

## **“NOTICE OF PUBLIC HEARING ON CREATION OF A MUNICIPAL STORMWATER UTILITY”**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Live Oak, Texas will hold a public hearing at the Live Oak City Council Chambers, located at 8001 Shin Oak Drive, Live Oak, Texas on **January 13, 2009 at 7:00 p.m.** to consider the adoption of an ordinance creating a municipal stormwater utility under authority of Chapter 402, Subchapter C of the Texas Local Government Code. Any person has the right to appear at the hearing and present evidence for or against the proposed stormwater utility.

A stormwater utility will provide for more focused stormwater services, as well as allow for a dedicated source of funding for stormwater to meet City service needs and expanded program requirements arising from new State and Federal permit requirements. A schedule of potential stormwater charges will be considered at a separate public hearing subsequent to the consideration of creation of the utility.

The proposed ordinance to create the municipal stormwater utility is listed below in its entirety.

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

**AN ORDINANCE OF THE CITY OF LIVE OAK, TEXAS, TO CREATE AND ESTABLISH A MUNICIPAL STORMWATER UTILITY; DECLARING IT TO BE A PUBLIC UTILITY UNDER THE ADMINISTRATIVE CONTROL OF THE CITY MANAGER; ESTABLISHING THE SERVICE AREA OF SAID UTILITY; PROVIDING THAT THERE SHALL BE NO WAIVER OF THE CITY OF LIVE OAK’S IMMUNITY FROM LIABILITY; PROVIDING AN EFFECTIVE DATE; AND AMENDING THE LIVE OAK CODE OF ORDINANCES TO ADD THESE PROVISIONS.**

WHEREAS, The Federal Clean Water Act, adopted in 1972 and amended in 1987, requires that cities with over 10,000 population and located in the vicinity of urbanized areas as defined by the U.S. Environmental Protection Agency (EPA) must develop and carry out a Stormwater Management Plan; and

WHEREAS, The City of Live Oak, Texas, (hereinafter referred to as “City”) has been identified as one of the City’s meeting the criteria established by EPA in November 1990 and by the Texas Commission of Environmental Quality in recent years; and

WHEREAS, The Texas Commission on Environmental Quality has the responsibility to review and approve the Stormwater Management Plan for such cities; and

WHEREAS, The City intends to comply with Federal and State Laws; and

WHEREAS, The City has developed and intends to implement beginning a Stormwater Management Plan for the City, and there are costs associated with the execution of that Plan; and

WHEREAS, Due to the increase of impermeable surface, such as buildings and paving, in the City, and the increased runoff from such development throughout the City, there is a need to manage stormwater runoff more efficiently and to improve water quality, reduce flooding, and protect the public health, safety, and welfare; and

WHEREAS, The City is authorized by state law under the Texas Local Government Code, Chapter 402, Subchapter C, to create a Municipal Stormwater Utility in a manner similar to the City's Water and Wastewater Utilities; and

WHEREAS, Creation of a Municipal Stormwater Utility will ensure a source of funding which may be applied only to the operation, maintenance, and improvement of the municipal separate storm sewer system, including streets, gutters, inlets manholes, junction boxes, storm sewer systems, roadside ditches, swales, channels, creeks, rivers, and other natural and man-made stormwater conveyance facilities located within the city limits of Live Oak and within dedicated public rights-of-way or easements; and

WHEREAS, The City must create a Municipal Stormwater Utility for these reasons.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LIVE OAK, TEXAS THAT:**

That the Code of Ordinances of the City of Live Oak, Texas, is hereby amended by adding a new Chapter, which reads as follows:

**MUNICIPAL STORMWATER UTILITY**

***SECTION I. FINDINGS***

- A. The City Council has found and hereby finds that:
1. The City will establish a Municipal Stormwater Utility and adopt a schedule of stormwater fees for all real property in the City's service area as herein described, subject to fees allowable under the Texas Government Code, Chapter 402, Subchapter C.
  2. The City will provide stormwater services and operate, maintain, and improve the stormwater utility system facilities and natural waterways for all lots and tracts within the City limits.
  3. All lots and tracts within the City limits are hereby automatically included in the municipal stormwater system and are eligible to receive stormwater services concurrent with payment of stormwater utility fees, except any real property exempted under the Texas Government Code, Chapter 402, Subchapter C, including City-owned land, such as streets, alleys, parks, facilities, drainage easements, utility land and easements, rights-of-way, lakes, creeks, and other natural areas, and including lots or tracts without any development.
  4. The City will offer stormwater utility services on nondiscriminatory, reasonable and equitable terms in accordance with the Stormwater Management Plan adopted by the City Council of the City of Live Oak.

**SECTION II. PUBLIC NOTICE**

- A. Prior to the adoption of this ordinance, the City Council caused to be published in a newspaper of general circulation in the City a notice stating the time and place of a public hearing to consider this ordinance. The notice was published prior to the date of the hearing in accordance with the City Charter and state law.

- B. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public, and public notice of the time, place, and subject matter of the public business to be considered at such meeting including this Ordinance, was given, all as required by the Texas Government Code, Chapter 551, as amended.

### **SECTION III. ESTABLISHMENT OF A MUNICIPAL STORMWATER UTILITY**

- A. The provisions of the Texas Local Government Code, Chapter 402, Subchapter C, are hereby adopted and a municipal stormwater utility is hereby established by the authority of that Subchapter and by the authority granted to the City's City Council by Texas state law and the City Charter.

### **SECTION IV. PUBLIC UTILITY**

- A. The Municipal Stormwater Utility System and the related stormwater services of the City are declared to be a public utility. Existing public drainage and stormwater facilities are incorporated in the Municipal Stormwater Utility System as permitted by the Texas Local Government Code, Section 402.046.
- B. The Municipal Stormwater Utility and its stormwater facilities, assets, and employees shall be under the administrative control of the City Manager, or his designee. The operating budget of the Municipal Stormwater Utility will be reviewed and approved by the City Council annually.

### **SECTION V. SERVICE AREA**

- A. The Municipal Stormwater Utility service area is the area within the city limits of Live Oak, Texas, pursuant to the Texas Local Government Code, Section 402.044(8).

### **SECTION VI. NO WAIVER OF IMMUNITY**

- A. This ordinance does not imply that a benefited property will be free from flooding or erosion, and does not create additional duties on the part of the City.
- B. This ordinance does not waive the City's immunity under any law.

### **SECTION VII. EFFECTIVE DATE**

- A. This ordinance shall become effective immediately upon adoption after second reading.

**PASSED AND APPROVED** this [ ] day of [ ], 2008.

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Joseph W. Painter, Mayor

ATTEST:

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Deborah L. Goza, City Secretary