

Public Service Committee
Andrew Roberts, Chair

ORDINANCE NO. 18 - 130 Amended
INTRODUCED BY COUNCIL

AN ORDINANCE to amend the Municipal Code of the City of Zanesville, Ohio, by adding a new Chapter 926 Stormwater Utility Program, in order to establish a stormwater rate structure, which will provide for the funding of the operation, maintenance, and improvement of the stormwater system within the city limits.

WHEREAS, the City of Zanesville currently owns and operates a stormwater system for the collection and disposal of storm and other surface and subsurface waters and for flood control; and

WHEREAS, the constitution of the State of Ohio, Article XVIII, Section 4, authorizes municipalities to operate a public utility; and,

WHEREAS, the City of Zanesville City Council has determined its desire to effectively and efficiently administer the NPDES Phase II permit and regulations; and

WHEREAS, the City of Zanesville is required pursuant to the 1972 Federal Clean Water Act, amended by the Water Quality Act of 1987, regulated by the United States Environmental Protection Agency (EPA) and Ohio EPA to comply with and obtain a National Pollutant Discharge Elimination System (NPDES) Phase II small MS4 (Municipal Separate Storm Water System) permit to implement programs to improve the quality of stormwater and detect and eliminate illicit discharges; and

WHEREAS, the City of Zanesville is conducting and implementing a storm water utility program business plan, level of service analysis, cost of service analysis, rate study analysis, cash flow analysis, identifying and analyzing problems, needs, goals, financing and management options, and developing a green best management practices credit program, which is hereby incorporated by reference; and,

WHEREAS, the City will adopt rules and regulations to properly manage and maintain the storm water system; and,

WHEREAS, the City of Zanesville has established standards to regulate the quantity of storm water discharged and to regulate storm water contaminants as necessary to protect the water quality; and,

WHEREAS, the City will review and approve construction plans and plats for storm water management in proposed subdivisions, commercial developments and any activity requiring a construction site general permit from the Ohio Environmental Protection Agency; and,

WHEREAS, the City may suspend, or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution or condition of the permit; and,

WHEREAS, the City is responsible for the protection and preservation of the public health, safety, and welfare of the community, and the environment and finds that it is in the best interests of the health, safety, and welfare of the citizens of the city and the community at large and the environment to proceed with the development, implementation, and operation of a stormwater utility program.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ZANESVILLE, OHIO:

SECTION ONE: That Chapter 926 is added to the Municipal Code of Zanesville, Ohio to be codified as Chapter 926 entitled "Storm Water Utility Program" as set forth hereafter:

**Chapter 926
Storm Water Utility Program**

Chapters:

926.01	PURPOSE AND OBJECTIVE.
926.02	DEFINITIONS.
926.03	CREATION OF A STORM WATER UTILITY PROGRAM.
926.04	FUNDING THE STORM WATER UTILITY PROGRAM.
926.05	STORM WATER UTILITY PROGRAM ENTERPRISE FUND.
926.06	STORM WATER UTILITY PROGRAM OPERATING BUDGET.
926.07	NECESSITY FOR SERVICE CHARGES.
926.08	AUTHORITY OF THE DIRECTOR OF PUBLIC SERVICE.
926.09	RIGHT TO APPEAL.
926.10	COLLECTION.
926.11	ADJUSTMENTS TO STORM WATER SERVICE CHARGES.
926.12	BILLING OF SERVICE CHARGES.
926.13	FALSIFYING INFORMATION.

926.01 PURPOSE AND OBJECTIVE.

City Council hereby establishes a Stormwater Utility Program within the Department of Public Service. The function of the Stormwater Utility Program is to provide for the safe and efficient capture of stormwater runoff, mitigate the damaging effects of stormwater runoff, correct stormwater problems; to fund activities of stormwater management, including design, planning, regulation, education, coordination, construction, operations, maintenance, inspection and enforcement activities.

City Council finds, determines and declares that the stormwater system, which provides for the collection, treatment, storage, and disposal of stormwater provides benefits and services to all property or parcels within the city limits. Such benefits include but are not limited to: the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction of hazards to property and life resulting from stormwater runoff; improvements in general health and welfare through reduction of undesirable stormwater conditions; and improvements to the water quality in the stormwater, surface water and subsurface water system and its receiving waters.

It is the express intent of this stormwater utility program, to protect the public health, safety and welfare of people, property and the environment, in general, but not to create any special duty or relationship with any individual person, or to any special parcel within or outside the boundaries of the city. The city expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages or equitable remedies upon the city, its elected officials, officers, employees or agents arising out of any alleged failure or breach of duty or relationship.

926.02 DEFINITIONS.

"Adjustment" means a modification to a non-residential stormwater user fee for certain activities that impact stormwater runoff or impacts the City's costs of providing stormwater management.

"Agricultural Parcel" means a lot or parcel located within the City of Zanesville regardless of the size of the building lot or the square footage of the buildings classified as agricultural per County Auditor parcel classifications which for purposes of ERU determination will be classified as single-family residential.

"Apartment Property" means a non-single-family lot or parcel on which is situated three or more dwelling units.

"Approved plans" means plans approved according to permits and plan review which will govern all stormwater improvements, required or not, made within the City or changes or alterations to existing stormwater facilities.

"Best Management Practices" (BMP) means those practices recognized by the Ohio Department of Natural Resources and Ohio Environmental Protection Agency which provide the best available and reasonable physical, structural, managerial, or behavioral activity or activities to reduce or eliminate pollutant loads and/or concentrations leaving the site.

"Brownfield" means a former industrial or commercial site that is considered to be contaminated to varying extents and certified as such by the Ohio Environmental Protection Agency.

"Buffer" means a designated area adjacent to or part of a stream or wetland that is an integral part of the stream or wetland ecosystem. The critical function of riparian buffers including shading, input of organic debris and coarse sediments, stabilization of banks, overflow during high water events and for maintenance of wildlife habitat.

"Condominium Parcel Multi Story" means a lot or parcel of real estate in which individuals own their units and share joint ownership in common elements with other unit owners on which is situated a building or buildings containing more than one story.

"Condominium Parcel Single Story" means a lot or parcel of real estate in which individuals own their own unit and share joint ownership in common elements with other unit owners on which is situated a building containing single story units on individual parcels according to the county auditor records.

"Credits" means a one-time or an on-going reduction in a customer's stormwater user charge given for certain qualifying activities that either reduce the impact of increased stormwater runoff or reduce the City's costs of providing stormwater management.

"Debt service costs" means the average annual principal and interest payments on all outstanding bonds or other comparable long-term capital obligations.

"Duplex Parcel" means a lot or parcel of real estate on which is situated a building containing two (2) single-family dwelling units.

"Equivalent Residential Unit" (ERU) means a value, equivalent to 2,300 square feet of measured impervious area and is equal to the average amount of impervious area of single-family properties within the City of Zanesville.

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"Facilities" means various stormwater and drainage works that may include inlets, pipes, pumping stations, conduits, manholes, energy dissipation structures, channels, outlets, retention/detention basins, and other structural components.

"Impervious area" means areas that have been paved and/or covered with buildings and/or other materials, which include, but are not limited to, concrete, asphalt, rooftop, blacktop or gravel that prevents stormwater from infiltrating into the ground.

"Municipal Separate Storm Sewer System" (MS4) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets) catch basins, ditches, curbs, gutters, storm sewers, manmade channels or storm drains and similar means of collecting or conveying runoff that do not connect with a wastewater collection system or treatment plant and are owned or operated by a state, city, town, borough, county, parish, district, association, or other public body as defined by USEPA.

"Non-residential parcel" means a property that contains any impervious area not encompassed by the definition of Single-Family Parcel, Duplex Parcel, Agricultural parcel and or certain Condominium single story parcels.

"NPDES" means the National Pollutant Discharge Elimination System permit program as administered by the USEPA or the State of Ohio.

"NPDES permit" means the National Pollutant Discharge Elimination System permit setting forth conditions for the discharge of any pollutant or combination of pollutants to the navigable waters of the United States pursuant to Section 402 of PL 92-500.

"Operation and maintenance" means those functions that result in expenditures during the useful life of the collection, conveyance and/or treatment works for materials, labor, utilities and other items which are necessary for managing and operating the stormwater system in a manner for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

"Operation and maintenance costs" include all costs, direct and indirect, necessary to provide adequate stormwater management on a continuing basis and to produce discharges to receiving waters that conform with all related Federal, State and local requirements.

"Other service charges" means tap charges, connection charges, area charges or other identifiable charges, other than user charges, service charges, or debt service charges.

"Owner" means any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, partnership, co-partnership, joint stock company, trust, estate, association, society, institution, enterprise, governmental agency, State of Ohio, the United States of America or other legal entity, or their legal representatives, agents or assigns. The masculine gender includes the feminine, and the singular includes the plural where indicated by context.

"Private stormwater facilities" mean various stormwater and drainage works not under the control and/or ownership of the City, County, State and/or Federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, or other structural components and equipment designed to transport, move or regulate stormwater.

"Public stormwater facilities" mean various stormwater and drainage works under the control and/or ownership of the City, County, State, or Federal government which may include natural streams, inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention

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basins, or other structural or not structural components and equipment designed to transport, move or regulate stormwater

"Replacement costs" means the expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

"Shall" is mandatory and "may" is permissive.

"Single-family Parcel" means all single-family residential parcels located within the City of Zanesville regardless of the size of the building lot or the square footage of the buildings.

"Square footage of impervious area" means, the square footage of all impervious area using the outside boundary dimensions of the impervious area to include the total enclosed square footage, without regard for the topographic features of the enclosed surface and for the purpose of assigning an appropriate number of ERUs to a parcel or real property,.

"Stormwater" means stormwater runoff, snowmelt runoff, and surface runoff, subsurface water and drainage.

"Stormwater service charge" means a charge assessed to users of the City's stormwater system.

"Stormwater system" means all man-made facilities, structures, and natural watercourses owned operated and/or maintained by the City of Zanesville , used for collection and conducting stormwater to, through and from drainage areas to the points of final outlet or watershed including, but not limited to, any and all of the following: conduits and appurtenant features, canals, creeks, catch basins, ditches, streams, rivers, gulches, gullies, flumes, culverts, siphons, streets, curbs, gutters, dams, floodwalls, levees, and pumping stations and including the USEPA definition of the Municipal Separate Storm Sewer System.

"Watershed" means an area of land that drains all the rivers, streams and rainfall to a common outlet or any point along a river or stream channel that consists of surface water, subsurface water, lakes, rivers, streams, reservoirs, and wetlands and all the underlying ground water. Watersheds are important because the streamflow and the water quality of a river are affected by things, human-induced or not, happening in the land area "above" the river-outflow point.

926.03 CREATION OF A STORMWATER UTILITY PROGRAM.

The function of the Stormwater Utility Program within the Department of Public Service is to provide for the safe and efficient capture of stormwater runoff, mitigate the damaging effects of stormwater runoff, correct stormwater problems, to improve the quality of the runoff; to fund activities of stormwater management, and include design, planning, regulation, education, coordination, construction, operations, maintenance, inspection and enforcement activities.

926.04 FUNDING THE STORMWATER UTILITY PROGRAM.

Funding for the stormwater utility's activities may include but is not limited to: stormwater service charges; stormwater permit and inspection fees, the City General Fund, the Capital Equipment Purchase Fund, and any other funds or income obtained from federal, state, local governments, and private grants, or loans.

926.05 STORMWATER UTILITY PROGRAM ENTERPRISE FUND.

All service charges and all sources of revenue generated by or on behalf of the stormwater utility shall be deposited in a stormwater utility enterprise fund and used exclusively for the purposes of the stormwater utility.

926.06 STORMWATER UTILITY PROGRAM OPERATING BUDGET.

City Council shall adopt an operating budget for the stormwater utility each fiscal year. The operating budget shall set forth for fiscal year revenues and estimated expenditures for operations, maintenance, extension, replacement and debt service.

926.07 NECESSITY FOR SERVICE CHARGES.

It is hereby determined necessary for the protection of public health, safety, and welfare and to conform with Federal, State, and local laws and regulations that a system of charges for stormwater service be established which allocates the cost of providing stormwater service to each user in such a manner that the allocated costs are proportionate to the cost of providing stormwater service to that user, insofar as those costs can reasonably be determined.

926.08 AUTHORITY OF THE DIRECTOR OF PUBLIC SERVICE.

Stormwater service charges levied pursuant to this ordinance shall be collected by the Department of Public Service. Notwithstanding other provisions of the Zanesville Municipal Code, the Director of Public Service or his/her Designee shall make and enforce such rules and regulations as deemed necessary for the safe, economical, and efficient management and protection of the City's stormwater system; for the construction and use of storm sewers and connections to the stormwater system consistent with policies established by the Zanesville City Council; and for the regulation collection, rebating and refunding of such stormwater charges.

926.09 RIGHT TO APPEAL.

A Non-residential property owner may challenge the ERU multiple assigned to his/her property by filing an appeal with the Director of Public Service for adjustment thereof, stating in writing the grounds for the appeal. The Director of Public Service, or the Director's designee, shall consider the appeal and determine whether an adjustment of the ERU multiple for any such lot or parcel is necessary, and adjust such ERU multiple if appropriate.

If the property owner disagrees with the decision of the Director of Public Service, such person may appeal to and request a hearing with the public service committee, a subcommittee of City Council for final resolution.

926.10 COLLECTION.

Each stormwater service charge rendered under or pursuant to this ordinance is hereby made a lien upon the corresponding lot, parcel of land, building or premises that are tributary directly or indirectly to the stormwater system of the City, and, if the same is not paid on or before the due date as stated on the utility bill, a ten percent (10%) charge shall be added to the total stormwater amount due made on or before the due date as stated on the utility bill and it shall be due and payable, it shall be certified to the Auditor of Muskingum County, Ohio in which the property is located, who shall place the same on the tax duplicate of Muskingum County, Ohio with the interest and penalties allowed by law and be collected as other taxes are collected.

926.11 ADJUSTMENTS TO STORM WATER SERVICE CHARGES.

Increase adjustments can be made to non-residential service charges by the owners adding impervious area such as rooftops, parking lots, driveways or walkways. Decrease adjustments can be made to non-residential service charges by owners performing activities that reduce the impact of stormwater runoff to the stormwater system.

926.12 PAYMENT OF SERVICE CHARGES.

Stormwater charges shall be assessed monthly. The City of Zanesville will be responsible to provide billing for the stormwater charges.

Each charge levied by or pursuant to this chapter shall be made a lien upon the corresponding lot, land or premises served. If the charge is not paid, it shall be certified to the Auditor of Muskingum County, Ohio who shall place that amount on the tax duplicates of the County, with interest and penalties allowed by law, and collect it as other taxes are collected.

The funds received from the collection of the stormwater service charges as defined in 926.05 shall be deposited in the stormwater enterprise fund.

926.13 FALSIFYING INFORMATION.

No person shall knowingly make any false statement, representation, record, report, plan, or other document and file such with the Department of Public Service.

SECTION TWO: If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION THREE: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION FOUR: This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: January 14, 2018

ATTEST: Susan Culbertson
SUSAN CULBERTSON,
Clerk of Council

Daniel M. Vincent
DANIEL M. VINCENT,
President of Council

APPROVED: JANUARY 15, 2018

Jeff Wilton
JEFF WILTON,
Mayor

THIS LEGISLATION APPROVED AS TO FORM
[Signature]
LAW DIRECTOR'S OFFICE

CERTIFICATE OF PUBLICATION

I, THE UNDERSIGNED CLERK OF COUNCIL OF THE CITY OF ZANESVILLE, OHIO, HEREBY CERTIFY THAT THE FULL TEXT OF THE FOREGOING ORDINANCE NO, 18-130 WAS POSTED IN THREE PLACES WITHIN THE CITY AS DETERMINED BY COUNCIL, AND THAT SUCH PLACES WERE CITY HALL, FIRE STATION AND THE POLICE STATION.

Attest: *Susan Culbertson*

Susan Culbertson
Clerk of Council

City Clerk

