

DATE: December 17, 2018
INTRODUCED BY: Boose, DeVries, Westover
REFERRED TO: City Council by Utilities
TEMPORARY NO: T 125-2018 (fka T 90-2018)
Utilities on 11/19/2018
Report accepted on 12/03/2018

1st READING: December 17, 2018
2nd READING: Dispensed
3rd READING: Dispensed
ADOPTED: December 17, 2018
EMERGENCY: December 17, 2018

ORDINANCE NO. 5590-2018

**AN ORDINANCE CREATING A NEW CHAPTER ENTITLED
“STORMWATER UTILITY” AS PART OF THE STREETS, UTILITIES
AND PUBLIC SERVICES CODE OF THE CITY OF NORTH
RIDGEVILLE CODIFIED ORDINANCES AND DECLARING AN
EMERGENCY.**

WHEREAS, the stormwater services in the City of North Ridgeville (the “City”) are currently funded from revenue derived from property taxes and held in the General Fund; and

WHEREAS, the City has decided to implement a stormwater utility fee rather than raise property taxes or cut other services in order to ensure the City’s stormwater programs are funded in a manner that is fair and reasonable to residential and non-residential property owners in the City; and

WHEREAS, undeveloped lots will not be charged a stormwater fee; and

WHEREAS, the revenue collected by the stormwater utility will be maintained in a separate fund exclusively used for maintenance, improvement and enforcement of the City’s stormwater management system and ensure compliance with state and federal mandates and regulations.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH RIDGEVILLE, LORAIN COUNTY, OHIO, THAT:

SECTION 1. The City of North Ridgeville hereby creates a new chapter entitled “Stormwater Utility” as part of the Streets, Utilities and Public Services Code of the City of North Ridgeville as outlined in substantially the same form as in **Exhibit “A”**, attached.

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were conducted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in accordance with all legal requirements, including §121.22 of the Ohio Revised Code.

SECTION 3. This Ordinance is hereby declared to be an emergency measure, the emergency being the immediate necessity to have the stormwater utility in place by January 1, 2019. Wherefore, this Ordinance shall take effect and be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: December 17, 2018



PRESIDENT OF COUNCIL

ATTEST :



CLERK OF COUNCIL

APPROVED: Dec 20, 2018



MAYOR

Exhibit “A”**Stormwater Utility**

- ____.01 Purpose and Objective.
- ____.02 Creation of a Stormwater Utility Program.
- ____.03 Definitions.
- ____.04 Funding the Stormwater Utility Program.
- ____.05 Stormwater Utility Program Fund.
- ____.06 Stormwater Utility Program Operating Budget.
- ____.07 Rate Structure and Charges and Fees.
- ____.08 Powers of Director.
- ____.09 Adjustments to Stormwater Management Service Charges.
- ____.10 Right to Appeal.
- ____.11 Billing and Collections.
- ____.12 Falsifying Information.

____.01 PURPOSE AND OBJECTIVE.

The City Council finds, determines and declares that efficient and effective stormwater management is necessary to the protection of the public health, safety, and welfare and for compliance with the unfunded mandates under the federal Clean Water Act, 33 U.S.C. §1251, et seq., and under Ohio’s National Pollution Discharge Elimination System Phase II stormwater regulations. In order to efficiently and effectively manage stormwater, the City Council finds, determines and declares that the creation of a Stormwater Utility Program to establish and implement plans and mechanisms for dealing with stormwater drainage, which includes implementation of a stormwater management service charge, is necessary.

____.02 CREATION OF A STORMWATER UTILITY PROGRAM.

(a) There is established and created a Stormwater Utility Program within the Engineering, Service and Utilities Department.

(b) The function of the Stormwater Utility Program within the existing Engineering, Service, and/or Utilities Department will be to provide for the safe and efficient capture of stormwater runoff, mitigate the damaging effects of stormwater runoff, correct stormwater problems; to fund activities of stormwater management, including design, planning, regulation, education, coordination, construction, operations, maintenance, inspection and enforcement activities.

(c) It is the express intent of this Stormwater Utility Program, to protect the public health, safety and welfare of people, property and the environment in general, but not to create any special duty or relationship with any individual person, or to any special parcel within or outside the boundaries of the City. The City expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages or equitable remedies upon the City, its elected officials, officers, employees and agents arising out of any alleged failure or breach of duty or relationship.

.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) "Adjustment" means a modification in a residential or non-residential customer's stormwater management service charge for certain activities that impact stormwater runoff or impacts the City's costs of providing stormwater management.

(b) "Apartment property" is defined as a lot or parcel of real estate in which an apartment building is situated containing three or greater single-family dwelling units.

(c) "Approved plans" shall mean plans approved according to permits and plan review which will govern all improvements made within the City that require stormwater facilities or changes or alterations to existing stormwater facilities.

(d) "Condominium property" is defined as a lot or parcel of real estate in which a building is situated containing three or greater individually-owned single-family dwelling units.

(e) "Director" means the Mayor of the City of North Ridgeville, Ohio or his designee.

(f) "Equivalent Residential Unit" or "ERU" is the average impervious surface area (measured in square feet) of all residential properties in the City. That amount is 3,820 square feet.

(g) "Impervious area" means any area composed of any material that significantly impedes or prevents the natural infiltration of water into the soil. It includes areas that have been paved and/or covered with buildings and materials such as, but are not limited to, concrete, asphalt, rooftop and blacktop.

(h) "Non-residential properties" are all properties not encompassed by the definition of "Residential Properties". Non-residential properties include, but are not limited to:

- (1) Agricultural properties with CAUV designations;
- (2) Apartment properties;
- (3) Two-story or greater condominiums properties;
- (4) Mobile home parks with rented spaces (parcel not owned);
- (5) Commercial property;
- (6) Industrial property;

- (7) Institutional property;
 - (8) Governmental property;
 - (9) Churches;
 - (10) Schools;
 - (11) Federal, state and local government properties; and
 - (12) Any other property not mentioned in this list or the list of residential properties below.
- (i) "NPDES" means National Pollutant Discharge Elimination System.
 - (j) "NPDES permit" means a permit issued to the City pursuant to the Federal Clean Water Act.
 - (k) "Peak discharge" or the "peak flow" is the maximum rate of flow of water passing a given point during or after a rainfall event.
 - (l) "Residential property" means all single-family, single-story condominium dwelling units, mobile home units with separate parcels and separate billing accounts, and two-family duplex properties within the City.
 - (m) "Retention" is defined as the holding of stormwater runoff in a constructed basin or pond or in a natural body of water without release except by means of evaporation, infiltration or emergency bypass.
 - (n) "Square footage of impervious area" means, for the purpose of assigning an appropriate number of ERUs to a parcel of real property, the square footage of all impervious area, using the outside boundary dimensions of the impervious area to include the total enclosed square footage, without regard for topographic features of the enclosed surface.
 - (o) "Storm sewer" means a sewer, piping or natural structure which carries stormwater, and is not intended to carry sanitary sewage and industrial wastes.
 - (p) "Stormwater" means stormwater runoff, snowmelt runoff, and surface runoff and drainage.
 - (q) "Stormwater management service charge" is defined as a charge assessed to users and contributors of flow to the City's stormwater system.
 - (r) "Stormwater system" means all man-made facilities, structures, and natural watercourses owned by the City, used for collection and conducting of stormwater to, through and from drainage areas to the points of final outlet, including, but not limited to, any and all of the following: conduits and appurtenant features, canals, creeks, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, streets, curbs, gutters, dams, floodwalls, levees, and pumping stations.

____.04 FUNDING THE STORMWATER UTILITY PROGRAM.

Funding for the Stormwater Utility Program may include, but is not limited to: stormwater management service charges; stormwater permits and inspection fees; other funds or income obtained from federal, state, local and private grants or loans.

____.05 STORMWATER UTILITY PROGRAM FUND.

There shall be a fund created titled *Stormwater Management Fund*. All stormwater management service charges and all sources of revenue generated by or on behalf of the Stormwater Utility Program shall be deposited in the Stormwater Management Fund and be used exclusively for the Stormwater Utility Program.

____.06 STORMWATER UTILITY PROGRAM OPERATING BUDGET.

City Council shall adopt an operating budget for the Stormwater Utility Program each fiscal year. The operating budget shall set forth for such fiscal year revenues and estimated expenditures for operations, maintenance, and extension and replacement and debt service.

____.07 RATE STRUCTURE AND CHARGES AND FEES.

A stormwater management service charge shall be assessed to each and every property within the corporate limits of the City and upon the owner of such properties, as provided by the Stormwater Utility Program. This charge is separate from any water and/or sanitary sewer service and does not rely on occupancy of the premises to be in effect; such charge shall be based upon the quantity of impervious area situated thereon.

(a) Residential Properties. All residential properties will be assigned one ERU. A flat rate service charge will apply to all residential properties.

(b) Non-residential Properties. Non-residential properties will be assigned an ERU multiple based upon the properties' individually measured impervious area (in square feet) divided by 3,820 square feet (1 ERU). This division will be calculated to the first decimal place and rounded according to mathematical convention.

(c) Base Rate. City Council shall, by Ordinance, establish the base rate for the stormwater management service charge. The base rate shall be calculated to ensure adequate revenues to fund the expenditures of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system within the City limits. The base rate will be updated annually. The base rate will be adjusted by the Engineering News Record 20 Cities Average Construction Cost Index.

____.08 POWERS OF DIRECTOR.

The Director shall have the following powers and duties with respect to the Stormwater Utility Program:

(a) Assess, adjust, collect, and credit the stormwater management service charge;

(b) Consistent with policies established by the City Council, the Director shall make and enforce such rules and regulations as deemed necessary:

(i) for the safe, economical, and efficient management and protection of the City's stormwater system;

(ii) for the construction and use of storm sewers and connections to the stormwater system; and

(iii) for the assessment, adjustment, collection, and crediting of stormwater management service charges.

____.09 ADJUSTMENTS TO STORMWATER MANAGEMENT SERVICE CHARGES.

Increase adjustments (debit) can be made to non-residential and residential service charges by property owners adding additional impervious area, such as rooftops, parking lots, driveways and walkways. Decrease (credit) adjustments can be made to nonresidential service charges by property owners performing activities that reduce the impact of stormwater runoff to the stormwater system.

____.10 RIGHT TO APPEAL.

Any non-residential property owner may challenge the ERU multiple assigned to his or her property or application of adjustments to stormwater management service charge by filing an appeal with the Director for adjustment thereof, stating in writing the grounds for the appeal. It shall be filed within fourteen (14) days from the statement and/or act upon which appeal is subject. The Director, the City Engineer, and the head of Service Department, shall consider the appeal and determine whether an adjustment of the ERU multiple for any such lot or parcel is necessary, and adjust such ERU multiple if appropriate.

____.11 BILLING AND COLLECTION.

(a) Stormwater management service charges shall be assessed monthly *according to N.R.C.O. 1045.05(h)*. Payment shall be made within sixteen (16) days following the receipt of the statement of charges. Stormwater charges shall be billed on a joint statement with water and sewer charges, where applicable, and shall be payable at the Utilities Department.

(b) Delinquencies in payment will follow the procedures established in N.R.C.O. 1046.05.

(c) If water service is terminated due to delinquent payment of charges, service shall not be restored until all stormwater, sewer and water delinquent and service charges are paid in full or satisfactory payment arrangements have been made.

(d) Each charge levied by or pursuant to this section shall be made a lien upon the corresponding lot, land or premises served by a connection to the water or sanitary sewage system. If the charge is not paid, it shall be certified to the Auditor of Lorain County, Ohio who shall place that amount on the tax duplicate of the County, with interest and penalties allowed by law, and collect it as other taxes are collected.

____.12 FALSIFYING INFORMATION.

No person shall knowingly make any false statement, representation, record, report, plan, or other document and file such with the City of North Ridgeville. Whoever violates this section is guilty of a misdemeanor of the third degree and shall be subject to the penalty provided in §698.02 of the Codified Ordinances.