

ORDINANCE NO. 20-2006

**AN ORDINANCE SUPPLEMENTING ORDINANCE NO. 17-2003 TO ESTABLISH A STORMWATER MANAGEMENT DEPARTMENT WITHIN THE TOWN OF PLAINFIELD SEWAGE WORKS AND TO ESTABLISH A SCHEDULE OF RATES AND CHARGES FOR THE USERS OF THE STORMWATER SYSTEM OF SAID TOWN, AND OTHER MATTERS CONNECTED THEREWITH.**

WHEREAS, the Town of Plainfield, Indiana (the "Town") owns a municipal sewage works system for the purpose of collecting and disposing of sewage of the residents of the Town and surrounding areas in a sanitary manner; and

WHEREAS, a portion of the sewage works of the Town consists of a stormwater collection and conveyance system, including certain combined sewers ("Stormwater System"); and

WHEREAS, the Town desires to establish a stormwater management department (the "Department"), under the jurisdiction of the Council for the purpose of implementing capital improvements and operation and maintenance activities to comply with federal and state requirements; and

WHEREAS, the Town desires to establish a distinct just and equitable schedule of fees and charges for the users of the Stormwater System; and

WHEREAS, the Town Council previously adopted Ordinance No. 17-2003, which established rates and charges for the use of and services rendered by the sewage works system of the Town and repealed and replaced prior sewage works rate ordinances of the Town; and

WHEREAS, it is deemed necessary to supplement Ordinance No. 17-2003 to establish certain terms and conditions for the use of the Stormwater Management Department to maximize the public utility and benefit;

NOW, THEREFORE, BE IT ORDAINED BY THE Town Council of the Town of Plainfield, Indiana AS FOLLOWS:

**Section 1: Definitions**

For the purpose of this article, 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 meanings given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- a. *APPROVED PLANS*: Plans approved by the Town according to a permits and plan review which will govern all improvements made within the Town that require a stormwater system or changes or alterations to the existing stormwater system.
- b. *DEVELOPED PROPERTY*: Any lot or parcel of land altered from its natural state by the construction, creation or addition of impervious area, except public rights-of-way.
- c. *EDU (Equivalent Dwelling Unit)*: Each residential property is equal to one (1) EDU. For non-residential properties, an EDU is equal to three thousand (3000) square feet of impervious area.
- d. *IMPERVIOUS AREA*: Any part of any developed property that has been modified by the action of persons to reduce the land's natural ability to absorb and hold rainfall. This includes any hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions pre-existent to development. By way of example, common impervious areas include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, or any cleared, graded, paved, graveled, or compacted surface or packed earthen materials, or areas covered with structures of other surfaces which similarly impede the natural infiltration of surface water into the soil mantle.
- e. *LOT*: The smallest separately segregated parcel, unit or plot of land having an identified owner, boundaries, and surface area which is documented for property tax purposes by the Hendricks County (Indiana) Assessor.
- f. *NON-RESIDENTIAL PROPERTY*: All properties not encompassed within the definition of Residential Property, including but not limited to: commercial, industrial, retail, multi-family, governmental, institutional, schools and churches.
- g. *PERSON*: Any natural individual, corporation, partnership, institution, or other entity.
- h. *RESIDENTIAL PROPERTY*: Any lot or parcel existing in the sewage works system service area on which resides either a single family dwelling unit or an individually metered single family dwelling unit within a duplex or other multi-family property.
- i. *SERVICE METER (aka Meter)*: A water meter or sewage meter intended to measure flow to/from the Town's utility services.
- j. *STORMWATER*: The chemical compound of hydrogen and oxygen which is produced from atmospheric clouds as rain, snow, sleet, and hail.
- k. *STORMWATER AVAILABILITY FEES*: The charge to a user for a new or additional connection to the Town's stormwater system, charged in return for the Town making available to such user the Town's stormwater system consisting of all facilities, operations and maintenance activities.

- l. *STORMWATER SYSTEM:* All constructed facilities, including structures and natural watercourses under the ownership, and/or control of the Town, used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, streets, culverts, retention or detention basins and pumping stations; and excluding therefrom, any part of the system of drains and watercourses under the jurisdiction of the Hendricks County Drainage Board or waters of the State of Indiana.
- m. *STORMWATER DEPARTMENT USER FEE:* A charge imposed on users of the Town's Stormwater System.
- n. *SURFACE WATER:* Water occurring on the surface of the land, from natural causes such as rainfall, whether falling on the land in question or flowing onto the land in question.
- o. *TOWN:* Shall mean the Town of Plainfield, Indiana acting by and through the Town Council.
- p. *TOWN COUNCIL:* Shall mean the Town Council of the Town of Plainfield, Indiana, or any duly authorized officials acting on its behalf.
- q. *UNDEVELOPED PROPERTY:* That which has not been altered from its natural state by the addition of any improvements such as a building, structure, or impervious surface, change of grade or landscaping. For new construction, a property shall be considered developed pursuant to this chapter:
  - 1.) Upon issuance of a certificate of occupancy, or upon completion of construction or final inspection if no such certificate is issued; or
  - 2.) Where construction is at least fifty (50) percent complete and construction is halted for a period of three (3) months.
- r. *SEWAGE WORKS SERVICE AREA:* All property within the corporate boundary of the Town of Plainfield, Hendricks County, Indiana and any property outside the corporate boundary receiving sewer service from the Town.

#### Section 2: Stormwater Department User Fee

A stormwater department user fee shall be imposed on all property within the sewage works system service area, including those classified as non-profit or tax-exempt, for services and facilities provided by the stormwater department. This user fee is deemed reasonable and is necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future stormwater system for the Town of Plainfield, Indiana.

### Section 3: Stormwater Department User Fee Structure

For the purposes stated herein, there is hereby assessed a stormwater department user fee to each stormwater department user within the sewage works system service area of the Town of Plainfield, Hendricks County, Indiana, in an amount as determined below. For purposes of imposing the stormwater department user fee, all lots and parcels within the sewage works system service area are classified as either:

- i. Residential, or
  - ii. Non-Residential, or
  - iii. Undeveloped
1. Residential Properties: Monthly fees for residential properties located within the sewage works system service area are hereby established as one (1) EDU multiplied by the Base Rate.
  2. Non-Residential Properties: Monthly fees for non-residential properties located within the sewage works system service area are hereby established as the number of EDU each contains multiplied by the Base Rate. The number of EDU is determined by dividing the total amount of impervious area by three thousand (3000) square feet, rounding the resulting calculated EDU to the next whole number, with two (2) being the lowest whole number for such purpose.
  3. Undeveloped Properties: Monthly fees for undeveloped properties located within the corporate boundary of the Town of Plainfield are hereby established as \$0.10 per acre, rounding to the next whole ten acre increment, with a minimum charge being equal to the herein established Base Rate.

### Section 4: Fee Establishment Procedure

The stormwater department user fee shall be based on the relative contribution of surface and stormwater runoff from a given parcel to the Town's stormwater system. This stormwater department user fee rate is designed to recover and be able to pay the cost of rendering stormwater service to the users of the stormwater system, and shall be the basis for assessment of the Town's stormwater department user fee. This rate is established so as to maintain adequate fund reserves to provide for reasonably expected variations in the cost of providing services, as well as variation in the demand for services. This rate shall be evaluated annually as to its sufficiency to satisfy the needs of the stormwater department. The following methods may be used to determine the non-residential factors:

- a. Computation of the parcel size or impervious area using on-site measurements of the apparent outside boundaries of the parcel or impervious area in or on such developed parcel, respectively, made by the Town or on its behalf; or
- b. Computation of the parcel size or impervious area using the dimensions of the parcel or impervious area in or on the parcels which are set forth and contained in the records of the office of the Hendricks County Assessor; or
- c. Estimation, calculation and computation of the parcel size or impervious area using aerial photography or photogrammetry, or using the information and data from on-site measurements of like or similar property or features or as contained in the records of the Town or County; or

- d. Computation of parcel size or impervious area using data provided by the owner, tenant or developer. The authorized official may require additional information as necessary to make the determination.

#### Section 5: Schedule of Rates

The Stormwater Department User Fee **Base Rate** shall be implemented in two (2) phases.

- a) Phase One – The Phase One **Base Rate Per Month** shall be \$2.00 and shall become effective on the utility bills distributed in September 2006.
- b) Phase Two – The Phase Two **Base Rate Per Month** shall be \$4.00 and shall become effective on the utility bills distributed in January 2007.

#### Section 6: Availability Fees

No connection to the Town's sewage works system shall be allowed until a permit is obtained and payment of Stormwater Availability Fees has been made to the Town. Stormwater Availability Fees shall be:

##### Residential Users

\$100/EDU

##### Non-Residential Users

\$100/EDU

Payment of Stormwater Availability Fees shall be made at the following time:

- a) For new construction, the Stormwater Availability Fee shall be paid in full before issuance of a building permit;
- b) For all new or additional users not qualifying as "new construction", the Stormwater Availability Fee shall be paid in full before the new or additional connection is made to the Town's sewage system.

#### Section 7: Billing and Payment: Penalties

Such rates and charges shall be prepared, billed and collected by the Town in the manner provided by law and ordinance.

- a. The rates and charges for all users shall be prepared and billed monthly.
- b. The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the Town for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which said records are kept and during the hours that such office is open for business.
- c. As provided by statute, all rates and charges not paid when due are hereby declared to be delinquent and a penalty of ten percent (10%) of the amount of the rates or charges shall thereupon attach thereto. The time at which such rates or charges shall be paid is now fixed at fifteen (15) days after the date of mailing of the bill.

#### Section 8: Adjustment of Fees

That the rules and regulations promulgated by the Town, after being approved by the Town Council, shall among other things, provide for an appeal procedure whereby a user shall have the right to appeal a decision of the administrator of the sewage works system and the User Fee Structure to the Town Council and that any decision concerning the sewage works system or User Fee Structure of the Town Council may be appealed to the circuit court of the county under the appeal procedures provided for in the Indiana Administrative Adjudication Act.

#### Section 9: Stormwater Revenue Fund

All revenues earned and fees collected for stormwater service, including but not limited to, department user fees, availability fees, penalties assessed by this Ordinance or subsequent amendments, or interest earnings on any unused funds shall be deposited in an account entitled "Town of Plainfield Stormwater Revenue Fund" and shall be subject to the provisions of Indiana Code 36-9-23, as amended. Funds from this account shall not revert to any other Town Utility or the General Fund of the Town and may not be transferred for any other purpose. To the extent that there are outstanding revenue bonds of the Town issued pursuant to the provisions of Indiana Code 36-9-23, as amended, revenues deposited in the Stormwater Revenue Fund shall be subject to the covenants contained in the ordinance or ordinances authorizing such outstanding bonds. Disbursements from the Stormwater Revenue Fund shall be authorized by the Plainfield Clerk-Treasurer and, as required by law, the Town Council. Such disbursements shall be used exclusively for the operation, maintenance and improvement of the Town's stormwater department, which includes, but is not limited to, the following:

- a) Stormwater management services, such as studies, design, permit review, plan preparation and development review.
- b) Operation, maintenance, repair and replacement of the stormwater collection, storage, conveyance, and/or treatment infrastructure.
- c) Project costs related to constructing major or minor structural improvements to the Town's stormwater system.
- d) Administrative costs associated with the management of the stormwater department.
- e) Debt service financing of the Town's stormwater-related capital improvements.
- f) Funding of studies such as water quantity and quality monitoring, aerial photography, and geotechnical work associated with the planning of the stormwater-related infrastructure.
- g) Implementation of long range stormwater plans developed and approved by the Indiana Department of Environmental Management for elimination of combined sewer overflows.

Section 10: All ordinances or parts of ordinances in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence or provision of this shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

Section 11: This ordinance shall be in full force and effect from and after its passage, approval, recordings and publications as provided by law.

Passed and adopted by the Town Council of the Town of Plainfield on this 24<sup>th</sup> day of June, 2006.

Robin G. Brandgard  
Robin G. Brandgard, President

Bill Kirchoff  
Bill Kirchoff, Vice-President

Kent McPhail  
Kent McPhail, Member

Daniel W. Fivecoat  
Daniel W. Fivecoat, Member

Edmund L. Gaddie, Jr.  
Edmund L. Gaddie, Jr., Member

ATTEST:

Wesley R. Bennett  
Wesley R. Bennett, Clerk-Treasurer

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