

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA ADDING SECTION 21-118 OF CHAPTER 21 OF THE CODE OF ORDINANCES OF THE CITY OF NORMAN, OKLAHOMA, CONTINGENT ON VOTER APPROVAL OF ORDINANCE NO. O-1516-41, ESTABLISHING THE MONTHLY RATES TO FUND A STORMWATER UTILITY FOR EACH RESPONSIBLE PARTY OF CONTIGUOUS PARCEL(S) IN THE CITY OF NORMAN THAT CONTAIN ONE THOUSAND SQUARE FEET OF IMPERVIOUS SURFACE AT THE RATE OF: ONE DOLLAR AND TWENTY-FIVE CENTS (\$1.25) PER ONE THOUSAND (1,000) SQUARE FEET OF IMPERVIOUS SURFACE; PROVIDING FOR A MAXIMUM MONTHLY RATE OF THREE HUNDRED DOLLARS (\$300.00) FOR A PARCEL OWNED BY A PUBLIC SCHOOL OR A TAX EXEMPT ORGANIZATION; ESTABLISHING A MONTHLY ADMINISTRATIVE STORMWATER FEE FOR ALL OWNERS OF DEVELOPED CONTIGUOUS PARCEL(S) IN THE CITY OF NORMAN OF ONE DOLLAR (\$1.00) PER MONTH; PROVIDING A TWENTY-FIVE PERCENT (25%) REDUCTION IN RATE FOR QUALIFYING LOW-INCOME RESIDENCES; CHANGING THE TITLE OF ARTICLE V TO STORMWATER UTILITY; AMENDING SECTION 21-501 AND ADDING SECTIONS 21-502, 21-503 AND 21-504; PROVIDING AN ADMINISTRATIVE APPEALS PROCESS TO CONSIDER CALCULATION OF IMPERVIOUS SURFACE FOR A PARTICULAR PARCEL; PROVIDING FOR THE GRANTING OF A RATE REDUCTION TO PUBLIC SCHOOLS IN ACCORDANCE WITH POLICIES TO BE ADOPTED BY CITY COUNCIL; PROVIDING FOR A CREDIT TO OFFSET A RATE FOR ENTITIES EMPLOYING LOW IMPACT DEVELOPMENT STRATEGIES; ADDING ARTICLE VI ENTITLED PENALTY AND SECTION 21-601 PROVIDING PENALTIES FOR VIOLATIONS OF THE CHAPTER; PROVIDING AN EFFECTIVE DATE FOR SAID RATES SUBJECT TO VOTER APPROVAL; AND PROVIDING FOR THE SEVERABILITY THEREOF.

- § 1. WHEREAS, in January to December of 2006 Citizen Committees met to scope the Storm Water Master Plan, which was later developed from January 2007 through November of 2009, culminating in the acceptance of the Storm Water Master Plan (SWMP) and the adoption of an Action Plan on November 10, 2009; and
- § 2. WHEREAS, public meetings and the development of Stream Planning Corridors (SPC) and Water Quality Protection Zones (WQPZ) occurred from January 2010 to June 2011, culminating in the adoption of a Water Quality Protection Zone Ordinance on June 28, 2011; and
- § 3. WHEREAS, a key component of the SWMP is the establishment of a Stormwater Utility to provide a funding source for improve water quality, manage stream bank erosion and stability, protect drinking water supplies, enhance public recreational opportunity at Lake Thunderbird, and prevent flooding events throughout Norman; and

- § 4. WHEREAS, a 2009 City of Norman Community Survey indicated that 93% of Norman citizens responding to the survey felt funding stormwater improvements to prevent flooding, and protect water quality in lakes and streams as important, very important, or extremely important; and
- § 5. WHEREAS, scientific studies have linked increases in impervious surfaces due to land development and urbanization to increases in flooding, erosion of streams and banks, and pollution of water resources; and
- § 6. WHEREAS, a key component of the SWMP is the establishment of a Stormwater Utility to provide a funding source for improvement of water quality, management of stream bank erosion and stability, protection of drinking water supplies, enhancement of public recreational opportunity at Lake Thunderbird, and prevention of flooding events throughout Norman; and
- § 7. WHEREAS, based on Government Information System (GIS) mapping data, the SWMP has provided information concerning the square footage of impervious surface for each parcel of land located in the City of Norman; and
- § 8. WHEREAS, a rational basis upon which to accomplish the legitimate governmental interest of establishing fair and equitable stormwater utility fees for property owners and utility customers within the City of Norman is to establish fees within certain ranges of parcels based on the square footage of impervious surface on each parcel, and that parcels with impervious surface of eleven thousand square feet or more should be assessed a stormwater fee based on established units of impervious surface on a particular parcel; and
- § 9. WHEREAS, a rational basis upon which to accomplish a legitimate governmental interest of conserving taxpayer dollars is for a parcel, owned by a public school or an organization exempt from federal taxation with impervious surface in excess of two hundred thousand (200,000) square feet should not be assessed a stormwater rate in excess of three hundred dollars (\$300.00) per month; and
- §10. WHEREAS, a rational basis upon which to accomplish a legitimate governmental interest of simplifying the rate structure, managing administrative burdens associated with operation of a stormwater utility, is to establish fees based on ranges of impervious surfaces of parcels, but to allow administrative appeals of parcel owners on the basis of establishing a more exact fee assessment when considering a particular parcel owner's impervious surface as desired by the parcel owner; and
- §11. WHEREAS, in recognition of the importance of public education as a means in which to make the citizenry more aware of best practices to improve water quality, conserve water resources, and lessen the potential for pollution of water resources, a rational basis upon which to accomplish this legitimate governmental interest is to consider crediting public schools for such education efforts in accordance with such a policy duly adopted by the City Council.

§ 12. WHEREAS, a rational basis upon which to accomplish a legitimate governmental interest of reducing impervious surfaces and enhancing water quality is to allow credits for the utilization of low impact development strategies that have been shown to reduce the quantity and/or improve the quality of stormwater runoff.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 13. That should the voters approve the Stormwater Utility fees set out in Ordinance No. O-1516-41, then Section 21-118 of Chapter 21 of the Code of Ordinances of the City of Norman, Oklahoma, shall be added to read as follows:

**Sec. 21-118. Rates for Stormwater Utility.**

- (a) There is hereby established a monthly stormwater utility rate that shall be billed to the responsible party for each parcel of developed land within the city of \$1.25 per the nearest whole number that is the quotient of the impervious surface per parcel divided by 1,000.
- (b) The rate for residential parcels, the responsible party for which is low income as defined by Section 8 of the Housing Act of 1937, amended by the Housing and Community Development Act of 1974, as annually adjusted, will be calculated at a reduction of twenty-five percent (25%) or \$0.375 per 1,000 square feet of impervious surface.
- (c) Rate Maximums. The rate set forth in subsection shall not exceed the applicable maximums as set forth below.
  - (1) The stormwater utility rate shall not exceed \$300 per month for any parcel owned by any public school or any organization that has obtained an exemption from taxation pursuant to 26 U.S.C.A. §501(c)(3).
- (d) These stormwater utility rates shall not be imposed on the following types of property: (1) City, State and Federal roads, bridges, highways, streets, rights-of-way; or (2) undeveloped parcels of land.
- (e) There is hereby established a monthly stormwater management fee of \$1.00 that shall be billed to the responsible party for each parcel of developed land within the city.

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§ 14. That should the voters approve the Stormwater Utility rates set out in Ordinance O-1516-41, then Sections 21-501, 21-502, 21-503 and 21-504 of Chapter 21 of the Code of Ordinances of the City of Norman, Oklahoma, shall be and is hereby amended to read as follows:

**ARTICLE V. STORMWATER UTILITY.**

**Sec. 21-501. – Purpose.**

It is the purpose of this article to establish a stormwater utility and management program to promote public health, safety and welfare by providing for studying, designing, operating, constructing, equipping, maintaining, acquiring and owning within the City a stormwater drainage system. The establishment of a stormwater utility and management program would:

- (1) Reduce flood and storm losses and inconveniences from uncontrolled stormwater runoff in the City;
- (2) Ensure that the movement of emergency vehicles is not prohibited nor inhibited during storm or flood periods; and
- (3) Preserve the City's watercourses, improve and preserve water quality, minimize water quality degradation, and otherwise facilitate urban water resource management techniques, including both the reduction of pollution and the enhancement of the urban environment.

**Sec. 21-502. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Impervious surface* means any hard surfaced area which prevents or slows the entry of water into the soil in the manner and to the extent that such water entered the soil under natural conditions, causing water to run off the surface in greater quantities or at an increased rate of flow than was present under natural conditions, such as, but not limited to, roof tops, asphalt or concrete sidewalks, paving, driveways and parking lots, walkways, patio areas, storage areas, and gravel, bituminous substances or other surfaces which similarly affect the natural infiltration or runoff patterns of real property in its natural state.
- (2) *Public school* shall mean educational facilities primarily funded through public taxation providing instruction for students which may include Kindergarten through Twelfth Grade or vocational technology instruction.
- (3) *Responsible party* refers to the person or entity responsible for paying the monthly storm water utility rate and shall presumptively be the same person or entity

responsible for water, sewer, or trash service as applicable. A person or entity other than the presumptive responsible party may be assessed and billed the stormwater utility fee upon providing proper documentation to the City's billing department.

- (4) *Stormwater utility rate* means the fees levied within the boundaries of the City for the use of the City's stormwater drainage system and facilities.
- (5) *Stormwater drainage system* means any facility, structure, improvement, development, equipment, property or interest therein, or other structural or nonstructural element made, constructed, used or acquired for the purpose of collecting, containing, storing, conveying and controlling stormwater wherever located, including, but not limited to, storm sewers, curbs, street drains, conduits, natural and manmade channels, pipes, culverts and detention ponds whether public or private.
- (6) *Stormwater management program* or *program* means an overall strategy and framework for the stormwater management activities of the City.
- (7) *Undeveloped parcel* means real estate unaltered by the construction or addition of any impervious surface which would change or affect the hydrology of the property from its natural state.

**Sec. 21-503. – Duties of the City Manager.**

The City Manager or his designee(s) shall exercise all lawful powers necessary and appropriate to administer the City's stormwater management program. The City Manager shall have the authority to:

- (1) Develop and administer all phases of a comprehensive program of stormwater management, including, studying, planning, designing, establishing, acquiring, constructing, developing, installing, administering, maintaining, operating, improving, repairing, replacing and reconstructing the City's stormwater drainage system;
- (2) Administer the accounting, budgeting, record keeping and support personnel necessary for the efficient operation of the stormwater management program;
- (3) Perform studies, tests and analyses required to establish or modify the stormwater management program;
- (4) Provide for public information and awareness that would improve management and reduce pollution and hazards to life and property;

- (5) Enter into negotiations with the University of Oklahoma for a storm water management rate agreement that considers, among other things, the amount of impervious surface on parcels owned by the University of Oklahoma that contribute to stormwater entering into the Municipal Stormwater system as well as efforts by the University of Oklahoma to comply with Environmental Protection Agency regulations as a Municipal Separate Storm Sewer System (MS4) entity and as such, operates its own stormwater management program;
- (6) Collect the stormwater charges;
- (7) Hear administrative appeals from parcel owners in order to establish a more exact fee assessment based on the impervious surface of a particular parcel as desired by the parcel owner;
- (8) Determine whether to credit fees up to one hundred percent (100%) for public schools when such institutions offer programs and education to make the citizenry more aware of best practices regarding improving water quality and conservation resources in accordance with policies approved by the City Council;
- (9) Identify and prioritize projects for capital improvements and enhanced maintenance utilizing the criteria described in the Storm Water Master Plan and recommend such projects to City Council as funds allow;
- (10) Recommend to the City Council a comprehensive stormwater management program, including but not limited to, recommendations for policies regarding capital improvements, enhanced maintenance, cost sharing, and assistance to individual property owners and property owners' associations;
- (11) Determine whether to grant credits against the storm water utility rate for entities that utilize low impact development strategies that have been shown to reduce the quantity and/or improve the quality of stormwater runoff from their property in accordance with policies approved by the City Council;
- (12) Recommend from time to time to the City Council policies for establishing new kinds of stormwater drainage services, preserving and expanding existing service and making changes in service for the benefit of the public.

**Sec. 21-504. – Stormwater Utility Fund.**

A special fund or funds shall be maintained for the purpose of identifying and controlling all revenues and expenses attributable to stormwater utility charges. All stormwater utility rates

and all loans, grants or funds received for the administration, operation, construction and improvement of the stormwater drainage system and facilities shall be deposited in such fund or funds. Of the stormwater utility rates collected, \$1.00/month from each billed account shall be accounted for separately to be expended on Stormwater Utility capital projects.

Disbursements for costs of data collection, planning, designing, engineering, policing, constructing, maintaining, operating, and improving drainage services and facilities and any other activity provided for by this ordinance shall be made from the appropriate fund or funds. The maximum amount of stormwater rates collected that can be expended by the City to acquire an access easement to any floodway is one dollar (\$1.00). If owners of property along any portion of any floodway fail to provide reasonable access to the City to maintain its portion of the floodway, the property owner(s) will continue to be responsible for the maintenance of said portion of the floodway, and shall not be eligible for assistance from the Stormwater Utility Fund.

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§ 15. That Article VI, Section 21-601 of Chapter 21 of the Code of Ordinances of the City of Norman shall be added as follows:

**ARTICLE VI. – PENALTY.**

**Sec. 21- 601. Penalty.**

- (a) Any person, firm, or corporation convicted of violating any provision of this chapter, or of failing to act or comply with the provisions of this chapter, shall be punished by a monetary fine in an amount not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00), or by imprisonment for a period not to exceed sixty (60) days, or by both such fine and imprisonment for each such violation or failure to comply.
- (b) Each day that a violation or failure to comply exists shall constitute a separate and distinct offense, and any one (1) or more of such offenses may be set out in any complaint or information filed.

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§16. Effective date. The rates described above shall be effective for bills issued after the 1<sup>st</sup> day of November, 2016, except those parcels owned by public schools or organizations that have been granted 501(c)(3) status, such parcels being subject to the rates described above for bills issued on or after the 1st day of July, 2017. Any imposition of the rates described herein are conditioned upon said rate increase being approved by a majority of the registered voters voting in an election called for the purpose of approving or rejecting said fees; said election to be held on the 23rd day of August, 2016.

§17. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance, except, that the effective date provision shall not be severable from the operative provisions of the ordinance.

ADOPTED this 7th day  
of June, 2016.

NOT ADOPTED this \_\_\_\_\_ day  
of \_\_\_\_\_, 2016.

Cindy Rosenthal  
\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Mayor

ATTEST:

Brenda Hall  
\_\_\_\_\_  
City Clerk

