

VILLAGE OF WHEELING

ORDINANCE NO. 4966

AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE 13 "WATER AND SEWERS," OF THE WHEELING VILLAGE CODE TO ADD A NEW CHAPTER 13.14 RELATING TO A STORMWATER UTILITY FEE

APPROVED BY THE CORPORATE AUTHORITIES OF THE VILLAGE OF WHEELING THIS 23rd DAY OF NOVEMBER 2015

Published in pamphlet form by authority of the Corporate Authorities of the Village of Wheeling, Cook and Lake Counties, Illinois, this 24th day of November 2015

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ADOPTED BY THE CORPORATE AUTHORITIES OF THE VILLAGE OF WHEELING

Published in pamphlet form by authority of the Corporate Authorities of the Village of Wheeling, Cook, Lake County, Illinois, this 24th day of November 2015.

[Note: When an ordinance is published in pamphlet form, the following certificate should be filled out by the Municipal Clerk.]

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

CERTIFICATE

I, Elaine E. Simpson, certify that I am the duly elected and acting Municipal Clerk of the Village of Wheeling, Cook & Lake Counties, Illinois.

I further certify that on November 23, 2015, the Corporate Authorities of such municipality passed and approved Ordinance No. 4966, entitled **Ordinance Amending Various Sections Of Title 13 "Water and Sewers," of the Wheeling Village Code to Add a New Chapter 13.14 Relating to a Stormwater Utility Fee** which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 4966, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on November 24, 2015 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Municipal Clerk.

DATED at Wheeling, Illinois, this 23rd day of November 2015.

(SEAL)



Elaine E. Simpson

Municipal Clerk

ORDINANCE NO. 4966

AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE 13 "WATER AND SEWERS," OF THE WHEELING VILLAGE CODE TO ADD A NEW CHAPTER 13.14 RELATING TO A STORMWATER UTILITY FEE

WHEREAS, the Village of Wheeling ("Village") is an Illinois Municipal Corporation pursuant to the Illinois Constitution of 1970 and the Statutes of the State of Illinois; and

WHEREAS, the Village of Wheeling is routinely subject to chronic flooding that impacts our residents' quality of life and our businesses' ability to operate without interruption; and

WHEREAS, improvements to the Village's stormwater management system will help eliminate and decrease the impact of flooding in the Village; and

WHEREAS, the Village does not currently have a revenue source to pay for the cost of maintaining and improving the stormwater management system, including those items identified in the Village's Stormwater Master Plan; and

WHEREAS, after careful analysis and discussion by staff and the Village Board, the Village has determined that it is in the best interests of the residents of the village to establish a stormwater utility fund, including the imposition of a stormwater utility fee, and that this stormwater utility fee will protect and promote the public health, safety, and welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF WHEELING, COUNTIES OF COOK AND LAKE, STATE OF ILLINOIS, AS FOLLOWS:

Section A: The foregoing recitals are incorporated into and made a part of this Ordinance as the findings of the Village Board

Section B: Title 13 "Water and Sewers," of the Wheeling Village Code is hereby amended to add a new Chapter 13.14 "Stormwater Utility Fee" which shall read in its entirety as follows:

Section 13.14.010 Purpose

The purpose of this Chapter is to establish a stormwater utility to protect the public health, safety, and welfare of the residents of the Village of Wheeling from damage to property and local waterways caused by stormwater runoff and floods by reduction, control and discharge of pollutants to the Village's stormwater system. In order to provide an effective and long-term approach to stormwater management within the Village an adequate and stable funding source must be identified.

Section 13.14.020 Definitions.

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

"Developed Land" means a parcel within the corporate limits of the Village that has been altered from its natural state by the addition of impervious area.

"Direct Discharge" means the conveyance of stormwater runoff directly from a parcel of property to a receiving stream or Lake Michigan, without using any part of the stormwater system.

"Equivalent Runoff Unit (ERU)" means the base billing unit for the stormwater utility fee, used as an index to compare runoff generated by different types and uses of parcels with different stormwater runoff characteristics. One ERU is defined as the runoff generated by a typical single family residential parcel and shall equal three thousand (3,000) square feet of impervious area or any fraction thereof.

"Impervious Area" means the area within a parcel that prevents or significantly impedes the infiltration of stormwater into the soil. Impervious areas shall include, but are not limited to buildings, roofed structures, paved areas, walkways, driveways, parking lots, patios, decks, swimming pools, and similar non-porous areas.

"NPDES or National Pollutant Discharge Elimination System" means the national permitting program implemented under the Clean Water Act.

"Parcel" means an area of land within the corporate limits of the Village that has been established by a plat or other legal means and has been assigned a Property Index Number (PIN) by the County of Cook, Illinois.

"Single Family Residential (SFR)" means a parcel or parcels containing one dwelling, designed or used exclusively for residential occupancy by one family, which contains one or more bedrooms, with permanently installed cooking and sanitary facilities.

"Stormwater Service Connection" means such pumps, pipes, drains and other appurtenances necessary to drain and channel runoff from any parcel into the Village of Wheeling stormwater system.

"Stormwater System, or Village Stormwater System" means the system of conveyances owned and operated by the Village and designed for or used in the collection, control, transportation, treatment or discharge of stormwater, including but not limited to storm sewers, storm drains, curbs, gutters, ditches, detention ponds or basins, dams, river impoundment, manmade channels or storm drains, and flood control facilities, and any appurtenances thereto.

"Stormwater Utility or Village Stormwater Utility" means the Village of Wheeling stormwater utility established by this chapter for the management, operation, maintenance, engineering, planning and capital investments related to the stormwater system.

"Undeveloped Parcel" means a parcel of land that remains in its natural state with no impervious area.

"User" means the owner of a parcel that uses, benefits from or connects to the Village's stormwater system.

Section 13.14.030 Stormwater utility established.

A. Stormwater Utility. The Village hereby establishes a stormwater utility within the Public Works Department to provide for the management, operation, maintenance, engineering, planning, construction, enhancement and rehabilitation of the Village's stormwater systems and facilities, as defined in this chapter.

B. Terms and Conditions of Service. All stormwater management service within the Village shall be provided in accordance with the provisions of this chapter and the rules and regulations promulgated pursuant to this chapter.

Section 13.14.040 Rules and regulations.

The Village Manager shall adopt such rules and regulations as may be necessary to give effect to and explain the provisions of this chapter. The Director of Public Works shall make recommendations to the Village Manager regarding the content of the rules and regulations and shall enforce the rules and regulations once they are adopted.

Section 13.14.050 Charges for stormwater utility service.

A. Establishing Rates and Fees. Coinciding with water billed by the Village beginning January 1, 2016, and thereafter, the owner of any parcel that uses, benefits from or connects to the stormwater utility shall be charged for such service in accordance with rates, fees and charges established from time to time by resolution of the Village Board..

B. Basis of Rates and Fees. The stormwater utility fee shall be based on the extent to which each parcel creates a need for stormwater management; the amount of impervious area on each parcel; and the cost of operating, maintaining, and improving the stormwater system.

Section 13.14.060 Stormwater utility fee.

A. Fee Imposed. A stormwater utility fee is hereby imposed on the owners of property in the Village. The Village Board shall retain at all times the power and authority to set stormwater utility fee rates. The Village shall review the adequacy of the stormwater utility fee rate annually in connection with the budget process. The rate may be revised to reflect any changes in local capital costs, operation, or maintenance, plus replacement codes.

B. Rates. The stormwater utility fee for all parcels in the Village shall be based on the amount of impervious area on the parcel. The billing unit shall be based on the mean level of imperviousness on single family residential parcels. This billing unit is known as an Equivalent Runoff Unit ("ERU") and a single ERU has been determined to be three thousand (3,000) square feet of impervious surface in the Village. All parcels in the Village shall be assessed a minimum of one (1) ERU.

1. Effective January 1, 2016 the stormwater utility fee rate per Equivalent Runoff Unit ("ERU") per month shall be \$2.00. The stormwater utility fee shall be a monthly fee.

2. Single Family Residential. Each parcel that contains a single family residential dwelling unit shall be assessed only one (1) ERU per parcel.

3. Non-Single Family Residential. All non-single family residential parcels in the Village shall be assessed a stormwater utility fee based on the measured number of ERU's on the parcel multiplied by the rate per ERU as set forth in Section B(1) above, but not less than one (1) ERU per parcel.

Section 13.14.070 Billing and collection procedures.

A. Issuance of bill. The Finance Department shall issue all bills for stormwater utility fees on a bi-monthly basis.

1. For users of the stormwater system that have an existing utility account with the Village, the Finance Department shall include the stormwater utility fee on the same statement issued for such other utility service.

2. The Finance Department may issue a separate bill to the owner of any parcel that does not have an existing utility account with the Village. If the owner of such parcel has not provided the Finance Department with a billing address, then the Finance Department may mail the stormwater utility bill to the same person who receives property tax bills for that parcel.

B. Responsibility for payment. The owner of any parcel, building or premises and the occupant thereof and the customer of the utility service of said system shall be jointly and severally liable to pay for such stormwater utility fee for said premises.

C. Application of payments. If the stormwater utility fee is included on a common statement and the user does not pay the total amount due on the statement, the payment shall be applied first to the stormwater fee and then to solid waste system fees, sewer fees and water fees in that order. If any amount on a utility bill is past due, the payment will first be applied to such past due amounts.

Section 13.14.080 Effect of nonpayment of bill.

A. Additional Charges for Failure to Pay Bill. If any bill for stormwater service is not paid by the date due, as shown on the utility bill, a late payment penalty of ten percent (10%) shall be added to the bill and collected from the user.

B. Collection Costs. Any unpaid bill that is turned over for collection shall be subject to an additional charge, the amount of which shall be established by the Village Manager, upon the recommendation of the Finance Director, in an amount sufficient to recover the Village's costs of carrying and collecting the debt.

C. Unpaid Accounts Constitute Lien. All unpaid amounts of rates, fees and charges for stormwater utility service shall constitute a lien against the property to which service was provided, to the extent such lien is authorized by law, and shall be subject to the lien provisions of Section 13.04.250 of this code.

D. Effect of Delinquent Accounts. All delinquent stormwater utility accounts shall be subject to the provisions of Sections 13.04.230 and 13.04.240 of this code. In addition, no person with a delinquent stormwater utility account shall be allowed either a new utility service at another location in the Village, or a change or upgrade of the service at the premises for which the delinquent account has accrued, unless the account is paid in full.

Section 13.14.090 Requests for adjustment of the stormwater utility fee.

A. The owner of a parcel, or the owner's authorized agent, may request correction of the stormwater utility fee by submitting a written request to the Finance Director or his or her designee on or before the date payment is due. The owner of the parcel is solely responsible for initiating any review of the amounts of the stormwater utility fee. Grounds for correction of the stormwater utility fee include:

1. Incorrect classification of the property for purposes of determining the fee;
2. Errors in the square footage of the impervious surface area of the property;
3. Mathematical errors in calculating the fee to be applied to the property; and
4. Errors in the identification of the owner of a parcel subject to the fee.

B. The Finance Director shall make a determination within thirty (30) days after receipt of the property owner's completed written request for correction of the fee.

C. Any owner of a parcel who submits a request for correction of a fee shall comply with all rules and procedures adopted by the Village and must provide all information necessary for the Finance Director to make a determination on the request for correction of the fee. Failure to comply with the provisions of this subsection shall be grounds for denial of the request.

D. If an adjustment or correction is approved by the Village, the adjustment will be incorporated into the stormwater utility fee calculation for the specified parcel and will apply to the next regularly generated bill.

E. Appeal. An applicant for a correction or an adjustment may appeal a denial of said application to the Village Manager by filing a written appeal at the office of the Village Manager within ten (10) calendar days of the date of mailing of the decision denying said application. The appeal must contain all information, documentation and evidence the applicant wishes the Village Manager to consider in deciding the appeal.

1. The Village Manager shall review and make a decision whether to allow or deny the appeal within sixty (60) calendar days of receipt of a completed appeal application. Said decision shall be in writing and, if it denies the appeal, it shall state the reasons for the denial.

2. The Village Manager's decision on an appeal from a denial of an application for a correction or adjustment shall be final.

Section 13.14.100 Stormwater utility fund.

A. Revenues. All revenues from the stormwater utility fee shall be deposited in the stormwater utility fund and shall be used solely for the operation, maintenance, expansion and rehabilitation of the stormwater infrastructure as deemed appropriate by the Village Board.

B. Financial records. The Finance Director shall maintain and report on the financial records of the stormwater utility in accordance with generally accepted government accounting principles.

Section 13.14.110 Impervious area database.

The impervious area for all parcels in the Village is established by the Village. The Village shall maintain an impervious area database for all parcels within the Village which will serve as the basis for determination of the number of ERUs associated with each parcel. The database will be based on available information, including geographic information systems analysis, aerial photographs, mapping information, site examination and other available information, and will be periodically updated based on available information.

Section 13.14.120 Exemptions from stormwater utility fee.

Dedicated public rights-of-way, such as roadways and alleys, shall not be subject to the stormwater utility fee.

Section 13.14.140 Stormwater service connections.

A. No stormwater service connection shall be installed, repaired, maintained or replaced except by a licensed plumber who has first notified the Public Works Department. All such work shall be subject to the approval of the Public Works Department and shall be performed in accordance with all applicable provisions of this code, all Village and County regulations, policies and ordinances relating to stormwater management, and with the rules, regulations, standards and practices of the Public Works Department.

B. Any person who performs any work on a stormwater service connection shall first obtain a permit from the Village as provided in Title 13 of this Code. All such work shall be done in accordance with the terms of the permit authorizing the work and with the rules, regulations, standards and practices of the Public Works Department.

C. Penalties. Any person who engages in any work on a stormwater service connection that requires a permit, without first obtaining such permit, shall be subject to such additional fines, fees and penalties as may be set by the Village Board from time to time pursuant to Title 13 of this Code.

D. Responsibility of Owner. The installation, connection, alteration, maintenance, repair and replacement of stormwater service connections shall be at the sole expense of the owner of the premises to which the water service is supplied.

E. This section does not apply to work performed by employees of the Village.

Section 13.14.150 Interference with stormwater system.

A. No person shall alter, interfere with or disturb the stormwater system or appurtenances thereto without the permission of the Village Manager or his/her designee.

B. No person shall willfully or negligently break, injure or deface such stormwater system and appurtenances, or commit any act which is intended to or which shall obstruct or impair the intended use thereof.

Section 13.14.160 Responsibility for damage to stormwater system.

A. Damage to stormwater utility system. Any person who causes damage to any part of the Village's stormwater utility system shall be responsible for the cost of repairing such damage. The Village shall have the sole discretion and authority to determine the nature and extent of the damage and necessary repairs, the manner in which such repairs shall be done, and the persons who shall perform such repairs.

B. Damage to stormwater service connections. Any person who causes damage to any part of any service connection in the Village's stormwater utility system shall be responsible for the cost of repairing such damage. The Village shall have the sole discretion and authority to determine the nature and extent of the damage and necessary repairs, the manner in which such repairs shall be done, and the persons who shall perform such repairs. All such repairs shall be made by a licensed plumber in accordance with all applicable provisions of the rules, regulations, standards and practices of the Public Works Department.

C. Village rights reserved. The Village reserves all rights to recover the cost of repairing any damage to any part of the Village's stormwater utility system or to any part of any service connection in the Village's stormwater utility from the person or persons that caused the damage necessitating the repairs.

Section C: Those chapters, sections or subsections of the Wheeling Municipal Code not expressly amended or repealed by this Ordinance are hereby re-enacted and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Wheeling Municipal Code other than as expressly set out in Section B of this Ordinance.

Section D: In the event any part or parts of this Ordinance shall be found to be unconstitutional by a court of competent jurisdiction, such unconstitutionality shall not affect the validity of the remaining parts of this Ordinance.

Section E: This Ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

Trustee Lang moved, seconded by Trustee Hein, that Ordinance No. 04966 be passed.

President Argiris Aye

Trustee Brady Aye

Trustee Hein Aye

Trustee Vito Aye

Trustee Krueger Aye

Trustee Lang Aye

Trustee Vogel Aye

ADOPTED this 23 day of November, 2015, by the Village President and Board of Trustees of the Village of Wheeling, Illinois.



Dean S. Argiris
Village President

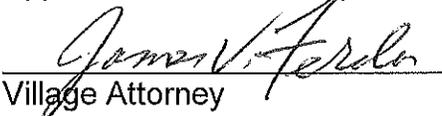
ATTEST:



Elaine E. Simpson
Village Clerk

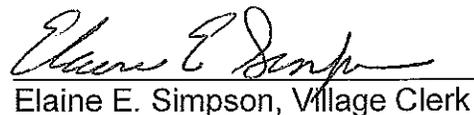


Approved as to form only:



Village Attorney

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Elaine E. Simpson, Village Clerk