

Introduced by the Utilities Committee, Brandon Leeth, Chair

Ordinance No. 2019-05

WHEREAS, Ohio communities frequently charge a base rate for storm water collection and piping for all land use, vacant parcels included;

WHEREAS, in the City of Hillsboro every parcel benefits from storm water controls and curb and gutters;

WHEREAS, with a base charge, the storm sewer improvements will increase the value and use of parcels in the City;

WHEREAS, some very large vacant land tracks in Hillsboro, or areas which may be considered farm land, may lack proportionate benefits;

WHEREAS, some parcels in the City may not count for a single Equivalent Residential Unit (ERU) because they are vacant or irregular;

WHEREAS, the number of parcels in Hillsboro is approximately 8,813 and the amount of revenue the storm sewer utility would generate at expected ERUs, with the cost of loans, the annual service debt through DEFA would approximate \$244,000 a year on \$6.3 million, anticipating the cost of operation and maintenance, billing costs and other expenses;

Now, therefore, there is hereby enacted Chapter 53 of the Hillsboro Code of Ordinances to read as follows:

SECTION ONE:

Stormwater Charges

- 53.01 Utilization of monies collected.
- 53.02 Definitions.
- 53.03 Establishment of system of charges.
- 53.04 Collection of charges.
- 53.05 Imposition of charges.
- 53.06 Equivalent Residential Unit assignment.
- 53.07 Billings.
- 53.08 Appeal from ERU.
- 53.09 Lien upon property.
- 53.10 Credits.

53.01 UTILIZATION OF MONIES COLLECTED.

Monies collected from the Utility Service Charges are to be utilized solely for the operations, maintenance, repair, improvement and extension of the Utility; to 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, planning, regulation, education, coordination, inspection and enforcement activities, all for the protection of the public health, welfare, and safety.

53.02 DEFINITIONS.

Whenever used in this chapter, the meaning of the following words and terms shall be as follows:

"Abatement" means any action taken to remedy, correct, or eliminate a condition within, associated with, or impacting the stormwater system.

"Approved plans" shall mean plans approved according to a permits and plan review which will govern all improvements made within the City that require stormwater facilities or changes or alterations to existing stormwater facilities.

"City" means the City of Hillsboro, Ohio.

"Credit" means an on-going (as long as the various circumstances which produced the credit have not changed) reduction in a Utility Service Charge given for certain qualifying activities which reduce either the impact of increased stormwater runoff or reduces the City's costs of providing stormwater facilities.

"Detention facility" means 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.

"Director" means the Director of Public Service of the City.

"Equivalent Residential Unit (ERU)" is a value, equal to 2,899 square feet of measured impervious area and is equal to the average amount of impervious area of typical residential properties within the City.

"Impervious area" means areas that have been paved and/or 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 judgment of the Director a non-pervious surface.

"Mayor" means the Mayor of the City.

"Public stormwater open channel" means all open channels which convey, in part or in whole, stormwater, and are owned operated or maintained by the City; or a stormwater open channel which has a permanent drainage/stormwater easement owned by the City and drains an area which includes City owned property or right-of-way. A public stormwater open channel does not include roadside ditches which convey only immediate right-of-way drainage.

"Residential property" means all single family properties and duplexes within the City. Such properties may incorporate a home-business or day-care service consistent with all other City ordinances and regulations and other applicable laws.

"Retention facility" means a facility which provides storage of stormwater runoff and is designed to eliminate subsequent surface discharges.

"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 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.

"Storm sewer" means 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.

"Stormwater" means stormwater runoff, snow melt runoff, surface runoff and drainage.

"Stormwater 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.

"Stormwater system" means all manmade facilities, structures, 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, 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.

53.03 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 Utility service be established which justly and equitably allocates the cost of providing the services of the Utility to each property.

53.04 COLLECTION OF CHARGES.

Utility Service Charges levied pursuant to this chapter shall be collected by the Director and shall be credited to the Stormwater Drainage Utility Fund established pursuant to Ordinance. Notwithstanding other provisions of the City Code, the Director 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 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 Utility Service Charges.

53.05 IMPOSITION OF CHARGES.

The Utility Service Charges provided for in this chapter are imposed on each and every lot and parcel of land within the City, 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 Utility Service Charges shall be established so as to maintain adequate fund reserves to provide for reasonable expected variations in the collection of Utility Service Charges, in the cost of providing services, and in the demand for services.

Subsequent to the initial establishment of Utility Service Charges pursuant to this chapter, the Director in each odd numbered year shall prepare a Utility report with recommended Utility Service Charges. This report shall contain data utilized in the determination of the recommended Utility Service Charges and shall be presented to the Council on or before October 1 of each odd numbered year for referral to the appropriate committee. The committee shall make a recommendation to Council on or before October 15 of each odd numbered year concerning the Utility Service Charges to become effective for a two year period beginning January 1 of each even numbered year.

The Director shall biennially notify, in conjunction with the billing process, all persons subject to these charges of the Utility Service Charge being charged.

53.06 EQUIVALENT RESIDENTIAL UNIT ASSIGNMENT.

For the purpose stated in this chapter there is hereby charged to each Utility user and property, lot, parcel of land, building or premises (collectively, "properties") situated within the corporate limits of the City, that is tributary directly or indirectly to the stormwater system, Utility Service Charges determined as provided in this section.

All properties having impervious area within the City shall be assigned an Equivalent Residential Unit (ERU), or a multiple thereof, which will be at a minimum one ERU.

All improved single-family residential properties are assigned one ERU. A flat rate will apply to all single-family residential properties. All improved single-family residential properties are determined to include impervious area typical of a single-family residence.

All properties having an impervious area which are not improved single-family residential properties are to be assigned by the Director of Public Service an ERU multiple based upon the properties' estimated impervious area (in square feet) divided by 2,899 square feet (one ERU). This division will be calculated to the second decimal place and rounded according to mathematical convention to the nearest whole ERU.

The Utility Service Charge is \$5.00 per month per Equivalent Residential Unit (ERU) which shall be effective from and after September 1, 2019.

53.07 BILLINGS.

The bill for Utility Service Charges shall be rendered on a monthly basis and shall be billed with the monthly bill for water service for those property owners or condominium associations who are billed only for water service, shall be billed with the charges for sanitary sewer service for those property owners or condominium associations who are billed only for sanitary sewer service, shall be billed with the charges for water and sanitary sewer service for those property owners or condominium associations who are billed for those services, or billed alone to those property owners or condominium associations not billed for water or sanitary sewer service by the City. The Utility Service Charges prescribed in this chapter are due and payable when rendered. If Utility Service Charges are paid after the 20th day from the billing date, a penalty of 10% shall be assessed.

Each occupant or the owner or tenant of such household shall pay in advance in installments as determined by the Director of Public Service to the City the fees imposed pursuant to Ordinance.

Billings shall be mailed on a schedule to be determined by the Director and will be included on the water and sewer statement.

Partial payments may be accepted. In accepting such partial payments, the balance owed shall be considered delinquent and the money's paid shall be applied in the following order:

- (a) Refuse;
- (b) Storm Water;
- (c) Water/Sewer; and
- (d) Penalty

Any payment made on the unused portion of the storm water bill will automatically be applied to any outstanding balance for water, sewer, late fees or any other miscellaneous charges on a final bill before any refund is made.

53.08 APPEAL FROM ERU.

An owner may challenge the ERU(s) assigned to the property by filing an appeal with the Director of Public Service. The appeal shall be in writing and shall state the grounds for the appeal. The appeal shall be filed with the Director within 180 days after receipt of notice of the

ERU multiple assigned to the property. The Director shall have 90 days to investigate the matter unless the Director determines more time is necessary for the review. The Director shall cause appropriate investigation to be made, determine whether an adjustment of the ERU multiple for the property is necessary, and adjust the assigned ERU multiple if appropriate. The appellant shall be notified in writing of the Director's determination with respect to the appeal and of any resulting adjustment in the amount of the Utility Service Charge.

53.09 LIEN UPON PROPERTY.

Each 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 Utility Service Charge and applicable penalty pursuant to certification to a county auditor, delinquent Utility Service Charges and applicable penalty may be recovered in an action at law by the City.

53.10 CREDITS.

The Director shall promulgate rules and regulations which allow for a credit in the Utility Service Charge for properties other than single-family residential properties. These rules and regulations may allow, where appropriate, application of the credits retroactive to the effective date of this chapter. The Director shall have the authority to charge a Utility Service Charge credit application fee, which shall be based upon estimated costs of reviewing processing and administering the credit application.

SECTION TWO:

This ORDINANCE shall become effective upon passage by a majority of Council following three readings at separate meetings and after publication according to law.

Passed: 8/12/19 President: Thomas B. Edrington
Attested: Heather Allin, Clerk
Approved: [Signature] Mayor Date: 8/13/19
Prepared by the City Law Director.