



**CITY OF URBANA, ILLINOIS
DEPARTMENT OF PUBLIC WORKS**

ENGINEERING DIVISION

MEMORANDUM

TO: Mayor Laurel L. Prussing and Members of the City Council
FROM: William R. Gray, Public Works Director
Gale L. Jamison, Assistant City Engineer
Bradley M. Bennett, Civil Engineer
DATE: May 3, 2012
RE: Stormwater Utility Fee Ordinance

The stormwater utility fee ordinance presented at the Committee of the Whole Meeting on April 23, 2012 has been revised to include the following changes:

1. The Equivalent Residential Unit (ERU) has been changed to \$4.94 per month.
2. The effective date has been changed to July 1, 2013.
3. An additional statement has been added to the preamble to make clear the City's intent that the stormwater charge is a fee and not a tax. The statement reads as follows: "WHEREAS, over the years the City has experienced an increase in urbanized areas and impervious surfaces and state and federal regulations relating to the quality of stormwater runoff have been enacted."

Attached please find a copy of the revised stormwater utility fee ordinance for your review.

AN ORDINANCE ESTABLISHING A STORMWATER UTILITY
AND A DEDICATED FUND FOR ITS OPERATION

WHEREAS, the City of Urbana, Illinois, is legally authorized to own, build, maintain, and operate a stormwater system to protect and preserve the public health, safety, and welfare and protection of the natural resources of the City of Urbana; and,

WHEREAS, over the years the City has experienced an increase in urbanized areas and impervious surfaces and state and federal regulations relating to the quality of stormwater runoff have been enacted; and,

WHEREAS, the City of Urbana, Illinois, seeks to increase the frequency of stormwater infrastructure inspections and maintenance activities; add more resources for compliance with the National Pollutant Discharge System permit; reduce stormwater pollution; update the City's Stormwater Master Plan, implement sustainable stormwater management practices; and increase funding levels for stormwater infrastructure repairs and capital improvement projects; and,

WHEREAS, the City of Urbana, Illinois, City Council approved the Stormwater Utility Fee Feasibility Study recommendations prepared by AMEC Earth and Environmental on October 10, 2011; and,

WHEREAS, the City of Urbana, Illinois, has determined that it needs a dedicated source of funding to properly address its stormwater management program needs; and,

WHEREAS, the City of Urbana, Illinois, wishes to equitably distribute the costs of its stormwater utility among its stormwater management customers; AND THUS

The purpose of this ordinance is to establish a stormwater utility to address the function of management of stormwater runoff in the City in compliance with the National Pollution Discharge Elimination Program of the United States Environmental Protection Agency. This ordinance also creates a fund dedicated to the support of the operation of the stormwater utility and prescribes stormwater utility fees to be levied on all parcels within the City.

NOW, THEREFORE, BE IT ORDAINED:

1. That the attached is hereby enacted as Article VIII of Chapter 24 of the Urbana City Code.

2. Pursuant to Section 14-7 (b) of the Urbana City Code (limited amendment), Section 14-7 "Schedule of Fees" is hereby amended to add the following thereto:

(P) Stormwater Utility Equivalent Residential Unit (ERU) \$4.94 per month.

3. This Ordinance shall be in full force and effect, and shall be controlling, on the first day of July, 2013.

4. The City Clerk is directed to publish this Ordinance in pamphlet form at least thirty (30) days prior to the effective date.

5. If any section, paragraph or provision of this ordinance is held to be invalid or unenforceable, such invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance, or the provision of the Code.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED by the City Council this _____ day of _____, 2012.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of

_____, _____.

Laurel Lunt Prussing, Mayor

DIVISION 1. 24-170 STORMWATER UTILITY ESTABLISHED

a. The Stormwater Utility herein established is a program to provide for the management, regulation, construction, maintenance, and improvement of the handling of stormwater runoff in the City of the Urbana, and for such purposes may include all or part of the necessary engineering, planning, operations, maintenance, repair, administration and enforcement, capital programs, and educational efforts related thereto.

b. The management and supervision of the stormwater utility shall be under the direction of the director of public works.

c. The City hereby establishes a stormwater utility enterprise fund. All revenues of the stormwater utility including late fees, administrative fees and interest earned on the account shall be deposited into the stormwater enterprise fund and used only for purposes of the stormwater utility as deemed appropriate by the city council.

d. The management and supervision of the stormwater enterprise fund shall be under the direction of the comptroller subject to the provisions of Section 24-202.

DIVISION 2. 24-171 DEFINITIONS

City or City of Urbana means the City of Urbana, Illinois, a municipal corporation.

Credit means a conditional reduction to the amount of a stormwater service charge to an individual parcel based upon the provisions of the City of Urbana Stormwater Credit and Incentives Manual.

Direct Discharge means the conveyance of stormwater runoff directly to a receiving stream (water of the State of Illinois) without entering the City-owned stormwater drainage system.

District means the Urbana & Champaign Sanitary District.

District Agreement means the Intergovernmental Agreement for Billing Services for the Urbana & Champaign Sanitary District and the City of Urbana.

Duplex Parcel means any parcel containing a single structure designed with two dwelling units for occupancy by one family in each unit. Each dwelling unit shall contain at least one bedroom, a kitchen, and a bathroom.

Equivalent Residential Unit (ERU) shall be used as the basis for determining the storm water service charge to a parcel. Thirty-one hundred (3100) square feet of impervious area shall be one ERU.

Comptroller means the director of the finance department of the City of Urbana.

Gross Area means the entire area of a parcel, including both the impervious and pervious areas.

Impervious Area or Impervious Surface means those areas that prevent or impede the infiltration of storm water into the soil. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted aggregate and awnings.

Incentive means a onetime disbursement that fully or partially compensates a parcel owner for partnering with the city to achieve a stormwater management objective based on the provisions of the City of Urbana Credit and Incentives Manual.

Parcel means any designated lot, tract, or area of land, established by a plat or other legal means and to be used, developed or built upon as a unit which is partially or wholly inside the corporate limits of the City of Urbana.

Single Family Residential (SFR) means developed land containing one dwelling structure which contains one or more bedrooms, with a bathroom and kitchen facilities, designed for occupancy by one family. SFR units may include houses, manufactured homes, and mobile homes located on one or more individual lots or parcels of land.

Stormwater Enterprise Fund sometimes called, or titled, or stated stormwater enterprise utility fund, means the dedicated fund to support the stormwater utility created herein.

Stormwater System shall mean a conveyance or system of conveyances and include sewers, storm drains, curbs, gutters, ditches, swales, retention and/or detention ponds or basins, dams, manmade channels or storm drains, and flood control facilities and appurtenances thereof which is designed or used for the collection, control, transportation, treatment or discharge of stormwater.

Sec. 24-172. - Stormwater utility fee rate structure/responsibility for payment.

- (a) A stormwater utility fee is hereby created to generate revenue to fund the city's stormwater utility. The revenue generated by the fee will be obligated exclusively to the stormwater utility enterprise fund.
- (b) The stormwater utility fee shall be distributed among the parcels in the city based on the amount of impervious area on each parcel.
- (c) The owner of each parcel of real property that is wholly or partially located within the corporate limits of the city shall be responsible for the payment of any stormwater utility fee assessed against said parcel.
- (d) The stormwater utility fee billing unit for all parcels shall be based on the mean level of imperviousness on single family residential parcels. This billing unit is known as an

“Equivalent Residential Unit” or “ERU” and has been determined to be 3,100 square feet of impervious surface in the City of Urbana.

- (a) The minimum stormwater utility fee charged for any parcel in the city shall be one half (0.5) of an ERU.
- (b) Single family residential and duplex parcels shall be billed one (1.0) ERU each.
- (c) All other parcels in the city shall be billed based on the measured number of ERUs on the parcel. Fractional ERUs shall be rounded to the nearest tenth (0.1) of an ERU. For example, 10,000 square feet of impervious area represents 3.226 ERUs and would be rounded to 3.2 ERUs for billing purposes.
- (d) Fees to qualifying parcels may be adjusted if stormwater utility fee credits are approved by the city for on-site stormwater management (see Sec. 24-175).

Sec. 24-173. - Stormwater utility fee applicability.

- (a) The stormwater utility fee shall be charged to all parcels in, or partially in, the city.
- (b) The stormwater utility fee shall not be charged to streets and sidewalks that are inside the public right-of-way or that are part of a street system that is privately owned, but are the functionally equivalent of a public street or those owned or controlled by the University of Illinois.
- (c) Parcels that are annexed into the city after the stormwater utility becomes operational shall be subject to the fee upon completion by the public works department of the applicable calculations of the amount of impervious surface on the parcels in question.

Sec. 24-174. - Stormwater utility rate.

- (a) The initial stormwater utility fee rate per ERU, per month, shall be as set forth in Section 14-7 of the Urbana City Code and effective as to each such parcel starting with bills generated on or after such parcels become subject to this ordinance.
- (b) The comptroller shall review the stormwater utility fund and make rate recommendations to the city council annually thereafter. The city council shall review the recommendations and may adjust the stormwater utility fee rates accordingly.

Sec. 24-175. - Stormwater utility fee credits.

City of Urbana Stormwater Credit and Incentive Manual. The director of public works is hereby authorized to develop and publish a Stormwater Credit and Incentive Manual for purposes of establishing a program of incentives and credits that will reduce the stormwater utility fee that particular property owners will be required to pay, to promote efforts by said

property owners to mitigate the effects of stormwater on the city's stormwater system and facilities. The Stormwater Credit and Incentive Manual shall not go into effect until fifteen days after a copy of the Manual has been provided to the city council.

Secs. 24-176 – 24-177. - Reserved.

DIVISION 3. BILLING

Sec. 24-178. - Agreement for billing with the Urbana & Champaign Sanitary District.

- (a) The city comptroller is hereby authorized to enter into an Intergovernmental Agreement ("Billing Agreement") with the Urbana & Champaign Sanitary District ("District") for the District to bill for the city's stormwater utility fee to parcel owners in the city, subject to the city council's approval of the initial terms and conditions of such an agreement. Said agreement shall, at a minimum, provide the following: (i) a schedule for forwarding the proceeds from the billing to the city; (ii) a financial penalty for delinquent payment of the fee; (iii) a reasonable system for the collection of said fee.
- (b) The city comptroller is authorized to execute addenda or amendments to any Billing Agreement for collection of the stormwater utility fee which has been previously approved by the city council for the purpose of making the billing arrangements contained in the Agreement more efficient or for the purpose of adjusting the fees paid by the city to the District without prior city council approval, provided that a copy of the proposed addenda or amendments shall be provided to the city council at least fifteen (15) days prior to execution of said addenda or amendment.
- (c) To the extent that any provision of this Division is inconsistent with the terms of the Billing Agreement, then the provisions of this Division shall not be effective or controlling while the Billing Agreement is in effect.
- (d) To the extent the procedures adopted of the District contradict the provisions of this Division, the procedures in the Agreement shall apply while the Agreement is in force and effect.

Sec. 24-179. - Collection of Stormwater Utility Fees by the City.

If the city is unable to enter into an agreement with the District for the collection of the Stormwater Utility Fee, or the agreement with the District for the collection of said fee is terminated for any reason, then the city comptroller shall have the authority to formulate and implement written procedures for collection of said fee by the city, provided that the city comptroller shall provide the city council with a copy of any proposed procedures at least fifteen (15) days prior to the time said procedures are to go into effect.

Sec. 24-180. – Billing.

- (a) The monthly stormwater utility fee for all parcels shall be based on the number of ERUs as determined in Sec. 24-172 and the current monthly stormwater utility rate. The fee may be adjusted by previously approved stormwater utility fee credits (Sec. 24-175).
- (b) The stormwater utility fee for any parcel will remain constant from month to month unless one of the following changes occurs:
 - (1) A physical modification to the parcel that changes its level of imperviousness;
 - (2) A credit for on-site stormwater management is either awarded or revoked;
 - (3) The stormwater utility fee rate is changed by the city council per the Schedule of Fees (Chapter 14); or
 - (4) Any other billing adjustment as described in Sec. 24-194 – 24-195 is applied to the account.
- (c) The new fee will be assessed on all bills processed on or after the effective date of the fee or new fee.

Sec. 24-181. Liens.

(a) Whenever the stormwater utility fee for a parcel becomes delinquent as set forth in the collection process implemented by the Urbana & Champaign Sanitary District or the comptroller in accordance with this Article, the delinquent fee together with the outstanding penalties shall become and constitute a lien upon the parcel.

(b) Statements rendered for such delinquent stormwater utility fee shall be deemed notice of the lien to the owner of the property if such statement is mailed to the owner of the parcel as shown in the records of the supervisor of assessments by first class mail. No additional notice of lien is required to be sent to the owner nor is a copy of the claim of lien required to be sent to the owner.

Sec. 24-182. - Contents of lien claim.

The claim of lien for delinquent stormwater utility fee shall be made in the form of a sworn statement by the comptroller setting forth the following information:

- (a) A description of the parcel, sufficient for identification;
- (b) The amount or amounts of money due including outstanding penalties and interest charges;

- (c) The date or dates when such amount or amounts became delinquent; and
- (d) The owner of record of the parcel as disclosed by the records of the supervisor of assessments within ninety (90) days before the last statement date.
- (e) Said claim shall be recorded in the Office of the Recorder for Champaign County.

Sec. 24-183. - Additional lien charge.

In all cases where the stormwater utility fee has become delinquent and the city elects to file a claim for lien as set forth in this article, there shall be added to the amount due prior to recording, in addition to other charges and penalties then due, such charges and expenses as are necessary and required to verify the legal description of the parcel and ownership information and to prepare and record the claim of lien and release the claim for lien. Such additional charge shall be included in the amount claimed due by the lien claim. The amount of the additional charge shall be established by rule or regulation of the comptroller.

Sec. 24-184. - Other remedies.

In addition to the recording of a lien:

(a) The city may seek payment of delinquent stormwater utility fees and penalties by filing a suit to collect in court, or

(b) The city may file a complaint charging a violation of this ordinance. Any taxpayer found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this division shall, upon conviction thereof, be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each violation.

Secs. 24-185 - 24-193. – Reserved.

DIVISION 4. ADJUSTMENTS

Sec. 24-194. - Adjustments to stormwater bills.

A parcel's stormwater utility rate and/or computed number of ERUs may be adjusted by the director of public works to an amount which more properly represents the impervious surfaces on a parcel. This may be done upon presentation by the parcel owner of factual evidence which, in the director's sole discretion, establishes that the impervious area used to determine the parcel's stormwater utility tier or the computed number of ERUs was incorrect.

Sec. 24-195. - Responsibility for initiating adjustment process.

The owner of the parcel is responsible for initiating any review of the impervious area computation for a parcel and presenting factual evidence in support of a change in the impervious area if the owner wishes to have the parcel's stormwater utility rate or computed number of ERUs adjusted.

Secs. 24-196 - 24-201. – Reserved.

DIVISION 5. UTILITY ADMINISTRATION

Sec. 24-202. - Accounts.

Which costs and expenses shall be charged to and paid from the Stormwater Utility Fund shall be determined by the director of public works.

The comptroller shall establish a proper system of accounts and shall keep proper books, records and accounts in which complete and correct entries shall be made of all transactions relative to the Stormwater Utility Fund. An annual audit by an independent audit firm will be procured. In addition to the financial statements, the statistical section of the Comprehensive Annual Financial Report shall also reflect the revenues and operating expenses of the stormwater fund. The financial information to be shown in the audit report shall include the following:

- 1) Billing data to show total number of billing units per fiscal year.
- 2) Debt service for the next succeeding fiscal year.
- 3) Number of stormwater utility ratepayers.

Sec. 24-203. - Access to records.

The city shall allow any relevant agency of the state of Illinois or its authorized representative to have access to any applicable books, documents, paper and records of the stormwater utility fee for the purpose of making audit, examination, excerpts and transcriptions thereof to ensure compliance with the terms of loan agreements and rules of any state loans.

Sec. 24-204. - Appeals.

The method for determination of stormwater utility fee in Section 24-172 shall be made available to a user within fifteen (15) days of receipt of a written request by the parcel owner. Any discrepancy over the method used or in the computations thereof shall be remedied by the director of public works or his designee within thirty (30) days after notification of a formal written appeal outlining the discrepancies. The appeals process is structured as follows:

- (a) The parcel owner files an appeal requesting reconsideration of the fees charged to the owner's parcel. The appeal shall be provided in the form required by city and factual evidence in support of the adjustment must be provided.
- (b) The initial appeal of a fee determination will be reviewed by department of public works staff. Upon completion of this review a recommendation will be made to the director of public works regarding the resolution of the appeal. The written response to the parcel owner will be mailed within thirty (30) days of receipt.

- (c) If a second appeal of the determination is requested the request will be heard and a decision will be rendered by the director of public works. The written response to the second appeal of the parcel owner will be mailed within fifteen (15) days of its receipt by the director.
- (d) If a third appeal of the determination is requested that request will be heard by the mayor. The written response to the third appeal of the parcel owner will be mailed within fifteen (15) days of its receipt by the mayor.

Sec. 24-205. - Authority of Directors to issue rules and regulations.

The comptroller and the director of public works may issue rules and regulations necessary to implement this article provided that a copy of each rule or regulation is filed with the city clerk and distributed to the mayor and each council member at least fifteen (15) days before the rule or regulation becomes effective.