

CHAPTER 7

Stormwater Fee Ordinance

SECTION

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13-701. Title and purpose. This Ordinance shall be known as the “Stormwater Fee Ordinance” for the City of Paris, Tennessee, “City”.

- (1) Introduction. The City 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 within the incorporated City limits. Such benefits include, but are not limited to: the provision of adequate systems of collection, conveyance, detention, retention, treatment and release of stormwater, the reductions 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 water quality in the stormwater and surface water system and its receiving waters of the state all of which are managed by the Stormwater Project Manager as part of the Municipal Storm Sewer System (MS4) Program.
- (2) Purpose. The objective of this ordinance is to promote the public health, safety and general welfare of the City and its citizens in compliance with the Federal Clean Water Act, 33 U.S.C. 1251 et seq., and Tennessee Code Annotated, § 68-221-1101 et seq. which require municipalities to implement stormwater management programs, within prescribed time frames, to regulate stormwater discharges to protect water quality; establish adequate systems of collection, conveyance, detention, treatment and release of stormwater; reduce hazards of property and life resulting from stormwater runoff; and enable municipalities to fix and require payment of fees for the privilege of discharging stormwater. The City finds that a stormwater management system which provides for the treatment of stormwater is of benefit and provides services to all property within the City.

It is further determined and declared that charges shall be established for each parcel of real property located within the municipal limits of the City as provided hereinafter to provide for dedicated funding sources for the administration of stormwater management programs and/or the stormwater system of the City. The proceeds of charges so derived shall be used for the purposes of stormwater management including, but not limited to: planning, operation, maintenance, repair, replacement and debt service of the City’s stormwater management programs and systems necessary to protect the health, safety and welfare of the public.

The purpose of the Stormwater user fee is to provide stormwater management for the City including to:

- (a) Administer and enforce the City Stormwater Management Ordinance, the same being 11.1305 *et seq.* of the Paris Municipal Code;
- (b) Administer, plan, and implement stormwater projects to protect, maintain and enhance the environment of the City;
- (c) Implement activities necessary to maintain compliance with the City's MS4 National Pollutant Discharge Elimination System (NPDES) Permit and applicable regulations, 40 CFR Section 122.26 for stormwater discharges;
- (d) Annually analyze the cost of services provided and the system and structure of fees, charges, civil penalties and other revenues of the fee and make recommendations for changes therein as necessary to support the Stormwater Fee services; and,
- (e) Advise the Board of Commissioners, City Manager, and other City departments on matters relating to the fee.

13-702 Jurisdiction. The Stormwater Fee Ordinance shall govern all properties within the corporate limits of the City, in Tennessee.

13-703 Definitions.

- (1) "Agricultural property" means property which is zoned agricultural and/or property which yields an annual minimum, or which the annual minimum has been met in two of the last five years, of \$1,000.00 of agricultural products produced and/or sold from the operation of the property. Agricultural production shall include agricultural, forest, and/or livestock production as defined by the United States department of Agriculture, Natural Resources Conservation Service and Environment Quality Incentive. Proof of agricultural producer status may include IRS from 1040 Schedule F or other accounting records certified by a tax preparer.
- (2) "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement or extension of stormwater facilities; the engineering, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of stormwater facilities; and the inspection and supervision of the construction of stormwater facilities.
- (3) "Customer of record" means the responsible party listed as the utility customer in the Paris Board of Public Utilities' data base.
- (4) "Developed property" means any real property which has undergone man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of equipment or materials.
- (5) "Exempt property" means all public right-of-ways, public streets and public roads, public alleys, public sidewalks and public greenways, public drainage facilities, property that does not discharge stormwater runoff to the stormwater or flood control facilities, owners and/or operators of agricultural land in the municipality, upon which the owner and/or operator conducts activities that enable the owner and/or operator to satisfy the requirements of a qualified farmer or nurseryman under Tennessee law, and railroad right-of-way properties within the City. For purposes of this definition, "public" shall mean that which is maintained by or is to be dedicated to the City and/or the State of Tennessee or the government of the United States.

- (6) "Fiscal year" means July 1 of a calendar year to June 30 of the next calendar year, both inclusive.
- (7) "Impervious surface" means a surface which is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or any other surface which impedes the natural infiltration of surface water.
- (8) "Impervious surface area" means the number of square feet of horizontal surface covered by buildings, and other impervious surface.
- (9) "Manager" means the City's City Manager or his/her designee who is designated to supervise the operation of the stormwater management programs and system.
- (10) "Multifamily residential property" means a residential structure located on a parcel that is designed with five or more dwelling units which accommodate five or more families or groups of individuals living separately and not sharing the same living space
- (11) "Other developed property" means all Developed Property within the municipal limits of the City other than:
 - (a) Residential property;
 - (b) Exempt property;
 - (c) Vacant property; or
 - (d) Park lands/Cemetery;

Other developed property shall include commercial properties, industrial properties, apartments, parking lots, hospitals, schools, recreational and cultural facilities, hotels, offices, churches, federal, state and local government properties and multi-use properties. Such property shall also include single family dwellings which are attached to or otherwise a part of a building housing a commercial enterprise. Any single family residential structure which contains more than four attached dwelling units are specifically included in this definition.

- (12) "Park" / "Cemetery" means all real property owned by federal, state and/or local governments that has been designated by such governmental entity for use as a public park or cemetery.
- (13) "Person" means any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state of country.
- (14) "Property owner" means the property owner of record as listed in the City's and/or county's tax assessment roll. A property owner includes any individual, corporation, firm, partnership, limited liability company, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.
- (15) "Runoff coefficient" means a term used to describe the percentage of precipitation that leaves a particular site as runoff. Runoff is precipitation that does not soak or absorb into the soil surface and is greatly impacted by the amount of impervious surface that exists on a particular site. The runoff coefficient relates the amount of impervious surface to the intensity of development.
- (16) "Single family residential property" means a developed property which serves the primary purpose of providing a permanent dwelling unit to a single family. A single family detached dwelling, a

townhouse, an accessory apartment or second dwelling unit, a condominium, a duplex, a triplex, a quadraplex, a villa, or a garden home is included in this definition. A single family dwelling which is attached to, or otherwise a part of, a building housing a commercial enterprise is not included in this definition.

- (17) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, infiltration, and drainage.
- (18) "Stormwater management" means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water, flood plains, flood control, grading, erosion, tree conservation, and sediment control.
- (19) "Stormwater management fund" or "Fund" means the fund created by this ordinance to establish, improve and maintain the city's stormwater management program in compliance with the most recent National Pollutant Discharge Elimination System statewide general permit.
- (20) "Stormwater management program" means any permit or regulation mandated by the Tennessee Department of Environmental Conservation, Environmental Protection Agency, or the City.
- (21) "Stormwater user fee" or "Fee" means the service fee established under this ordinance and levied on owners or users of parcels or pieces of real property to fund the costs of stormwater management program in the City. The stormwater user fee is in addition to other fees that the City has the right to charge under any other rule or regulation of the City.
- (22) "Surface water" means waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes, ponds, wetlands, marshes and sinkholes.
- (23) "User" means the owner or customer of record of property subject to the stormwater user fee imposed by this ordinance.
- (24) "Vacant/Undeveloped property" means property on which there is not a structure for which a certificate of occupancy has been issued or a property that has not been developed.
- (25) "Unit rate" means the stormwater user fee for any developed property as established by resolution.

13-704. Funding of stormwater fee. Funding for the Stormwater fee activities may include, but are not limited to, the following:

- (1) Stormwater user fees;
- (2) Civil penalties and damage assessments imposed for or arising from the violation of the City Stormwater Management Ordinance and the City Stormwater Fee Ordinance;
- (3) Stormwater permit and inspection fees; and
- (4) Other funds or income obtained from federal, state, local and private grants, or revolving funds, and from the Local Government Public Obligations Act of 1986 (Tennessee Code Annotated, title 9, chapter 21).

13-705. Stormwater management fund. All revenues generated by or on behalf of the Stormwater Fee shall be deposited into a Stormwater Management Revenue Line Item in the City Budget and used to fulfill the purposes of the Stormwater Program.

13-706. Operating budget. The City shall adopt, based on a recommendation from the City Manager, Planning and Codes Director, and/or the Stormwater Project Manager, an operating budget for

the Stormwater Management Fund each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance.

13-707. Stormwater user fee established. There shall be imposed on each and every developed property in the City, except exempt property, a stormwater user fee, which will be charged either monthly or as a regular interval charge, which shall be set from time to time by ordinance as adopted by the City. Prior to establishing or amending the stormwater user fee, the City shall advertise its intent to do so by publishing a notice in a newspaper of general circulation in the City at least ten (10) days in advance of the meeting of the Board of Commissioners which shall consider the adoption of the fee or its amendment.

13-708. Property classification for stormwater user fees.

(1) Property classifications. For purposes of determining the stormwater user fee, all properties in the City are classified into one of the following categories:

(a) Residential property for single or multifamily;

The Board of Commissioners finds that the intensity of development of most parcels of real property in the City classified as single or multifamily residential is less than the average intensity of development for other developed property and similar to each other and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the impervious surface on each parcel. Therefore, all residential properties in the City shall be charged the unit rate for residential properties regardless of the size of the parcel or the impervious surface area of the improvements.

(b) Other developed property;

The fee for other developed property (i.e., nonresidential property) in the City shall be the unit rate for other developed property.

(c) Vacant/undeveloped property;

There shall be no stormwater user fee for vacant/undeveloped property or as otherwise provided by State Law.

(d) Exempt property; and

There shall be no stormwater user fee for exempt property or as otherwise provided by State Law.

(e) Unit rate

Unit rate for residential properties and other developed properties shall be defined by resolution by the Board of Commissioners.

(2) The unit rate for residential property shall be two dollars and fifty cents (\$2.50) per month. The unit rate for other developed property shall be based on the total acreage of the property, as listed below:

13-709. Property owners to pay charges. The owner of each parcel of developed property shall be obligated to pay the stormwater user fee as provided in this ordinance, provided however, that if no electric service is being provided by the Paris Board of Public Utilities at the property to the owner as a customer of record and such service is being provided to a customer of record other than the owner, it shall

be presumed that the owner and such customer of record have agreed that the customer of record shall be obligated to pay such stormwater user fee.

Residential properties shall be billed a flat residential fee based on the placement of utility meters. In the case of a multifamily residential property, if units are not individually billed for any electric service, i.e. a unit's electric service is billed to a master meter, then the parcel owner for the master meter shall be billed as other developed property based on the acreage of the property.

13-710. Billing procedures.

- (1) Rate and collection schedule. The stormwater user fee shall be billed and collected monthly as a part of the monthly utility bill issued by Paris Board of Public Utilities for all residential or other developed properties within the corporate limits.

The City and Paris Board of Public Utilities shall enter into a contract pursuant to T.C.A. 68-221-1101 *et seq.* whereby Paris Board of Public Utilities collects the stormwater user fee. Such contract shall include the provisions of T.C.A. 11-221-1107 regarding discontinuance of utility service upon non-payment of the stormwater user fee portion of the Paris Board of Public Utilities bill.

- (2) Mandatory statement. Pursuant to Tennessee Code Annotated § 68-221-1112, each bill that shall contain stormwater user fees shall contain the following statement in bold: **“THIS FEE HAS BEEN MANDATED BY CONGRESS”**.

13-711. Appeals of fees. Any party who disagrees with the calculation of the stormwater user fee, as provided in this ordinance, may appeal such fee determination to the Housing Board of Adjustments and Appeals within sixty (60) days after receipt of any stormwater bill. Any appeal not filed within the time permitted by this section shall be deemed waived. An appeal does not relieve any fees until decided during the appeal.

All appeals shall be filed in writing addressed to the Stormwater Project Manager for the City and shall state the grounds for the appeal and the amount of the stormwater user fee the appellant asserts is appropriate. The appealing party shall provide such information and documentation supporting the basis of the appeal.

The Housing Board of Adjustments and Appeals shall review the appeal and determine whether the challenged determination is consistent with the provisions of this chapter. Appeals related to the stormwater user fee shall be decided based on substantiated evidence with a sound engineering and factual basis. All appeal determinations shall be applied utilizing a strict interpretation of the Stormwater Fee Ordinance. At any hearing related to an appeal or credit determination, the City shall be allowed to present evidence, findings, and recommendations; appealing parties and applicants shall be given an opportunity to present evidence, findings, and recommendations.

Each appeal shall be placed on the Housing Board of Adjustments and Appeals agenda within (30) days after the Stormwater Project Manager receives the written appeal. The Housing Board of Adjustments and Appeals may request additional information from the appealing party; the Housing Board of Adjustments and Appeals may defer the determination of an appeal one time to a later meeting, which meeting shall occur within (30) days of the initial meeting.

The Stormwater Project Manager shall notify the appealing party of the date of the appeal review hearing in writing. Such written notice shall be given at least ten (10) days prior to the hearing by regular mail at the address provided in the written appeal document. The decision of the Housing Board of Adjustments and Appeals shall be final and conclusive with no further administrative review. (Ord. #1214, 7/1/2017)