

CITY OF GOSHEN, KENTUCKY
ORDINANCE # 01, SERIES 2020
AN ORDINANCE ESTABLISHING A STORM AND SURFACE WATER
DRAINAGE SYSTEM

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION
OF THE CITY OF GOSHEN:

(1) ESTABLISHMENT OF SYSTEM

Pursuant to its authority under the provisions of KRS 82.082 and 91A.510 and the opinion of the Kentucky Attorney dated the 23rd day of December 2008, affirming the power of the City to fund the utility through the imposition of a User Fee under the authority of KRS 82.082 and 91A.510; the City of Goshen does hereby establish a Storm and Surface Water Drainage System to be acquired, constructed, improved, operated, maintained and funded as hereinafter set out.

(2) PURPOSES OF SYSTEM

- (A) The purposes of the establishment of the system are to provide for possession, control and use of all storm and surface water drainage facilities in the city; to be responsible for maintenance of all storm water facilities, to improve, manage, operate and repair storm water facilities, to provide for effective management and financing of the system within the city, to provide methods for mitigating the damaging effects of uncontrolled and unplanned storm water runoff, to improve the public health, safety and welfare by providing for the safe and efficient capture and conveyance of storm water runoff and the correction of storm water problems, to authorize the establishment and implementation of a master plan (s) for storm drainage including design, coordination, construction, management, operation, maintenance, inspection and enforcement, to establish a reasonable Storm Water Usage Fee based on each property's contribution of storm water runoff to the system and to encourage and facilitate urban water resources management techniques including detention of storm water runoff, minimization of the need to construct storm sewers, and the enhancement of the environment.
- (B) In order to accomplish such purposes, a Storm Water Usage Fee shall be made on all real property within the city. The primary consideration in getting the Usage Fee shall be each property's contribution to runoff. The City Commission does hereby find (pursuant to KRS 92.330), that the User Fee is necessary to provide for the compliance with permitting for the City through the Division of Water and the implementation of the City's stormwater ordinances. All User Fees shall be held in separately from other City funds and be spent only for the purposes set out herein.

- (C) The Storm Water Usage Fee shall be fair and reasonable and bear a substantial relationship to the costs connected with the System. Rate studies shall be conducted periodically. The City shall adopt a Water Quality Management User Fee Policy that sets the user fee and establishes policies and procedures relating to the establishment and enforcement of the User Fee.
- (D) Usage Fees for residential properties of two or fewer dwelling units shall reflect the relatively uniform effect that residential development has on runoff. Large residential lots, parcels or tracts generally have a lower overall intensity of development than small residential lots because a lesser percentage of larger lots, parcels or tracts is covered with hard surfaced area. The effect of large residential properties on runoff is lowered by less imperviousness.
- (E) Multi-family residential properties and land uses other than residential shall pay according to the amount of runoff as computed by multiplying the number of ESU's times a charge per ESU.
- (F) An Appeal and Usage Fee adjustment process shall be created to review Storm Water Usage Fees when unusual circumstances exist which alter runoff characteristics or when either service or benefit varies from normal conditions or when computation of ESU is disputed.

(3) DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“AVERAGE RESIDENTIAL IMPERVIOUS AREA”. The average square footage of impervious area on one- and two-family residential properties in the city as determined by sampling the one- and two-family residential properties.

“CITY”. The City of Goshen, Kentucky.

“DEVELOPED”. The condition of real property altered from its natural state by the addition to or construction on the property of impervious ground cover or other man-made physical improvements such that the hydrology of the property or a portion thereof is affected.

“DEVELOPER”. A person, firm, partnership, corporation or other entity that excavates, builds or otherwise improves a specific parcel or tract of land.

“DRAINAGE USAGE FEE”. The fee levied upon all developed real property within the boundaries of the city.

“EQUIVALENT SERVICE UNIT (ESU)”. The billing unit used in the formula for generating charges for properties. The “ESU” for all one- and two-family residential properties shall be one. The “ESU” for each Class B property is calculated by dividing

the impervious area of a property by the average residential impervious area and rounding to two decimal points.

“EXISTING”. Present or in effect as of the time of the adoption of this ordinance.

“FACILITIES”. Various flood control, drainage works and storm water systems that include but are not limited to inlets, conduits, manholes, energy dissipation structures, channels, outlets, retention basins, detention basins, other structural components, ditches, floodwalls, basins, pipes, walls, channels, creeks, ponds, drainage easements, drainage right-of-way, drainage dedications, and other interests in property used, dedicated, controlled, possessed, maintained or leased by the City, for drainage purposes, together with all appurtenances which connect or assist in drainage of water or flood control.

“IMPERVIOUS SURFACE”. Those hard surface areas either which prevent or retard the entry of water into the soil in the manner that the water entered the soil under natural conditions pre-existent to development, or which cause water to run off the surface in greater quantities or at an increased rate of flow than that present under natural conditions pre-existent to development, including, without limitation, the surfaces as roof tops, asphalt or concrete paving, driveways, and parking lots, walkways, patio areas, storage areas, or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development.

“PREMISES”. A lot or parcel, and the building and other improvements situated thereon.

“STORM” and “STORM WATER” and “SURFACE WATER”. They are used as interchangeable terms.

“STORM WATER SYSTEMS” and “STORM WATER DRAINAGE”. All man-made facilities, structures, and natural water courses used for collecting and conducting storm water to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: inlets, conduits, appurtenant features, canals, creeks, channels, catch basins, ditches, streams, gullies, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, levies, and pumping stations.

“STORM SEWER” or “STORM DRAIN”. A sewer which carries storm waters, surface runoff and drainage, but which excludes sanitary sewage and industrial waste other than unpolluted cooling water.

“SYSTEM”. The “STORM AND SURFACE WATER DRAINAGE SYSTEM” created herein, which consists of the entire system of flood protection and storm water drainage and surface water runoff facilities owned or leased by the city or over which the city has right of use for the movement and control of storm drainage and surface water runoff, including both naturally occurring and man-made facilities.

“STORM WATER MANAGEMENT USER FEE POLICY” A written policy adopted by Municipal Order, as set out herein, that direct out the day-to-day operational detail required to carry out the intent of this ordinance, including the setting of fees.

“UNDEVELOPED”. That condition of real property unaltered by the construction or addition to the property by man of impervious ground cover or physical man-made improvements of any kind which change the hydrology of the property from its natural state.

(4) AUTHORITY OVER DESIGN, MAINTENANCE AND INSPECTION

- (A) The City shall monitor the design, operation, maintenance, inspection, construction and use of all storm sewers, storm drains and storm water facilities in the city and shall have exclusive jurisdiction for the design and construction of public storm water facilities in the city and shall inspect, operate and maintain the facilities.
- (B) The City shall have exclusive jurisdiction for the inspection, maintenance, repair, removal, construction and operation of drainage facilities on all city streets, boulevards, alleys, viaducts, sidewalks, curbs, street crossing, grade separation and other public ways and easements, and all drains, ditches, culverts, canals, streams, levees, tunnels and appurtenances thereof.
- (C) The City shall implement and execute this ordinance by and through its Commission form of government under Kentucky Revised Statutes, with the Commission approving this Ordinance as well as the Storm Water Management User Fee Policy.

(5) RULES AND REGULATIONS

- (A) In order to accomplish the purpose of this ordinance, and to protect the System, to secure the best results from the construction, operation and maintenance thereof, and to prevent damage and misuse of any of the drainage facilities, improvements or properties within the city, the City, shall prepare necessary and reasonable rules and regulations (hereinafter referred to as the Storm Water Management User Fee Policy) which may include, but not be limed to, the following:
 - (1) To prescribe the way storm sewers, ditches, channels and other storm water facilities are to be designed, installed, and adjusted, used, altered or otherwise changed.
 - (2) To prescribe inspection and other fees permitted by this ordinance.
 - (3) To prescribe the way the facilities are operated.
 - (4) To facilitate the enforcement of this ordinance.
 - (5) To prescribe the collection procedures and timing of Usage Fee bills.

- (6) To protect the drainage facilities, improvements and properties controlled by the city and to prescribe the manner of their use by any public or private person, firm or corporation.
- (7) To protect the public health, safety and welfare.
- (B) The City Mayor shall submit the Storm Water Management User Fee Policy (and any changes, additions or amendments thereto) to the City Commission for approval, via a Municipal Order. The initial Storm Water Management User Fee Policy of the City of Goshen, Kentucky is dated the 20 day of April, 2020; and was passed via Municipal Order on the same date.

(6) PLAN REVIEW

- (A) The City shall be responsible for all storm and surface water drainage plan reviews for all development in the city. Any person or organization removing, constructing, enlarging, altering, repairing, relocating, or demolishing a storm sewer, natural watercourse or other drainage facility, must first file an application and obtain a permit from the city.

(7) FUNDING

Funding for the system and other storm water activities connected therewith shall include, but not be limited to:

- (A) Funds appropriated by the city;
- (B) Storm drainage Usage Fee;
- (C) Permit and inspection fees;
- (D) Direct Charges. This charge will be collected from owner and developers for the cost of designing and constructing Storm Water Facilities and administrative costs and related expenses where the city designs and constructs or contracts for the construction of the facilities.
- (E) Other income obtained from federal, state, local and private grants or revolving funds.

(8) CAPITAL IMPROVEMENTS

The City will implement a capital improvements program. The City shall submit the capital improvement program which lists the capital improvements to the city for approval. Upon approval of the capital improvements program, the City shall have authority to proceed with, awarding of contracts, acquisition of property and construction of said projects and no other approval will be required.

(9) DRAINAGE RESPONSE SYSTEM

The City will operate and maintain a complaint response system in order to assure effective and timely response to all surface and storm water drainage complaints

and shall regularly and timely issue report to the city as to the number and type of drainage complaints received and to the response made to the complaints.

(10) APPLICATION OF REVENUES

All monies collected through Usage Fees and other fees authorized herein, shall be deposited in a special revenue account and shall be separately identified and accounted for in the city's financial records. Collection and disbursement of such monies shall be administered according to generally accepted principles of governmental accounting. All such money shall be used for costs and expenses, including administrative costs and salaries, related to the Storm and Surface Water Drainage System established by this chapter.

(11) DELINQUENT ACCOUNTS

When any service charges remain unpaid for a period of 30 days for monthly billings and 45 days for quarterly billings after the same becomes due and payable, the property, the tenant and the owner thereof, shall be deemed delinquent until the time as all rates, fees and charges are fully paid; and the city may terminate public sewer, water and drainage service to that property and pursue its legal remedies against the tenant or owner to obtain payment.

(12) NO LIABILITY

Floods and storm water runoff may occasionally occur which exceeds the capacity of the system. This chapter does not imply nor create a duty on the city to insure that property subject to fees and charges established herein will always be free from flooding or flood damage, or that storm water systems capable of handling all storm events can be cost effectively constructed, operated or maintained. Nor shall this chapter create a liability on the part of, or cause of action against, the city, or any of their elected officials, officers, or employees for any flood damage or any damage that may result from storms or runoff thereof.

(13) PENALTY

Any failure of refusal to comply with the provisions of this chapter is hereby designated a violation. Each day that a violation of this chapter continues shall constitute a separate and distinct offense. Any person, firm or corporation who violates the terms of this chapter shall be fined an amount not to exceed \$250.00 for each offense.

(14) EFFECTIVE DATE.

This ordinance shall take effect upon its reading and passage, in accordance with law.

First Reading: 3-16-2020

Second Reading: 4-20-2020

Passage and Approval: 4-20-2020

Bob Thacker Mayor

ATTEST:

Joyce Morphew, City Clerk

"Aye" Votes: Thacker
Hall
Rolfes
Dearmond

"Nay" Votes: Morales