

COUNCIL BILL NO. 2012 - 044

AN ORDINANCE

AMENDING CHAPTER 19 AND CHAPTER 29.5 OF THE CHAMPAIGN MUNICIPAL
CODE, 1985, AS AMENDED, BY ADDING SECTION 19.8.15.3 TO CHAPTER 19 AND
ADDING ARTICLE VI TO CHAPTER 29.5
(Stormwater Utility Fee)

WHEREAS on October 27, 2009, in response to the flooding of various neighborhoods in the City of Champaign in 2008 and 2009, the City Council directed City staff to investigate the possibility of enacting a stormwater utility fee to fund needed improvements and maintenance of the City's stormwater facilities; and

WHEREAS, at the conclusion of a study session on March 23, 2010, the Council directed staff to develop an expenditure, revenue and billing plan for a stormwater utility fee; and

WHEREAS, on June 15, 2010, the City Council created and appointed members to a Stormwater Utility Fee Advisory Committee, made up of fourteen members of the community representing a variety of local interests, to work with City staff to develop a proposal to create a stormwater utility for the purpose of more effectively managing, protecting, controlling, regulating, using, constructing and enhancing the City's stormwater systems and facilities; and

WHEREAS, on August 3, 2010, the City Council approved a professional services contract with AMEC Earth and Environmental, Inc. of Indianapolis, Indiana (AMEC) to assist staff and the Stormwater Utility Fee Advisory Committee with the development of a stormwater utility; and

WHEREAS, the City's Stormwater Management Fund has been exhausted by expenditures on recent, large stormwater facility projects, including the Boneyard Creek Second Street Reach Project, the Washington Street East Project, and the John Street Drainage

Improvement Projects, and the City needs to find a new, dedicated source of revenue to fund necessary future stormwater facility maintenance and projects; and

WHEREAS, in response to the recommendations of the Stormwater Utility Fee Advisory Committee, City staff and AMEC, and based upon a careful and thorough analysis of the pertinent issues by those individuals, the Champaign City Council has determined it to be in the best interests of the residents of the City for the City to establish, pursuant to its powers as a Home Rule unit of government under Section 6 of Article VII of the Constitution of the State of Illinois, a stormwater utility, including a fee for the use of the City's stormwater systems and facilities, for purposes of more effectively managing, protecting, controlling, regulating, using, constructing and enhancing the City's stormwater systems and facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHAMPAIGN, ILLINOIS as follows:

Section 1. That Chapter 19 of the Champaign Municipal Code, 1985, entitled "Licenses and Permits", is hereby amended to add Section 19.8.15.3, which shall read as follows:

"Sec. 19.8.15.3. Stormwater utility fee.

The amount of the stormwater utility fee shall be as follows:

(a) A monthly flat fee as indicated below for any parcel that is the site of a single family or duplex dwelling based on which tier the parcel qualifies for based on the amount of impervious area that is on the parcel.

Tier 1 (0-6,000 square feet of impervious area)	\$ 4.94 per month
Tier 2 (6,001-8,000 square feet of impervious area)	\$10.55 per month
Tier 3 (over 8,000 square feet of impervious area)	\$13.64 per month

(b) For all other parcels in the City that are not the site of a single family or duplex dwelling, the amount of the stormwater utility fee shall be \$5.24 per Equivalent Residential Unit (ERU) or \$5.24 per Three thousand four hundred seventy-eight (3,478) square feet of impervious area on the parcel.

(c) For purposes of this Section, the term “parcel” shall have the same meaning that term has in Article VI in Chapter 29.5 of this Code.”

Section 2. That Chapter 29.5 of the Champaign Municipal Code, 1985. entitled “Stormwater Management Regulations”, is hereby amended to add Article VI entitled “Stormwater Utility”, which shall read as shown in Attachment A, attached hereto and incorporated by reference herein.

Section 3. That this ordinance shall be effective as of March 1, 2013.

Section 4. That the City Clerk is hereby directed to publish this ordinance immediately after passage.

Section 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.

Section 6. The provisions of this ordinance shall take precedence and be interpreted as superseding any other ordinance or statutes in conflict with the provisions of this ordinance.

COUNCIL BILL NO. 2012- 044

PASSED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk

APPROVED AS TO FORM:

City Attorney

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ATTACHMENT A

ARTICLE VI. STORMWATER UTILITY

Sec. 29.5-6.01. Stormwater utility and stormwater fund established.

(a) The City of Champaign hereby establishes a stormwater utility within the Public Works Department to provide for the management, protection, control, regulation, use, construction and enhancement of the City's stormwater systems and facilities.

(b) The City hereby establishes a stormwater enterprise fund. All revenues from the stormwater utility fee shall be deposited into the stormwater fund and used only for purposes of the stormwater utility as deemed appropriate by the City Council.

Sec. 29.5-6.02. Definitions.

(a) *Credit* means a conditional reduction to the amount of a stormwater service charge to an individual property based upon the provisions of the City of Champaign Stormwater Credit and Incentive Manual.

(b) *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. For the purposes of the stormwater utility, these discharges also do not pass through City-owned or operated culverts or bridges once in the receiving stream.

(c) *District* means the Urbana & Champaign Sanitary District.

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

(e) *Duplex Property* means any residential property 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.

(f) *Equivalent Residential Unit (ERU)* shall be used as the basis for determining the stormwater service charge to a parcel. Three thousand four hundred seventy-eight (3,478) square feet of impervious area shall be one ERU. The number of ERUs attributed to a parcel will be determined by dividing the total impervious area (square feet) of the parcel by Three thousand four hundred seventy-eight (3,478) and rounding the result per Section 29.5-6.04.

(g) *Finance Director* means the Director of the Finance Department of the City of Champaign.

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

(i) *Impervious Area or Impervious Surface* means those areas that prevent or impede the infiltration of stormwater into the soil. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, and awnings.

(j) *Incentive* means a one-time disbursement that fully or partially compensates a property owner for partnering with the City to achieve a stormwater management objective.

(k) *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.

(l) *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 parcel or parcels of land.

(m) *Stormwater Utility* means a stormwater management program that may include all or part of the following: administration, engineering, planning, operations, enforcement, educational and capital programs.

Sec. 29.5-6.03. Stormwater utility fee created/amount/responsibility for payment.

(a) A stormwater utility fee is hereby created to fund activities of the Stormwater Utility.

(b) The amount of said fee is set forth in Section 19-8.15.3 of this code.

(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.

Sec. 29.5-6.04. Stormwater utility fee rate structure.

The stormwater utility fee will be determined by distributing among parcels in the City certain stormwater operation, maintenance and rehabilitation costs as approved by City Council based on the demand for service that is determined for each parcel.

(a) The basis for determining the stormwater utility fee for each parcel shall be the amount of impervious area on the parcel. The billing unit 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 Three thousand four hundred seventy-eight (3,478) square feet of impervious surface in the City of Champaign.

(b) Each parcel that is the site of a single family dwelling unit or a duplex residential structure shall be grouped into one of three tiers based on the amount of impervious surface on the parcel. Each parcel will be billed at a flat rate as determined for that tier. The three tiers shall be defined as follows:

- (1) Tier 1 – parcels having 6,000 or fewer square feet of impervious area
- (2) Tier 2 – parcels having 6,001 – 8,000 square feet of impervious area
- (3) Tier 3 – parcels having more than 8,000 square feet of impervious area

(c) All other parcels in the City shall be billed based on the measured number of ERUs on the parcel. Fractional ERUs equal to or less than 0.5 shall be rounded down to the next whole ERU. Fractional ERUs greater than 0.5 shall be rounded up to the next whole ERU. For example, 10,000 square feet of impervious area represents 2.9 ERUs and would be rounded up to 3.0 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 Section 29.5-6.09).

Sec. 29.5-6.05. Stormwater utility fee applicability.

(a) The stormwater utility fee shall be charged to all parcels wholly or partially in the City that have at least 500 square feet of impervious area.

(b) The stormwater utility fee shall not be charged to streets and sidewalks that are inside the public right-of-way.

(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. 29.5-6.06. Stormwater utility rate.

The City Council shall set and adjust the stormwater utility fee rates.

Sec. 29.5-6.07. Director of Public Works authority to delegate responsibilities.

Whenever there is a reference in this Article to responsibilities or powers assigned to the Director of Public Works, the Director shall have the authority to delegate the responsibilities or powers in question in writing to another specified employee in the Public Works Department.

Sec. 29.5-6.08. City of Champaign 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 (15) days after a copy of the manual has been provided to the City Council.

Sec. 29.5-6.09. Stormwater utility fee credits.

Persons subject to the stormwater utility fee shall be eligible to receive a stormwater utility charge credit and/or incentive based upon the requirements of the City of Champaign Stormwater Credit and Incentive Manual.

Any credit allowed against the stormwater utility charge is to be conditioned upon continuing compliance with the City of Champaign Stormwater Credit and Incentive Manual. Proof of compliance as defined in the manual will be required.

Sec. 29.5-6.10. Agreement for billing with the Urbana & Champaign Sanitary District.

(a) The City Manager 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 property 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 Manager 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 Article is superseded, amended, or changed by the terms of the Billing Agreement with the District, then the provisions of this Article shall not be effective or controlling while the Billing Agreement is in effect.

(d) To the extent the adopted procedures of the District contradict the provisions of this Article, the procedures in the agreement shall apply while the agreement is in force and effect.

Sec. 29.5-6.11. 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 Manager shall have the authority to formulate and implement written procedures for collection of said fee by the City, provided that the City

Manager 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. 29.5-6.12. Stormwater utility fee amounts.

(a) The stormwater fee for all parcels shall be based on a tiered flat rate for residential and duplex parcels or on the number of ERUs and the current monthly stormwater utility rate for all other parcels.

(b) The stormwater utility fee for any parcel will remain constant from month to month unless one of the following changes occur:

- (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; or
- (4) Any other billing adjustment as described in Section 29.5-6.20-22 is applied to the account.
- (5) The new fee will be assessed on all bills processed on or after the effective date of the fee or new fee.

Sec. 29.5-6.13. Lien for delinquent stormwater utility fee.

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 City Manager in accordance with this Article, the delinquent fee together with outstanding penalties shall become and constitute a lien upon the parcel.

Sec. 29.5-6.14. Notice of lien.

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. 29.5-6.15. 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 Finance Director 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 property 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. 29.5-6.16 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, penalties and interest amounts 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 Finance Director.

Sec. 29.5-6.17. Other remedies.

In addition to the recording of a lien, the City may seek payment for delinquent stormwater utility fees, penalties and interest, including any additional lien charges due, by filing suit to collect the same.

Sec. 29.5-6.18. 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 property 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. 29.5-6.19. Responsibility for initiating adjustment process.

The owner of the parcel is responsible for initiating any review of the impervious area computation for a parcel or any other computations involved in determining the stormwater utility fee for that parcel by filing an application for an adjustment of the fee, hereinafter referred to in this Article as an "application for an adjustment", and presenting factual evidence in support of a change in the fee.

Sec. 29.5-6.20. Application for adjustment.

The owner of the parcel must file an application for an adjustment on forms provided by the City, and file the application and factual evidence in support of the adjustment with the Director of Public Works.

Sec. 29.5-6.21. Decision on application.

The Director of Public Works shall make a decision approving or denying the application for an adjustment within sixty (60) days of receipt of a completed application for an adjustment. The Director's decision shall be in writing and, if the decision is to deny the application, it shall state the reasons for said denial. The decision shall be mailed to the applicant at the address as shown on the application for an adjustment.

Sec. 29.5-6.22. Effective date of adjustment.

If an application for an adjustment is approved by the Director of Public Works, the stormwater fee shall be adjusted accordingly for the specified parcel and will apply to the next regularly generated bill.

Sec. 29.5-6.23. Appeal from denial of application for an adjustment.

(a) General. An applicant for an adjustment may appeal a denial of said application to the City Manager by filing a written appeal at the office of the City Manager within ten (10) calendar days of the date of mailing of the decision denying said application.

(b) Form for appeal. An appeal to the City Manager shall be submitted on a form provided by the Director of Public Works and must be accompanied by any documentation or other evidence the appellant wishes the City Manager to consider in deciding the appeal.

(c) Time/Form of Decision. The City Manager shall review and make a decision whether to allow or deny the appeal within sixty (60) days of receipt of a completed appeal application. Said decision shall be in writing and, if it denies the appeal, it shall state the reasons for the denial.

(d) Decision by the City Manager a Final Administrative Decision. The City Manager's decision on an appeal from a denial of an application for an adjustment shall be a final administrative decision of the City and may be appealed to the local Circuit Court for Champaign County in accordance with Illinois law.

Sec. 29.5-6.24. - Responsibility of owner.

The failure of any owner of property to receive a bill or statement for the stormwater utility fee shall not be grounds for nonpayment or grounds to extend or defer the date upon which payment is due or avoid the inclusion of penalties. Owners of property which are subject to the stormwater utility fee and the recording of a claim of lien pursuant to the terms of this Article shall be charged with notice of the existence of the charge and are responsible for ascertaining from the City all amounts, if any, due as provided in this Article.

Sec. 29.5-6.25. Accounts.

The Finance Director 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 fund.

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. 29.5-6.26. Access to records.

The City shall allow any relevant agency of the State of Illinois or their 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. 29.5-6.27. Authority of Directors to issue rules and regulations.

The Directors of Finance and 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 Manager and City Clerk and distributed to the Mayor and each Council Member at least fifteen (15) days before the rule or regulation becomes effective.