

CHAPTER 1050
Stormwater Management Utility

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CROSS REFERENCES

Stormwater management - see P. & Z. Ch. 1236

1050.01 FINDINGS.

The Council of the City of Brunswick finds that, under the powers and authority provided the Constitution and the laws of the State of Ohio, including particularly Section 4 of Article XVIII of the Constitution and Sections 729.49 et seq. of the Ohio Revised Code, and the Charter and ordinances of the City:

- (a) The City may establish and operate public utilities, including a utility for the management of stormwater.
- (b) The City may plan, design, acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of a stormwater drainage system and storm water management programs of all types, to furnish service to the City and its residents.
- (c) Such a stormwater management utility established by the City should be established, operated and accounted for as a separate enterprise.
- (d) The City should establish and revise from time to time a schedule of rates and charges to fund its stormwater management utility and its related programs. (Ord. 31-11. Passed 4-25-11.)

1050.02 PURPOSE.

For the purpose of comprehensively addressing the stormwater management needs of the City through facilities and programs designed to protect property and water resources by controlling the level of pollutants in stormwater runoff and the quality and rate of stormwater received and conveyed by structural and natural stormwater drainage systems of all types, the Council of the City of Brunswick finds, 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 Stormwater Drainage Facilities and stormwater management programs serving the City and its inhabitants, and improvements to and extensions of those Stormwater Drainage Facilities, 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 management system (the "Utility") as a public utility and in such a manner as to provide and maintain open drainageways, underground storm sewers and drains and other Stormwater Drainage Facilities, equipment and appurtenances necessary, useful or convenient to provide a complete and adequate system of stormwater management for the City and its inhabitants.

This Council further finds, determines and declares that:

- (a) As provided in Chapter 1236 of the City's Codified Ordinances, the improvement of both public and private Stormwater Drainage Facilities through or immediately adjacent to new developments shall remain the responsibility of the developers.
- (b) The City shall maintain all public stormwater 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 has 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.
- (c) Facilities not qualifying as public facilities include but are not limited to:
 - (1) Private parking lot storm drains;
 - (2) Roof, footing, and area drains;
 - (3) Drains not designed and constructed for use by the general public;
 - (4) Open drainage swales or ditches on private property for which no public easement of record has been granted;
 - (5) Access drive culverts; and
 - (6) Flood control facilities (levees, dikes, overflow channels, dams, detention basins, groundwater recharging basins, etc.) that have been designed and constructed expressly for the benefit of and use by private property or private development or where the obligation for construction, improvement, and maintenance of such facilities is the obligation of an entity other than the City.
(Ord. 31-11. Passed 4-25-11.)

1050.03 DEFINITIONS.

For purposes of this Chapter, the following words, terms, and phrases shall have the meanings given to them in this Section, except where the context clearly indicates a different meaning:

- (a) "Equivalent Residential Unit" or "ERU" is a value assigned to each Three Thousand Five Hundred (3,500) square feet of measured Impervious Surface Area or fraction thereof.

- (b) "Impervious Surface Area" means Developed Land that prevents or significantly impedes the infiltration of Stormwater into the soil. Typical Impervious Surface Areas include, but are not limited to, roofs, sidewalks, walkways, patios, swimming pools, private driveways, parking lots, access extensions, alleys and other paved, engineered, compacted or gravel surfaces containing materials that prevent or significantly impeded the natural infiltration of stormwater into the soil.
- (c) "Service Area" shall mean all real property within the corporate limits of the City, including all real property legally annexed thereto.
- (d) "Service Charge" shall mean a stormwater management service charge applicable to a lot or parcel of real property that generally reflects the impact on or demand for stormwater management services provided by the City to properly control and manage the quantity and/or quality of Stormwater runoff associated with the lot or parcel of real property.
- (e) "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 of the Impervious Surface 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.
- (f) "Stormwater" means flows from rainfall or otherwise produced by, or resulting from, the elements, storm water discharges and releases or migrations of waters from properties, accumulations, flows, and overflows of water, including accelerated flows and runoffs, flooding and threats of flooding of properties and structures, and other surface and subsurface drainage.
- (g) "Stormwater Drainage Facilities" means storm sewers, force mains, pumping stations and facilities for the treatment, disposal, impoundment, retention, control, or storage of waters; improvements of or for any natural or structural channel, swale, ditch, drain, floodway, or watercourse, including location, construction, reconstruction, reconditioning, widening, deepening, cleaning, removal of obstructions, straightening, boxing, culverting, tiling, filling, walling, arching, or change in course, location, or terminus; improvements of or for a river, stream, creek, or run, including reinforcement of banks, enclosing, deepening, widening, straightening, removal of obstructions, or change in course, location, or terminus; facilities for the protection of lands from the overflow of water, including a levee, wall, embankment, jetty, dike, dam, sluice, revetment, lake, pond, reservoir, swamp, wetland, retention or holding basin, control gate, or breakwater; facilities for controlled drainage, regulation of stream flow, and protection of an outlet; the vacation of a ditch or drain; equipment and furnishings; and all required appurtenances and necessary real estate and interests in real estate.
- (h) "Stormwater Drainage System" means all Stormwater Drainage Facilities and natural watercourses owned by the City, or over which the City 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, channels, creeks, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, streets, curbs, gutters, dams, floodwalls, levees, retention or detention facilities, rivers, swales, swamps, wetlands, and pumping stations.

- (i) "Stormwater Management Program" means an identified set of measures and activities designed (i) to protect, restore and/or manage Stormwater quality by controlling and/or reducing pollutants, and/or (ii) to reduce and/or manage Stormwater quantity by controlling velocity, volume and rate.
- (j) "Utility" shall mean the stormwater management utility established pursuant to this Chapter.
(Ord. 31-11. Passed 4-25-11.)

1050.04 JURISDICTION.

The jurisdiction (service area) of the Utility shall extend to the corporate limits of the City, including all real property legally annexed thereto.
(Ord. 31-11. Passed 4-25-11.)

1050.05 IMPERVIOUS SURFACE AREA AND EQUIVALENT RESIDENTIAL UNIT.

(a) The volume, rate and pollutant loading of Stormwater runoff discharged from a given lot or parcel of real property to the City's structural and natural stormwater drainage systems and facilities is directly related to the Impervious Surface Area on that lot or parcel. Therefore, Impervious Surface Area shall be the primary parameter for establishing a rate structure to distribute the cost of services associated with the Utility and its Stormwater Management Programs and the operation, maintenance, repair, improvement and extension of its Stormwater Drainage Facilities through a schedule of rates, fees, charges and penalties related to the operation of the Utility.

(b) Based on an analysis by the City of Impervious Surface Area on certain sampled single family residential real properties throughout the City, an Impervious Surface Area of 3,500 square feet was determined to be the average amount of Impervious Surface Area of a typical single family residential property in the City and is hereby designated as one (1) Equivalent Residential Unit (ERU).
(Ord. 31-11. Passed 4-25-11.)

1050.06 SCHEDULE OF FEES AND CHARGES.

(a) It is hereby determined necessary for the protection of public health, safety, and welfare that a system of charges for Utility service be established which justly and equitably allocates the cost of providing the services of the Utility to each user and property. The Service Charges provided for in this Section are deemed reasonable and necessary to pay the costs of the Utility's Stormwater Management Programs for the operation, maintenance, repair and replacement of the capital facilities of the City's Stormwater Drainage System, for the planning, design, acquisition, construction, reconstruction, improvement, and extension of capital facilities of that System, to provide for the payment of debt service on obligations incurred and anticipated to be incurred for capital facilities of that System and to maintain adequate fund reserves to provide for reasonable expected variations in the collection of Service Charges, in the cost of providing services, and in the demand for services.

(b) Except to the extent specifically exempted as set forth in Section 1050.10, each lot or parcel of real property within the corporate limits of the City that is tributary, directly or indirectly, to the Stormwater Drainage System shall be charged a Service Charge determined as provided in this Section.

(c) A flat rate will apply to all single-family Residential Properties. All single-family Residential Properties shall be assigned one (1) ERU.

(d) A flat rate will apply to all two-family Residential Properties. All two-family Residential Properties are assigned two (2) ERUs.

(e) The Consulting Engineer shall assign all non-residential lots and parcels a minimum of one (1) Equivalent Residential Unit, or a multiple thereof, for each 3,500 square feet of Impervious Surface Area on the subject lot or parcel of real property. In the event that the total amount of Impervious Surface Area equals an amount between Equivalent Residential Units, such total amount of Impervious Surface Area shall be rounded to the nearest Equivalent Residential Unit (Example: 5,250 square feet shall equal two (2) Equivalent Residential Units).

(f) All undeveloped lots and parcels, whether residential or otherwise, shall be assigned a minimum of one (1) ERU.

(g) The Service Charge shall be four dollars and ninety-five cents (\$4.95) per month per Equivalent Residential Unit, subject to revision by the City Council in accordance with this chapter. (Ord. 31-11. Passed 4-25-11.)

1050.07 BILLING AND COLLECTION.

(a) Method of Billing. The monthly Service Charges established in this Chapter shall be billed quarterly in advance through the office of the Director of Finance. A penalty of eighteen percent (18%) shall be charged on all accounts delinquent in excess of ten (10) days after the expiration of the billing period.

(b) Delinquencies. The previous balance of delinquent accounts shall be shown once each year on the July billing and shall be stamped, in red, "FINAL NOTICE." If payment is not received within thirty (30) days, the Director of Finance shall make a written return to the County Auditor and such amounts, when allowed, shall be entered upon the tax duplicate, shall be a lien upon the land from the date of entry and shall be collected as other taxes and returned to the City.

(c) Billing Disputes and Adjustments. The Director of Finance shall have the authority to make final determinations regarding billing disputes and to make legitimate billing adjustments.

(d) Financial Report. A financial statement of profit and loss shall be filed with the Service Director for each calendar year, within ninety (90) days after the close of such year. (Ord. 31-11. Passed 4-25-11.)

1050.08 ESTABLISHMENT OF A STORMWATER MANAGEMENT ENTERPRISE FUND; DISPOSITION OF REVENUES OF THE UTILITY.

(a) Pursuant to and in accordance with Section 5705.09(G) of the Revised Code, there is hereby established a special, segregated and distinct sewer fund, to be known as the "Stormwater Management Enterprise Fund". All moneys collected as Service Charges and interest and penalties thereon, and any other revenues or receipts of the Utility, shall be deposited in the Stormwater Management Enterprise Fund. The moneys in the Stormwater Management Enterprise Fund shall be used only to pay: (i) costs of providing the Utility's Stormwater Management Programs; (ii) costs of operating, maintaining,

repairing and replacement the capital facilities of the Stormwater Drainage System; (iii) costs of planning, design, acquisition, construction, reconstruction, improvement, and extension of capital facilities of that System; and (iv) debt service on obligations incurred and to be incurred for capital facilities of that System and to maintain adequate fund reserves to provide for reasonable expected variations in the collection of Services Charges, the cost of providing services, and in the demand for services.

(b) The moneys in the Stormwater Management Enterprise Fund shall not be used for general or other governmental or proprietary purposes of the City, except to pay for costs incurred by the City in rendering services associated with the Utility. For that purpose, the City Council may adopt a cost allocation plan that identifies, accumulates, and distributes allowable direct and indirect costs that may be paid from the Stormwater Management Enterprise Fund, and that prescribes a method for allocating those costs. The plan shall authorize payment of only those costs incurred by the Utility, or a federal or state grant program, and those costs incurred by the general and other funds of the City for a common or joint purpose, that are necessary and reasonable for the proper and efficient administration of the Utility and properly attributable to the Stormwater Management Enterprise Fund. The plan shall not authorize payment from the Stormwater Management Enterprise Fund of any general government expense required to carry out the overall governmental responsibilities of the City. The plan shall conform to United States office of management and budget Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," published May 17, 1995. (Ord. 31-11. Passed 4-25-11.)

1050.09 APPEAL.

(a) Any property owner aggrieved by a decision of the Consulting Engineer in regard to calculation and assignment of ERUs may file an appeal in writing to the Service Director.

(b) The Service Director is authorized to hear appeals regarding disputes and complaints brought by property owners concerning the calculation and assignment of ERUs, including the authority to make adjustments as appropriate.

(c) Any appeal must be filed in writing, must describe the specific error alleged and contain reasoning from the appealing party that justifies the appealed issue. The Service Director may request additional information from the appealing party and the decision of the Service Director shall be final.

(d) The Service Director shall promulgate written Rules and Regulations that establish the procedure and standard of review for appeals authorized by this Section. (Ord. 31-11. Passed 4-25-11.)

1050.10 EXEMPTIONS.

No public or private property shall be exempt from Service Charges, with the following exceptions:

(a) Public road rights-of-way that have been conveyed to and accepted for maintenance by the Ohio Department of Transportation, and that are available for use by the general public for transportation purposes.

- (b) Public road rights-of-way that have been conveyed to and accepted for maintenance by the City, and that are available for use by the general public for transportation purposes.
- (c) Railroad rights-of-way used for trackage and related appurtenances.
- (d) Real property owned by the City.
(Ord. 31-11. Passed 4-25-11.)