

**ESTABLISHING A STORMWATER MANAGEMENT UTILITY
IN THE CITY OF MASON**

WHEREAS, in late 1998, the City of Mason established the Stormwater Management Advisory Committee (SWAC) to study the questions of the need for, and the implementation of, a funding source, which would provide the proper structure and funding of necessary stormwater projects and services. In addition, the City of Mason must comply with Federal and State regulations pertaining to water quality and quantity such as the National Pollutant Discharge Elimination System (NPDES) permit; and

WHEREAS, the City of Mason retained Consulting Engineers, Camp, Dresser & McKee to help the SWAC study the stormwater needs in the City of Mason; and

WHEREAS, based upon that study and the Recommendations of the Stormwater Management Advisory Committee (SWAC) dated November 4, 1999, the City of Mason has determined the substantial benefits and fairness of establishing a stormwater management utility structured to fund improvements to the City of Mason's stormwater management system based on level of use, rather than simply out of the City's General Fund, gas tax revenues, or ad valorem tax receipts;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Mason, Ohio, seven members elected thereto concurring:

Section 1. That the City of Mason Stormwater Management Utility is hereby established.

Section 2. For the purposes of this ordinance, the following definitions shall apply: Words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

"Billing Period" means the service period identified on the utility bill. Each account shall be billed monthly or semi-annually in arrears of the service period. A developed property that receives a City of Mason water or other utility service shall be billed monthly in arrears of the service. A developed property that does not receive City of Mason water or other utility service may be billed semi-annually in arrears of the service.

"Bonds" means revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the Costs of Construction.

"Calendar Year" means the twelve-month period commencing on the first day of January of any year.

"Costs of Construction" means costs reasonably incurred in connection with providing capital improvements to the System or any portion thereof, including, but not limited to, the costs of (1) acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefor, (2) physical construction, installation and testing, including the costs of labor, services materials, supplies and construction services used in connection therewith; (3) architectural, engineering, inspection, legal and other professional services, (4) insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation, (5) any taxes or other charges which become due during construction, (6) expenses incurred by the City or on its behalf with its approval in seeking to enforce any remedy against any contractor, (7) principal of and interest of any Bonds, and (8) miscellaneous expenses incidental thereto.

"Debt Service" means, with respect to any particular Calendar year and any particular series of Bonds, an amount equal to the sum of (i) all interest payable on such Bonds during such Calendar Year, plus (ii) any principal installments of such Bonds during such Calendar Year.

"Developed Property" means real property other than Undisturbed Property.

"Dwelling Unit" means a singular unit or apartment providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

"Equivalent Residential Unit" or "ERU" means the statistical average horizontal Impervious Area of all Residential Developed Property per Dwelling Unit located within the City and as established by City Council.

"ERU Rate" means a Stormwater User Fee charged on each ERU as established by City Council.

"Exempt Property" means public rights of way, public streets, public alleys, and public sidewalks.

"Extension and Replacement" means costs of extensions, additions and capital improvements to, or the removal and replacement of capital assets of, or purchasing and installing new equipment for, the System, or land acquisitions for the System and any related costs thereto, or paying extraordinary maintenance and repair, including the Costs of Construction, or any other expenses which are not costs of Operation and Maintenance or Debt Service.

"Impervious Area" means the number of square feet of hard surfaced areas which either prevent or retard the entry of water into soil mantle, as it entered under natural conditions as Undisturbed Property, and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as Undisturbed Property, including, but not limited to, roofs, roof extensions, patios, porches, driveways, sidewalks, pavement and athletic courts.

"Nonresidential Developed Property" means developed property that is not utilized for dwelling units with the City.

"Operating Budget" means the annual operating budget adopted by the City for the succeeding Calendar Year.

"Operations and Maintenance" means the current expenses, paid or accrued, of operation, maintenance and current repair of the System as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, and cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with the sound accounting practice.

"Revenues" mean all rates, fees, assessments, rentals or other charges or other income received by the Stormwater User Fee Fund, in connection with the management and operation of the System, including amounts received from the investment of deposit of moneys in any fund or account and any amounts contributed by the City, all as calculated in accordance with sound accounting practice.

"Stormwater Management System" or "System" means the existing stormwater management of the City and all improvements thereto which by this Ordinance are constitute as the property and responsibility of the City, to be operated as an enterprise fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

"Stormwater User Fee" means a fee authorized by Ordinance(s) established to pay Operations and Maintenance, Extension and Replacement and Debt Service.

"Stormwater Use Fee Fund" means the enterprise fund created by this Ordinance to operate, maintain, and improve the System and for such other purposes as stated in this Ordinance.

"Undisturbed Property" means real property that has not been altered from its natural state by dredging, filling, removal of trees and vegetation, or other activities which have disturbed or altered the topography or soils on the property.

"User Fee District" means the area or property within the Corporate Limits of the City of Mason.

"Vacant Improved Property" means unoccupied developed property that contains impervious area.

Section 3. Subject to the provisions of this ordinance, each and every Residential Developed Property, Nonresidential Developed Property and Vacant Improved Property, other than Exempt Property, within the corporate limits of the City, and the owners and nonowner users thereof, shall have imposed upon them a Stormwater User Fee. In the event the owner and nonowner users of a particular Property are not the same, the liability for each the owner and nonowner user for the User Fee attributable to that Property shall be joint and several. The Stormwater User Fee shall be a monthly or a regular interval service charge and shall be determined by the provisions of this ordinance and the ERU and ERU Rate which shall be established and changed from time to time by City Council.

Section 4. The Stormwater User Fee for metered property shall be billed and collected monthly with the monthly City's services utility bill for those properties within the corporate limits of the City and utilizing the City's utilities. These fees shall be billed and collected separately as Stormwater User Fees. Properties not utilizing the existing City's utilities may be billed six (6) months in arrears. All such bills for Stormwater User Fees shall be rendered monthly or at a regular interval by the Utility Billing Department. The Stormwater User Fee for those properties utilizing City utilities is part of a consolidated statement for utility customers, which is generally paid by a single payment. In the event that a partial payment is received, the payment shall be applied in accordance with the City of Mason Rules and Regulations developed by the City Manager.

Section 5. There is hereby established the following uniform schedule of rates for the services and use of facilities of the stormwater management system by the owner, tenant or occupant of the premises using the services and facilities of said system.

- (a) The City Council, upon recommendation of the City Manager, shall, by resolution, establish reasonable rates for stormwater management systems for each residential dwelling unit; each residential dwelling unit shall be billed a flat fee established by the City Council. An equivalent residential unit is hereby defined as the statistical average horizontal impervious area of residential units in the City of Mason,
- (b) Parcels which are undeveloped shall be assessed a stormwater user fee. The bill shall be determined by dividing the total land area of the property, in square feet, by the area of an equivalent residential unit times a correction factor. The correction factor may be based on the relative volume of runoff from an undeveloped property and that of a typical single-family residence, under typical hydrologic conditions.
- (c) For all residential and nonresidential properties, that is enterprise, business establishment, building or other occupancy not covered by subsections (a), and (b) of this section, the rate shall be computed based on the total impervious area of the property divided by the average impervious area of an equivalent residential unit times the rate established for an equivalent residential unit. The billing amount shall be updated by the Engineering Department based on any additions to the impervious areas as approved through the building permit process.

Section 6. For each charge or rental levied by or pursuant to this ordinance, if the same is not paid within thirty (30) days after it is due and payable, the Municipality is authorized to terminate City of Mason water or other utility service until the charge or rental is paid. In addition

to the payment of such charge or rental, a charge of twenty dollars (\$20.00) shall be made to reinstate such service.


Section 7. The City Manager may make and enforce such rules and regulations as may be deemed necessary for the safe, economical and efficient management and protection of the municipal stormwater system, for the construction and use of the stormwater system and facilities, for connections to the stormwater system and for the regulation, collection, rebating and refunding of charges or rentals provided such rules and regulations are not in conflict with any municipal ordinance. No person shall violate or fail to comply with any such rule or regulation.

Section 8. Any person disagreeing with the calculation of the Stormwater Drainage Fee, as provided in this ordinance, may appeal such determination to the City Manager, or his or her designee. Any appeal must be filed in writing and shall include a survey, showing Dwelling Units, total property area, Impervious Area or Non-Residential Developed Area, drainage structures, drainage patterns and any features that contain/retain/detain storm runoff on their own property, and diminish the quantity of stormwater handled by the City, as appropriate. The Manager may request additional information from the appealing party. Based upon the information provided by the utility and appealing party, the Manager shall notify the parties, in writing, of the Manager's decision. If still dissatisfied, a party may request, in writing, within thirty (30) days a review by the Stormwater Appeals Board. Such request must cite specific error by the Manager and the calculation, which the party feels, is correct. The Board shall review the record presented and enter a written decision as soon as practical. The Board may request additional information from either party.

Section 9. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees or subcommittees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 10. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed this 23rd day of April, 2001.



Mayor

Attest:



Clerk of Council