

ORDINANCE NO. 2015-21

**AN ORDINANCE ESTABLISHING ARTICLE XV,
CHAPTER 154 OF THE CITY CODE OF
ORDINANCES TITLED STORM DRAINAGE TO
CREATE A STORMWATER DEVELOPMENT FEE;
SETTING A PENALTY, AN EFFECTIVE DATE AND
A SERVABILITY CLAUSE**

WHEREAS, the Municipal Drainage Utility Systems Act in Subchapter C of Chapter 552 of the Texas Local Government Code permits municipalities to adopt Chapter 552, Subchapter C of the Texas Local Government Code and 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 municipalities; and

WHEREAS, the City of Balcones Heights intends to comply with State of Texas regulations to enhance the health, safety and general welfare of its residents and the general public; and

WHEREAS, the City of Balcones Heights intends to establish and implement a stormwater development fee and a monthly stormwater fee to protect the health, safety and welfare of the community and in response to the requirements of the Federal Water Quality Act of 1987; and

WHEREAS, the City of Balcones Heights intends to declare the City of Balcones Heights Drainage Utility as a municipally operated public utility pursuant to Chapter 552, Subchapter C of the Texas Local Government Code and to charge it with protecting the public health and safety against loss of life and property caused by surface water overflows, surface water stagnation, and pollution arising from nonpoint source runoff within the boundaries of the drainage utility service area; and

WHEREAS, the City of Balcones Heights through this Ordinance finds that the City will adopt Chapter 552, Subchapter C of the Texas Local Government Code and provide drainage for all real property within the city on nondiscriminatory, reasonable, and equitable terms and establish a schedule of drainage charges against all real property within the city, unless exempted, pursuant to Chapter 552, subchapter C of the Texas Local Government Code; and

WHEREAS, the City of Balcones Heights provided notice by publication, in a newspaper of general circulation in Balcones Heights, of the entire ordinance and the time and place of a public hearing to consider the ordinance as required by Section 552.045 of the Texas Local Government Code; and

WHEREAS, after conducting a public hearing on this day and after due consideration, City Council finds it necessary to establish and implement a stormwater development fee to protect the health, safety and welfare of the community.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALCONES HEIGHS, TEXAS.

SECTION 1. That Chapter 154, "STORM DRAINAGE" be amended to incorporate new Sections composed of Sections 154.01 to 154.04 to read as follows:

Sec. 154.01. - Declaring the drainage of the city to be a public utility.

The City Council hereby adopts Texas Local Government Code Chapter 552 Subchapter C (entitled "Municipal Drainage Utility Systems"); declares the drainage of the city to be a public utility, to be known as the City of Balcones Heights Storm Drainage System; and dedicates to the drainage utility all city owned property, real and personal, facilities, materials and supplies constituting the city's drainage system as constituted on the effective date of this chapter and as may be acquired in the future, to be used for the purpose of the drainage utility.

Sec. 154.02. - Establishment and revision to drainage utility service area.

Pursuant to the authority granted by Texas Local Government Code § 552.044(8) (B) the drainage service area includes all land within the municipal boundaries of the city

Sec. 154.03. Stormwater development fee.

(a) The stormwater development fee is deemed a nondiscriminatory, reasonable and equitable methodology to provide and fund regional detention, watershed protection, land purchase, waterway enlargement, channelization, improved conveyance structures and administration of the drainage utility.

(b) To be effective on October 1, 2015, the City Council hereby establishes a stormwater development fee to be paid by users of benefitted property in the service area of the drainage utility. The stormwater development fee is a one-time drainage charge assessed to developers whose properties are served by the drainage utility pursuant to this Code. The fee shall be assessed for any construction that increases the total impervious surface area (excluding public sidewalks) of real property.

(c) The stormwater development fee shall be at the following monthly fee

FY 2015-16

Residence, Single Family, per month (1 LUE minimum) *\$2.60

Apartment or Commercial, per LUE *\$2.60

LUE (Living Unit Equivalent) = 7,350

gallons per month

*The stormwater fee may be amended through the City's annual ordinance establishing the consolidated municipal fee schedule for city utilities, and other services.

(d) *Exemptions.* The following real property, only, shall be exempt from the provisions of this section:

(1) Property owned by the City of Balcones Heights and/or dedicated to right-of-way for public streets and/or to provide drainage service; and

(2) Property with proper construction and maintenance of a privately owned drainage or stormwater system wholly sufficient to provide all the drainage or stormwater service for that property.”

Sec. 154.04. - Stormwater fund.

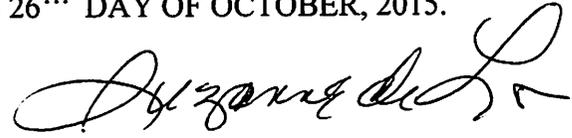
A separate fund shall be created, effective as of the effective date of this chapter, known as the stormwater fund, for the purpose of identifying and controlling all revenues and expenses attributable to the drainage utility. All stormwater fees collected by the city and other monies city council may wish to designate for this fund, shall be deposited in the stormwater fund. Such utility revenues shall be used for the purposes of administration, studies, engineering, construction, reconstruction and other reasonable and customary charges associated with the operation of the drainage utility.

SECTION 2. REPEALED. All ordinances, resolutions, and municipal orders in conflict herewith are repealed to the extent of such conflict.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared void; and that in lieu of each clause or provision of this Ordinance that is invalid, illegal, or unenforceable there be added by the Mayor as necessary with the approval of the City Attorney as to form, and as a part of the Ordinance a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

SECTION 4, EFFECTIVE DATE. Effective immediately following the publication of this ordinance in the local newspaper as required by Section 51.052 of the Texas Local Government Code, the following sections will apply within the corporate city limits of Balcones Heights, Texas.

PASSED, ORDERED AND APPROVED THIS 26TH DAY OF OCTOBER, 2015.



Suzanne de Leon
Mayor

ATTEST:



Delia Flores, TRMC
City Secretary

THE BOARD OF DIRECTORS OF THE GOLDEN GATE NATIONAL BANK

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