

12/21/2009

01/21/2010

**CREATING A STORMWATER MANAGEMENT UTILITY; ESTABLISHING A STORMWATER MANAGEMENT SERVICE CHARGE TO BE PAID BY USERS BASED ON AN EQUIVALENT RESIDENTIAL UNIT (ERU); INCLUDING THE MONTHLY ERU SERVICE CHARGE IN CHAPTER 190 OF THE CITY'S CODIFIED ORDINANCES; ADOPTING SECTION 951 OF THE CITY'S CODIFIED ORDINANCES TITLED "STORMWATER MANAGEMENT CODE"; AND CREATING A SPECIAL FUND FOR THE DEPOSIT AND USE OF ALL SERVICE CHARGES.**

**WHEREAS**, the progressive aging of the City's storm sewers and increasing levels of development requiring new stormwater drainage systems within the City have had a direct effect on the City's stormwater drainage system, resulting in the City's need to direct an increasing amount of its resources toward present and future planning, design, construction and maintenance of stormwater drainage systems and improvements, and for implementing measures to lessen the demand of development upon those systems; and

**WHEREAS**, this Council has determined that it is necessary and appropriate to establish a stormwater management utility ("Stormwater Utility") and establish and impose just and equitable charges on users in order to pay costs associated with stormwater drainage; and

**WHEREAS**, in order to establish a permanent stormwater management service charge, the City undertook a study to establish a Stormwater Utility, which was conducted as an Engineering Impervious Area Study ("Study") by Stantec Consulting Services, Inc., in order to determine the administrative portion of the utility; and

**WHEREAS**, based on the findings of the Study, the City has determined that it needs to impose and collect a monthly unit cost of \$2.50 ("fee") per equivalent residential unit ("ERU") on all users of the Stormwater Utility, which monthly fee does not cover all costs associated with the stormwater utility, but which the City believes is fair and reasonable; and

**WHEREAS**, because this is a new fee to be charged and collected, the City desires that the fee be included in the City's comprehensive fee listing included in Chapter 190 of the City's Codified Ordinances; and

**WHEREAS**, in order to operate and administer this new utility, the City desires to adopt Chapter 951 of the City's Codified Ordinances, in the form attached hereto as Exhibit "A" and incorporated herein; and

**WHEREAS**, for users of the Stormwater Utility that practice activities that either reduce the impact of increased stormwater runoff or that reduce the City's costs of providing stormwater management, Council desires the City to adopt rules and regulations to grant credits that will reduce a qualifying customer's stormwater fee.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Hilliard, Franklin County, Ohio that:

**SECTION 1.** This Council determines and declares that it is necessary, appropriate and in the public interest to create, and this Council hereby creates, a stormwater management utility to own, operate, maintain, repair, improve and extend the existing storm water drainage facilities servicing the City and its inhabitants, and to improve and extend those facilities when necessary, pursuant to the powers and authority provided under the Constitution and laws of the State of Ohio and the Charter and ordinances of the City. The City shall operate its stormwater drainage facilities as a public utility and in such a manner as to provide and maintain open drainageways, underground storm sewers and drains and other storm water drainage facilities, equipment and appurtenances that are necessary, useful or convenient to provide a complete and adequate system of storm water drainage for the City and its inhabitants.

This Council further determines and declares that:

(a) The improvement of both public and private storm water drainage facilities through or immediately adjacent to new developments shall remain the responsibility of the developers.

(b) The City shall maintain all public storm water drainage facilities located on City-owned land and in public rights-of-way and easements. Public facilities include but are not limited to:

- (1) open drainage ways owned by the City or located in public rights-of-way or drainage easements in the City;
- (2) a piped drainage system and its related appurtenances which have been designed and constructed expressly for use by the general public;
- (3) bridges on public streets;
- (4) roadside drainage ditches within the public right-of-way along streets; and
- (5) flood control facilities (levees, dikes, overflow channels, detention basins, groundwater recharging basins, etc.) that have been designed and constructed expressly for use by the general public; and
- (6) residential storm water retention or detention facilities located on private property.

(c) Facilities not qualifying as public facilities include, but are not limited to:

- (1) private parking lot storm drains;
- (2) commercial storm water retention or detention facilities located on private property;
- (3) roof, footing, and area drains;
- (4) drains not designed and constructed for use by the general public;

- (5) open drainage swales or ditches on private property for which no public easement of record has been granted; and
- (6) access drive culverts.

**SECTION 2.** In order to pay the cost of preparing the Engineering Impervious Area Study which was necessary to establish the Equivalent Residential Unit (ERU) and the cost per ERU for operating, maintaining, repairing, improving and extending the Stormwater Utility, this Council establishes and imposes a Two Dollars and fifty cents (\$2.50) per month per ERU charge on all users of the Stormwater Utility (“Stormwater Management Service Charge”). The Stormwater Management Service Charge enacted herein, and as may be amended hereafter, shall be listed and included in Chapter 190 “Comprehensive Fee Schedule” of the City’s Codified Ordinances. This Council finds that the Stormwater Management Service Charge is fair, reasonable and bears a substantial relationship to the cost of providing the services and facilities to the public.

**SECTION 3.** In order to operate the Stormwater Utility, this Council hereby adopts Chapter 951 of the City’s Codified Ordinances, in the form attached hereto as Exhibit “A” and incorporated as if fully rewritten herein.

**SECTION 4.** This Council hereby establishes a special fund, to be known as the "Stormwater Utility Fund," for the deposit of all Stormwater Management Service Charges and for the payment of all costs and expenses of the Stormwater Utility.

**SECTION 5.** Until other provision is made by this Council, the Director of Public Service shall be the administrator of the Stormwater Utility, and shall be authorized to develop policies, regulations, standards and financial incentives to promote, regulate and administer the Stormwater Utility, subject to the provisions of this Ordinance. The City’s Service Director shall promulgate rules and regulations to grant credits that reduce a qualifying customer’s stormwater fee for those users that practice activities that either reduce the impact of increased stormwater runoff or that reduce the City’s cost of providing stormwater management.

**SECTION 6.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the other provisions or applications of the provision or any other provision of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions hereunder are severable.

**SECTION 7.** This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

**SECTION 8.** Upon passage of this Ordinance, the Director of Law is directed to modify Exhibit A of Section 190 of the City’s Codified Ordinances to list the Stormwater Management Service Charge to be charged and collected.

**SECTION 8.** This Ordinance shall take effect and be in full force and effect from and after the earliest date provided by law.

**ATTEST:**

**SIGNED:**

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**Lynne M. Fasone**  
**Clerk of Council**

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**Brett A. Sciotto**  
**President of Council**

**APPROVED AS TO FORM:**

**APPROVED:**

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**Pamela A. Fox**  
**Director of Law**

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**Donald J. Schonhardt**  
**Mayor**

09-63(Amended)

**Vote:**

	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>
President Sciotto			
Vice President Uttley			
Ashenhurst			
McGivern			
Nichter			
Iosue			
Roberts			
<b>Results:</b>			