CITY OF FRISCO **ORDINANCE NO. _____**

AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, AMENDING CHAPTER 94 (UTILITIES), ADDING ARTICLE VIII (MUNICIPAL STORM WATER UTILITY SYSTEM) TO FRISCO'S CODE OF ORDINANCES; ESTABLISHING A MUNICIPAL STORM WATER UTILITY SYSTEM; PROVIDING FOR DRAINAGE SERVICE, BILLING, EXEMPTIONS, FEES AND APPEALS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Frisco, Texas ("City") to promote the public health, safety and welfare of the citizens to adopt a Municipal Storm Water Utility System; and

WHEREAS, the City Council further investigated and determined that it would be in the best interest of the citizens to adopt the Municipal Drainage Utility Systems Act as set forth in Chapter 402, Subchapter C, Texas Local Government Code, as amended, ("Act"); and

WHEREAS, the City Council hereby adopts the Act and incorporates it herein in its entirety for all purposes;

WHEREAS, the City Council finds that the drainage of the City is a public utility within the meaning of the Act; and

WHEREAS, the City Council further finds that the City will establish a schedule of drainage fees against all real property in the proposed service area(s) subject to charges under this Ordinance; and

WHEREAS, the City Council further finds that the City will provide drainage for all real property in the proposed service area(s) on payment of drainage charges, except real property exempted under the Act; and

WHEREAS, the City Council further finds that the City will offer drainage service on nondiscriminatory, reasonable and equitable terms; and

WHEREAS, the City Council further finds that it would be in the best interest of its citizens to amend Chapter 94 (Utilities) of Frisco's Code of Ordinances to add Article VIII (Municipal Storm Water Utility System) as set forth below.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment of Chapter 94 (Utilities) of Frisco's Code of Ordinances; Adoption of Article VIII (Municipal Storm Water Utility System). Chapter 94 (Utilities) of Frisco's Code of Ordinances is hereby amended to adopt Article VIII (Municipal Storm Water Utility System) as set forth below:

"ARTICLE VIII. MUNICIPAL STORM WATER UTILITY SYSTEM

Sec. 94-280 Adoption of Act.

The Municipal Drainage Utility Systems Act, Chapter 402, Subchapter C, Texas Local Government Code, as amended, ("Act") is hereby adopted and shall be fully implemented as provided by the Act and by the City Council; and the drainage of the City is hereby found to be a public utility within the meaning of the Act.

Sec. 94-281 Drainage service provided.

The City will provide storm water drainage for all real property within its boundaries upon payment of the determined drainage charges, as defined in the Act, and excluding certain exempted real property, and that the fees, assessments, and charges will be based on nondiscriminatory, reasonable and equitable terms.

Sec. 97-282 Billing for service.

The City is hereby authorized to bill the drainage charges incurred as a result of the adoption of the Act and through the establishment of the municipal storm water utility system. The storm water utility fee shall be separately identified from other public utility billings.

Sec. 97-283 Authority to levy charges.

The City may levy a schedule of drainage charges upon satisfaction of the procedural requirements provided in the Act and this Ordinance.

Sec. 97-284 Exemption Authorized.

The City is authorized to exempt certain entities or persons from all ordinances, resolutions, and rules which the City may adopt from time to time in

connection with the adoption of the Act and the establishment of its municipal storm water utility system.

Sec. 97-285 Fees.

(a) The City will adopt a schedule of drainage fees after the passage of this Ordinance which will be collected through the City's bill for public utilities pursuant to the Act other applicable law.

(b) The fees which will be established will apply to the accounts maintained by the City for utility services.

(c) All billings, credits, exemptions and other procedures relating to these fees shall be subject to the provisions of the Act and other applicable law.

Sec. 97-286 Appeals.

(a) Billing and payment disputes for administrative issues shall be subject to appeals procedures used by the City for other utility billing disputes.

(b) Appeals for the following reasons shall be directed to the Director of Engineering Services or his designee for evaluation and determination:

(1) exempt property has been assessed a storm water utility fee;

(2) storm water utility fee for an individual property is based on an incorrect determination of the property's contribution to the storm water system, as established in the Municipal Storm Water Utility Fee Schedule;

(3) storm water utility fee for an individual property is assessed on more than one utility account; or

(4) storm water utility fee is assessed to individual property outside the City's jurisdictional area.

(c) The Director of Engineering Services or his designee shall render a written decision on such appeals within thirty (30) days after receiving a written notice of appeal from the landowner.

(d) Any landowner who disagrees with the decision of the Director of Engineering Services or his designee may appeal such decision to the City Council. The decision of the City Council shall be final.

Sec. 97-287 Penalties.

(a) Failure to pay the storm water utility fee promptly when due shall subject such user to discontinuance of any utility services provided by the City, in accordance with all applicable laws.

(b) The City shall not require a deposit for drainage charges as a precondition to accepting surface flow from benefited property into the City's

drainage utility system. All real property of the City will be provided with drainage service on payment of drainage charges."

SECTION 3: Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 4: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, paragraph, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 5: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS on this _____ day of _____, 2008.

_____
Maher Maso, Mayor

ATTESTED TO AND CORRECTLY RECORDED BY:

_____
Ron Patterson, Interim City Secretary

APPROVED AS TO FORM:

_____
Abernathy, Roeder, Boyd & Joplin, P.C.
Rebecca Brewer
City Attorney

Date(s) of Publication: _____, in the *Frisco Enterprise*