12.008 Appeal.

- (a) Appeal of Stormwater Utility Fees to the City Administrator. An owner or customer who has been charged a stormwater utility fee for a non-residential parcel, and believes that the calculation of the stormwater utility fee is incorrect or inapplicable, may appeal the fee to the City Administrator by filing a notice of appeal and paying a \$100 application fee.
- (b) Process.
 - (1) An Appeal can be filed by completing a form created by the City Administrator that describes the basis for the claimant appealing the data, including the provision of independent engineering reports supporting a more accurate impervious area calculation.
 - (2) The appeal shall set forth in detail the grounds upon which relief is sought. The City Administrator shall decide on the appeal based upon a preponderance of the evidence.
 - (3) The information submitted to the city must be complete in order to conduct an evaluation of the appeal. A response regarding receipt and completeness by the City Administrator will be provided within ten (10) days of the receipt of the receipt of the completed appeal form and supporting material. Any billing adjustments made after April 1, 2012 shall be applied only to the next billing cycle following a decision made by the City of River Oaks.
 - (4) Properties classified as residential shall not have an individual appeals process separate from that offered in the public hearing prior to the initial implementation of the utility system fee.

- (5) The Utility Billing Office shall refer questions of impervious fee calculations to the City Administrator.
- (6) The City Administrator based from the review and data supported by the City Engineer shall make determinations of impervious area appeals.
- (7) Billing and payment disputes for administrative issues shall be subject to appeals procedures used by the City for other billing disputes.
- (8) Appeals for the following reasons shall be directed to the City Administrator or his/her designee for evaluation and determination.
 - (i) the applicability of a stormwater utility fee for a parcel;
 - (ii) the calculation of applicable stormwater runoff potential for a parcel;
 - (iii) the calculation of the stormwater utility fee for a parcel; or
 - (iv) the discontinuance of utility service, or other legal actions for non-payment of stormwater utility fees.
- (9) The City Administrator or his/her designee shall render a written decision on such appeals within thirty (30) days after receiving a complete written notice of appeal from the landowner.

(c) Supporting Information for Appeal. The person filing the appeal may be required, at the person's cost, to provide supplemental information to the City Engineer, including but not limited to survey data sealed by a Texas licensed professional land surveyor, engineering reports sealed by a Texas licensed professional engineer qualified in civil engineering, or other documentation that the City Engineer deems necessary to properly evaluate the appeal. Failure to provide requested information in a timely manner may result in denial of the appeal.

(d) Appeal of Stormwater Utility Fees to the City Council.

- (1) An owner or customer may appeal the decisions of the City Administrator to the City Council.
- (2) The owner or customer shall file a written appeal to the City Council with the City within thirty (30) days following receipt of the City Administrator's decision. The City Council shall hear the appeal within sixty (60) days of receipt of the appeal by the City Administrator. Notice of the hearing shall be mailed to the address given in the appeal form or, if no address is given, to the address on the utility billing statement at least fourteen (14) days prior to the hearing.
- (3) The burden of proof shall be on the owner or customer to demonstrate that the fee is not applicable or that the determination of the value of the fee was not calculated according to the applicable stormwater fee schedule or the methodologies established in the Stormwater Utility Fee Ordinance and Chapter 13 "Utilities" of the River Oaks

Code of Ordinances (2006). If applicable, and if not previously submitted to the City Administrator, the owner or customer shall submit, with the appeal, a report describing the basis for the appeal. The report shall be prepared by a Texas licensed professional engineer qualified in civil engineering. The failure to submit such a report shall be considered in determining whether the applicant has met the burden of proof.

- (4) If the appeal is accompanied by a bond or other sufficient security satisfactory to the City Attorney in an amount equal to the original determination of the stormwater utility fee due, any discontinued utility services may be reinstated while the appeal is pending.
- (5) At the hearing, the City Council shall allow testimony from the applicant, City employees and other interested persons relevant to the appeal. The hearing may be continued from time to time.
- (6) Following the hearing, the City Council shall consider all evidence and determine whether the appeal should be granted (in whole or in part) or denied.
- (7) The City Council shall complete its review and make a decision about the appeal within thirty (30) days of the hearing. The City Council shall apply the standards and review criteria contained in this Section.
- (8) The City Council's decision shall be final.

(e) Imposition and Appeal of Lien.

- (1) Before imposing a lien for delinquent stormwater utility charges, the City shall send notice to the owner of the amount of the charges owed and any penalties or interest accrued, and of the owner's right to appeal the imposition of the lien. The notice must provide a time, place and means by which the charges causing the lien may be paid or disputed. The notice shall be sent to the address shown on the tax rolls if the Owner has not notified the City of a different address.
- (2) Within ten (10) working days of the postmark of the notice sent by certified mail, return receipt to the owner, the owner may appeal the decision to impose the lien on the property to the City Administrator.
- (3) The owner shall present evidence at a meeting with the City Administrator. Within five (5) working days after the date of the meeting, the City Administrator shall direct that the lien not be filed if he finds the customer or the owner does not owe a fee, and shall give the owner written notice of the decision.
- (4) If warranted, the City Administrator may modify the lien to reflect the true amount of delinquency in payment for services to the property.
- (5) When a person pays all principal, interest and all other charges allowed by law that are secured by a lien filed pursuant to this Ordinance, the City Administrator shall execute a release of that lien.

Section 3.12.009. Termination of District. If, after at least five (5) years of substantially continuous operation of the stormwater utility system, the City Council determines that the stormwater utility system should be discontinued, the powers under the Act should be revoked, and the provision for financing municipal stormwater costs should be made by using other revenues, the City Council may adopt an ordinance that in effect, after providing notice and a public hearing as required by the Act, discontinues the stormwater utility system.

Section 3.12.010. Stormwater Utility Fund.

(a) **Stormwater Fund.** A stormwater utility fund is established and may consist of one or more accounts. All stormwater utility fees shall be deposited as collected and received into this fund, and shall be used exclusively for stormwater services as stated in Section 522.044(2) of the Act, including, but not limited to the following:

- (1) The cost of the acquisition of land, rights-of-way, options to purchase land, easements, and interests in land relating to structures, equipment, and facilities used in draining the benefitted property;
- (2) The cost of the acquisition, construction, repair, and maintenance of structures, equipment, and facilities used in draining the benefitted property;
- (3) The cost of architectural, engineering, legal, and related services, plans and specifications, studies, surveys, estimates of cost and of revenue, and all other expenses necessary or incident to planning, designing, providing, or determining the feasibility and capability of structures, equipment, and facilities used in draining the benefitted property;
- (4) The cost of all machinery, equipment, materials and appurtenances, and facilities necessary or incident to the provision and operation of draining the benefitted property;
- (5) The prorated cost of funding and financing charges and interest arising from construction projects and the start-up cost of a stormwater facility used in draining the benefitted property;
- (6) The prorated cost of debt service and reserve requirements for funding of stormwater infrastructure, equipment and facilities paid with revenue bonds or other securities or obligations issued by the City and supported by pledge of stormwater revenues including any fees and expenses incidental thereto;
- (7) To the extent permitted by law, the cost of constructing, sampling, monitoring, building, inspecting and maintaining structures needed for the State's regulation and permitting requirements imposed on the City for providing stormwater quality improvements for the benefitted property; and
- (8) The administrative costs of the stormwater utility system.

(b) **Stormwater Fund Accounting.**

(1) The City shall clearly account for revenues and expenditures authorized for operation of the stormwater utility system.

(2) The revenues collected from stormwater utility fees shall be segregated and completely identifiable from other City funds and accounts.

(3) Funds and revenues in the stormwater utility fund may be transferred to the City's general fund as allowed by law.

(c) Stormwater Service Deposit. A deposit shall not be charged for initiation or continuation of stormwater utility service.

Section 13.12.011. Exemptions. The following entities or persons shall be exempt from payment of the fees established by this ordinance:

(a) State Government Entities. A state governmental entity listed below, and a parcel in which the governmental entity holds a freehold interest is exempt from payment of the fees established by this ordinance:

(1) the State of Texas, and

(2) a State agency

(b) Institutes of Higher Education. A public or private institution of higher education is exempt from payment of the fees established by this ordinance.

(c) Undeveloped Property Exemption. Any property to which a mandatory exemption under Section 552.053 of the Act applies is exempt from this ordinance, including without limitation:

(1) property with proper construction and maintenance of a wholly sufficient and privately owned stormwater system that does not discharge under any storm frequency event or conditions to waterways controlled or maintained by the City; and

(2) property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the City for maintenance; and

(3) a subdivided parcel or lot, until a structure has been built on the lot and a certificate of occupancy has been issued, or the City has taken another official action to release the property for occupancy; and

(d) Other Exemptions. Any property owned by the following described or identified entities are exempt from payment of the fees established by this ordinance:

(1) City or River Oaks;

(2) Tarrant County;

(3) Corps of Engineers; and

(4) the United States Government.

- (e) Proof of Exemption. If the owner of property asserts that such property is exempt pursuant to this Section or any other applicable law, such property owner has the burden to assert such exemption by filing notice of eligibility for such exemption and sufficient evidence of entitlement to such exemption with the City Administrator. If the exemption is not granted, the owner may appeal using the procedures for appeal provided in Section 13.12.008 "Appeal" above.

SECTION II. PENALTY FOR VIOLATION

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 this Ordinance shall be fined no more than Two Thousand Dollars and no cents (\$2,000.00) for each violation, and in addition shall pay all costs and expenses involved in the case. Each day a violation occurs is a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION III. CUMULATIVE CLAUSE

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of River Oaks, Texas, as amended, except where the provisions are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

SECTION IV. SEVERABILITY CLAUSE

It is hereby declared to be the action of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid due to conflict with superior statute by the valid judgment or decree of any court of competent jurisdiction, such phrases, clauses, sentences, paragraphs and sections shall be deemed to be reformed to the minimum extent necessary to conform with such constitutional and superior statutory provisions; furthermore, any such unconstitutionality or invalidity 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, phrase, paragraph or section.

SECTION V.. SAVINGS CLAUSE

All rights and remedies of the City of River Oaks are expressly saved as to any and all violations of the provisions of the River Oaks City Code, as amended, or any other ordinances

regarding stormwater (drainage) services and stormwater (drainage) utility systems 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, 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 VI.
PUBLICATION CLAUSE

The City Secretary of the City of River Oaks is hereby directed to publish in the official newspaper the caption and penalty clause of this ordinance one (1) time after the adoption of this ordinance as authorized by Chapter 5, Section 5.02(c) of the Charter of the City of River Oaks.

SECTION VII.
EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication as required by law and it is so ordained.

Herman D. Earwood Mayor

ATTEST:

Marvin C. Gregory III, City Secretary