

CHAPTER 923
Stormwater Utility

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923.01 PURPOSE.

It is hereby declared necessary for the protection of the public health, safety, welfare and convenience of the Village and its inhabitants to codify the establishment of the stormwater drainage utility ("Stormwater Utility") and to establish just and equitable rates or charges to be paid to the Village for the use of such services. (Ord. 2017-12. Passed 08-07-2017.)

923.02 UTILIZATION OF MONEY COLLECTED.

Money collected for the Stormwater Utility will be used for the payment of cost of the management, operations, maintenance, repair, construction, reconstruction, enlargement, replacement, improvement, extension and related costs of the storm drainage system of the Stormwater Utility. This will provide for the safe and efficient capture and conveyance of stormwater; to mitigate the damaging effects of stormwater runoff and the correction of stormwater problems; to fund activities of stormwater management, including, but not limited to, design, approved planning, regulation, education, coordination, inspection and enforcement activities. (Ord. 2017-12. Passed 08-07-2017.)

923.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply, words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- a) Abatement: Any action taken to remedy, correct, or eliminate a condition within, associated with, or impacting the stormwater system.
- b) Administrator: The Village Administrator, or designee, of the Village.
- c) Approved Plans: Plans approved according to a permits and plan review which will govern all improvements made within the Village that require stormwater facilities or changes or alterations to existing stormwater facilities.
- d) Bonds: Revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.
- e) Calendar year: Twelve month period commencing on the first day of January of any year.

- f) Costs of construction: Costs reasonably incurred in connection with providing capital improvements to the system, or any portion thereof, including, but not limited to, the costs of:
- 1) Acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefor;
 - 2) Physical construction, installation and testing, including the costs of labor, services, materials, supplies and construction services used in connection therewith;
 - 3) Architectural, engineering, legal and other professional services;
 - 4) Insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation;
 - 5) Any taxes or other charges which become due during construction;
 - 6) Expenses incurred by the Village or on its behalf with its approval in seeking to enforce any remedy against contractor or sub-contractor in respect of any default under a contract relating to construction;
 - 7) Principal of interest of any bonds; and
 - 8) Miscellaneous expenses incidental thereto.
- g) Credit: An on-going (as long as the various circumstances which produced the credit have not changed) reduction in a Stormwater Utility service charge given for certain qualifying activities which reduce either the impact of increased stormwater runoff or reduce the Village's costs of providing stormwater facilities.
- h) Debt Service: With respect to any particular calendar year and any particular series of bonds, and amount equal to the sum of:
- 1) All interest payable on such bonds during such calendar year, plus
 - 2) Any principal installments of such bonds during such calendar year.
- i) Detention facility: A facility which, by means of a single control point, provides temporary storage of stormwater runoff in ponds, parking lots, depressed areas, rooftops, buried underground vaults or tanks, etc., for future release, and is used to delay and attenuate flow.
- j) Developed property: That which has been altered from its natural state by the removal of vegetation and/or topsoil or by the addition of any improvements such as a building, structure, impervious surface, change of grade, or landscaping. For new construction, a property shall be considered developed pursuant to this chapter.
- 1) Upon issuance of a Certificate of Occupancy, or upon completion of construction of final inspection if no such certificate is issued; or
 - 2) Where construction is at least fifty percent (50%) complete and construction is halted for a period of three months.
 - 3) Where vegetation and/or topsoil has been removed leaving exposed soil surfaces for a period of three months.
- k) Exempt property: Public rights of way, public streets, public alleys and public sidewalks, and all other property owned or maintained by the Village.
- l) Extension and replacement: Costs of extensions, additions, and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for, the system, or land acquisitions for the system and any related costs thereto, or paying extraordinary maintenance and repair, including the costs of construction, or any other expenses which are not costs of operation and maintenance or debt service.

- m) Impervious area: A horizontal surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes, but is not limited to, semi-pervious surfaces such as compacted clay or gravel, unvegetated and under vegetated solid surfaces, as well as streets, roofs, sidewalks, patios, porches, parking lots, athletic courts and other similar surfaces. An area that is also covered with buildings and materials which include, but are not limited to, concrete, asphalt, rooftop, blacktop, gravel and other materials or artificially composted so as to produce in the judgement of the Administrator a non-pervious surface.
- n) Mayor: The Mayor of the Village. The Mayor is the principal executive officer of the Village and shall serve as the executive officer of the storm water management utility for the purposes of fulfilling the requirements of the Environmental Protection Agency's NPDES Phase II stormwater program.
- o) Nonresidential property: Any lot not exclusively residential as defined herein, including transient rentals such as hotels and motels, and those residential properties upon which a home occupation is conducted.
- p) Operating budget: The annual operating budget adopted by the Village for the succeeding calendar year.
- q) Operations and maintenance: The current expenses, paid or accrued, of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, and cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.
- r) Public Stormwater open channel: All open channels which convey, in part or in whole, stormwater and are owned, operated or maintained by the Village; or a stormwater open channel which has a permanent drainage/stormwater easement owned by the Village and drains an area which includes Village owned property or right-of-way. A public stormwater open channel does not include roadside ditches which convey only immediate right-of-way drainage.
- s) Residential property: Any lot or parcel developed exclusively for residential purposes including, but not limited to, single family homes, duplexes, manufactured homes, multifamily, apartment buildings, and condominiums. Such properties may incorporate a home-business or day-care service consistent with all other Village ordinances and regulations and other applicable laws.
- t) Retention facility: A facility which provides storage of stormwater runoff and is designed to eliminate subsequent surface discharges.
- u) Revenues: All service charges, rates, fees, assessments, rental or other charges or other income received by the Stormwater Fund, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the Village, all as calculated in accordance with sound accounting practice.
- v) Square footage of impervious area: The square footage of all of the impervious area using the outside boundary dimensions of the impervious area to include the total enclosed square footage, without regard to topographic features of the enclosed area.

- w) Storm sewer: A sewer which carries stormwater, surface runoff, street wash waters, and drainage, but which excludes sanitary sewage and industrial wastes, other than unpolluted cooling water.
- x) Stormwater: Stormwater drainage, snow melt runoff, surface runoff and drainage.
- y) Stormwater Utility Fund: The enterprise fund created by Village Council to operate, maintain and improve the system and for such other purposes as stated in this chapter.
- z) Stormwater facilities: Various stormwater and drainage works that may include inlets, pipes, pumping stations, conduits, manholes, energy dissipation structures, channels, outlets, retention/detention facilities and other structural components.
- aa) Stormwater service charge: A charge authorized by ordinance(s) established to pay operations and maintenance, extension and replacement and debt service.
- bb) Stormwater system: All manmade facilities, structures, and natural watercourses owned by the Village, or over which the Village has jurisdiction by law to operate or maintain, used for collection and conducting 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, retention or detention facilities, rivers, public stormwater open channels and pumping stations.
- cc) Village: Village of Centerburg, Ohio.
(Ord. 2017-12. Passed 08-07-2017.)

923.04 ESTABLISHMENT OF SYSTEM OF CHARGES.

It is hereby determined necessary for the protection of public health, safety and welfare that a system of charges for the Stormwater Utility be established which justly and equitably allocates the cost of providing the services of the Stormwater Utility to each property.

(Ord. 2017-12. Passed 08-07-2017.)

923.05 COLLECTION OF CHARGES.

Stormwater Utility service charges levied pursuant to this chapter shall be collected by the Administrator and shall be credited to the Stormwater Utility Fund established pursuant to this chapter. Notwithstanding other provisions of the Village Code, the Administrator shall make and enforce such rules and regulations consistent with this chapter as may be deemed necessary for the safe, economical and efficient management and protection of the Stormwater Utility, for the construction and use of the stormwater system consistent with policies established by the Council, and for the regulation, collection, rebating and refunding of the Stormwater Utility service charges. (Ord. 2017-12. Passed 08-07-2017.)

923.06 IMPOSITION OF CHARGES.

The Stormwater Utility service charges provided for in this chapter and set forth in Chapter 925 are imposed on each and every lot (parcel) of land within the Village, and the owner thereof, and are deemed reasonable and necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future stormwater system. The Stormwater Utility service charges shall be established so as to maintain adequate fund reserves to provide for reasonable expected variations in the collection of Stormwater Utility service charges, in the cost of providing services, and in the demand for services.

The Administrator shall biennially notify, in conjunction with the billing process, all persons subject to these charges of the Stormwater Utility service charge being charged.

(Ord. 2017-12. Passed 08-07-2017.)

923.07 RATE CLASSIFICATIONS

- (a) For the purpose stated in this chapter there is hereby charged to each property, lot, parcel of land, building or premises (collectively, "properties") situated within the corporate limits of the Village, that is tributary directly or indirectly to the stormwater system, Stormwater Utility service charges determined as provided in this section.
- (b) All properties having impervious area within the Village shall be classified as residential or nonresidential developed properties. Residential properties shall be further classified as follows:
- Tier 1 Residential (0-1,500 square feet of impervious area)
 - Tier 2 Residential (1,500-4,500 square feet of impervious area)
 - Tier 3 Residential (over 4,500 square feet of impervious area)

The Stormwater Utility service charge for each classification shall be set forth in Title Three Chapter 925 Water and Sewer Rates now Water, Sewer and Stormwater Rates.

(Ord. 2017-12. Passed 08-07-2017.)

923.08 BILLING AND COLLECTION.

The bill for Stormwater Utility service charges shall be rendered on a monthly basis and shall be billed with the monthly bill for water, and sewer services for those property owners who are billed only for these services, shall be billed with the charges for sanitary sewer service for those property owners who are billed only for sanitary sewer service, shall be billed with the charges for water and sanitary sewer service for those property owners who are billed for those services, or billed alone to those property owners not billed for water or sanitary sewer service by the Village. The Stormwater Utility service charges prescribed in this chapter are due and payable when rendered. If Stormwater Utility service charges are paid after the fifteenth day from the billing date, a penalty of ten percent (10%) shall be assessed.

Each occupant or the owner or tenant of such household shall pay in advance in installments as determined by the Administrator to the Village the Stormwater Utility service charges imposed pursuant to Chapter 925.

(Ord. 2017-12. Passed 08-07-2017.)

923.09 APPEAL FROM ERU.

An owner may challenge the rate classification assigned to the property by filing an appeal with the Administrator. The appeal shall be in writing and shall state the grounds for the appeal. The appeal shall be filed with the Administrator within 180 days after receipt of notice of the rate classification assigned to the property. The Administrator shall have ninety days to investigate the matter unless the Administrator determines more time is necessary for the review. The

Administrator shall cause appropriate investigation to be made, determine whether a different rate classification is appropriate, and adjust the assigned rate classification if necessary. The appellant shall be notified in writing of the Administrator's determination with respect to the appeal and of any resulting adjustment in the amount of the Stormwater Utility service charge. (Ord. 2017-12, Passed 08-07-2017.)

923.10 LIEN UPON PROPERTY.

Each Stormwater Utility service charge and applicable penalty rendered under or pursuant to this chapter is hereby made a lien upon the property to which it is applicable, and, if the same is not paid within ninety days after it shall be due and payable, it shall be certified to the Auditor of the county in which the property is located, who shall place the same on the tax duplicate of the county with the interest and penalties allowed by law and be collected as other taxes are collected. As an alternative to collection of a delinquent Stormwater Utility service charge and applicable penalty pursuant to certification to a county auditor, delinquent Stormwater Utility service charges and applicable penalty may be recovered in an action at law by the Village.

(Ord. 2017-12, Passed 08-07-2017.)

923.11 CREDITS AND ABATEMENTS.

The Administrator may, but is not required to, promulgate rules and regulations which allow for a credit and/or abatement in the Stormwater Utility service charge for properties. These rules and regulations may allow, where appropriate, application of the credits retroactive to the effective date of this section. The Administrator shall have the authority to charge a Stormwater Utility service credit and/or abatement application fee, which shall be based upon estimated costs of reviewing, processing and administering the credit and/or abatement application.

(Ord. 2017-12, Passed 08-07-2017.)