

GENERAL ORDINANCE NO. 9, 2016

CITY CLERK

AN ORDINANCE ESTABLISHING THE RATES AND CHARGES FOR USERS OF THE STORMWATER SYSTEM OF THE CITY OF TERRE HAUTE SANITARY DISTRICT.

WHEREAS, the Board of Sanitary Commissioners (the "Board") of the Terre Haute Sanitary District (the "Sanitary District") has determined that it is necessary to establish a schedule of stormwater rates and charges in connection with the stormwater collection and conveyance systems and activities in the Sanitary District which include, without limitation, stormwater quality, separate storm sewers, neighborhood drainage, flood control, flood pumping, stormwater conveyance, sewer separation, and other improvements to the existing and future storm sewers and to the existing combined sewers (collectively, the "Stormwater System"); and

WHEREAS, the Sanitary District, operating under Indiana Code 36-9-25, as amended, is authorized to consider the costs of collecting and treating stormwater drainage as the definition of sewage works for purposes of such chapter includes the term storm sewers; and

WHEREAS, pursuant to Indiana Code 36-9-25-11, the Board has determined that it is fair and equitable to charge users of the Stormwater System for the cost of providing stormwater services and, following a public hearing thereon, has adopted a resolution approving a schedule of stormwater rates and charges which resolution and schedule of rates and charges are set forth in Table 1 below; and

WHEREAS, the Common Council (the "Common Council") of the City of Terre Haute, Indiana (the "City") has determined that it is fair and equitable to charge users of the Stormwater System for the cost of providing stormwater services; and

WHEREAS, Indiana Code 36-9-25-11 requires that the schedule of rates and charges for users of the Stormwater System approved by the Board and as set forth in the Board Resolution must be approved by ordinance of the Common Council before taking effect; and

WHEREAS, the Common Council finds that such rates and charges should be hereby approved.

IT IS HEREBY ORDAINED by the Common Council of the City of Terre Haute as follows:

SECTION 1. *Terre Haute City Code* Sec. 9-82 through Sec. 9-87, is hereby created with the insertion of the text as follows:

...

Sec. 9-82 Purpose and objective.

The mission of the Sanitary District stormwater management program is to develop, implement, operate and adequately and equitably fund the acquisition, construction, operation,

maintenance and regulation of stormwater collection and drainage systems and activities in the Sanitary District including without limitation, stormwater quality, separate storm sewers, neighborhood drainage, flood control, flood pumping, stormwater conveyance, sewer separation, and other improvements to the existing and future storm sewers and to the existing combined sewers of the Sanitary District.

The program shall safely and efficiently control stormwater runoff, insure compliance with the National Pollutant Discharge Elimination System Stormwater Discharge permit, enhance public health and safety, protect lives and property, facilitate mobility and enable access to homes and businesses throughout the community during storms, complement and support other Sanitary District programs and objectives, control the discharge of pollutants in stormwater to receiving waters and enhance the natural resources of the community.

Sec. 9-83 Definitions. For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (a.) **City:** The City of Terre Haute, Indiana.
- (b.) **Combined sewer:** Pipe or conduit primarily used to convey sanitary sewage and secondarily intended to convey stormwater.
- (c.) **Customer (or User):** Shall mean a property owner benefiting from the stormwater system.
- (d.) **Developed:** The condition of real property altered from its natural state by the addition to or construction on such property of impervious surfaces or physical improvements such that the hydrology of the property or a portion thereof is affected.
- (e.) **Detention:** The temporary storage of storm runoff in a basin, pond or other structural or non-structural device to control the peak discharge rates by holding the stormwater for a lengthened period of time and which provides gravity-settling of pollutants.
- (f.) **Retention:** The holding of stormwater runoff in a constructed basin or pond or in a natural body of water with a controlled release rate.
- (g.) **Drain:** Relative to stormwater drainage, any sewer, tile, ditch, stream or other stormwater runoff conveyance channel or conduit.
- (h.) **Drainage Requirements:**
 - (1) Minimum drainage standards as established by the Board of Sanitary Commissioners;
 - (2) Regulations promulgated by the Board of Sanitary Commissioners;

- (3) Obligations and requirements relating to drainage established under any Subdivision Control Ordinance of the City;
- (4) Requirements contained in any Zoning Ordinances of the City, including floodway zoning requirements;
- (5) Obligations and requirements relating to drainage established under the Drainage Board of Vigo County, Indiana, if any; and
- (6) Conditions relating to drainage attached to any grant of variance by the Board of Zoning Appeals.

(i.) **Drainage-Subsurface:** A system of pipes, tile, conduit, or tubing installed beneath the ground used to collect underground water from individual parcels, lots, building footings, or pavements.

(j.) **Drainage-Surface:** A system by which the stormwater runoff is conducted to an outlet. This would include the proper grading of parking lots, streets, driveways and yards so that storm runoff is removed without ponding and flows to a drainage swale, open ditch, or a storm sewer.

(k.) **Drainage-Swale:** A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from a field, diversion, or other site feature.

(l.) **Drainage-System:** Any combination of surface and/or subsurface drainage components fulfilling all applicable drainage requirements.

(m.) **Engineer:** The City Engineer of the City of Terre Haute, Indiana.

(n.) **ERU:** Equivalent Residential Unit, a statistically generated number equal to the average amount of impervious area found on a typical single-family residential parcel which is 3,100 square feet. Therefore, one (1) ERU equals 3,100 square feet of impervious area.

(o.) **Habitable Square Footage (HSF):** The quantity of habitable area situated thereon as measured in the records of the Vigo County Assessor. Habitable area does not include, but is not limited to, the square footage of the following:

- (1) Attached garage;
- (2) Unimproved basement; or
- (3) Unimproved attic.

(p.) **Impervious Area:** Area within developed land that prevents or significantly impedes the infiltration of stormwater into the soil. Included in this definition are areas that have been paved and/or covered with buildings and materials which include, but are not limited to,

concrete, asphalt, rooftop, packed earth and gravel, such that the infiltration of water into the soil is prevented. Excluded from this definition are undisturbed land, lawns and fields.

(q.) **Infiltration:** A complex process of allowing runoff to penetrate the ground surface and flow through the upper soil surface.

(r.) **Land Alteration:** Any action taken relative to land which either:

(1) Changes the contour; or

(2) Increases the runoff rate; or

(3) Changes the elevation; or

(4) Decreases the rate of which water is absorbed; or

(5) Changes the drainage pattern; or

(6) Creates or changes a drainage facility; or

(7) Involves construction, enlargement or location of any building on a permanent foundation; or

(8) Creates an impoundment. Land alteration includes (by way of example and not of limitation) terracing, grading, excavating, constructing earthwork, draining, installing drainage tile, filling and paving.

(s.) **Maintenance:** The removal of obstructions, deposits, or other materials and making minor repairs in a drainage facility so that it will perform the function for which it was designed and constructed.

(t.) **Peak Discharge:** The maximum rate of flow of water passing a given point during or after a rainfall event, sometimes called peak flow.

(u.) **Professional Engineer:** An individual who holds a valid license to engage in the practice of engineering as attested by that individual's registration as a professional engineer.

(v.) **Property Owner:** The individual, partnership, corporation or other legal entity holding the deed or record title to real property.

(w.) **Residential Property:** A lot or parcel of real estate encompassing State Land Use Codes 101 and 500 through 599 on which a building or house trailer is situated which building or house trailer contains a group of rooms forming an inhabitable dwelling unit with facilities which are used or are intended to be used primarily for living, sleeping, cooking and eating.

(x.) **Other Property:** All properties not encompassed within the definition of Residential Property, including but not limited to: commercial, industrial, retail, multifamily, governmental, institutional, schools and churches.

(y.) **Right-Of-Way:** Any highway, street, avenue, boulevard, road, lane or alley and includes the entire right-of-way for public use thereof and all surface and subsurface improvements thereon including, without limitation, sidewalks, curbs, shoulders, utility lines and mains.

(z.) **Sanitary District:** The Terre Haute Sanitary District.

(aa.) **Sewer Separation:** A project intended to reduce the amount or rate of stormwater entering the wastewater treatment plant. Sewer separation projects include, but are not limited to, new sanitary sewer construction with conversion of combined sewer to storm sewer; new storm sewer construction with conversion of combined sewer to sanitary sewer, combined sewage holding tanks; and equalization tanks at the treatment plant.

(bb.) **State Land Use Codes:** The classification system used by Indiana counties for purposes of classification of the assessment of real property.

(cc.) **Storm Sewer:** A sewer designed or intended to convey only stormwater, surface runoff, street wash waters and drainage, and not intended for sanitary sewage and industrial wastes. A storm sewer begins at the grating or opening where water enters said sewer, through the sewer and any other conduits to the outlet structure where water enters a channel, natural watercourse or combined sewer.

(dd.) **Stormwater Service Charge:** A charge imposed on users of the stormwater system.

(ee.) **Stormwater System:** All constructed facilities, including separate storm sewers and conveyances, combined sewers, structures and natural watercourses owned by or under the jurisdiction of the Sanitary District 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, culverts, retention or detention basins and pumping stations.

(ff.) **Stormwater Conveyances:** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

(gg.) **Administrator:** The City Engineer of the City of Terre Haute, Indiana.

Sec. 9-84 Stormwater Service Charge.

A stormwater service charge shall be imposed on each and every lot and parcel of land within the Sanitary District which directly or indirectly contributes to the stormwater system of the Sanitary District, which charge shall be assessed against the property owner thereof, who shall be considered the user for the purposes of this chapter. This charge is deemed reasonable and is necessary to pay for the repair, replacement, extension, planning, improvement, operation, regulation and maintenance of the existing and future stormwater system.

Sec. 9-84-1 Stormwater service charge establishment procedures.

(a.) Stormwater Service Charge Per ERU: The Stormwater Service Charge shall be \$6.00 per ERU per month. For the purpose of this chapter, a month shall be considered 25 through 35 days.

(b.) Basis for Charge: The stormwater service charge is designed to recover the cost of rendering stormwater service to the users of the stormwater system, and shall be the basis for assessment of the stormwater service charge. This service charge is established so as to maintain adequate fund reserves to provide for reasonably expected variations in the cost of providing services, as well as variations in the demand for services.

Sec. 9-84-2 Service charge structure and calculation.

(a.) Generally: For the purposes stated in Sec. 9-82 and 9-84-1, there is hereby assessed a stormwater service charge for each property owner owning land situated within the territory of the Sanitary District that contributes directly or indirectly to the stormwater system of the Sanitary District, in an amount as determined below.

(b.) Impervious Area: For any such property, lot, parcel of land, building or premises which contribute directly or indirectly to the stormwater system of the Sanitary District, such charge shall be based upon the quantity of impervious area situated thereon. Impervious area of public rights-of-way and railroad lines (which shall not be deemed to include adjacent property, such as a railyard, operated by a railroad), will not be included in the determination of a stormwater service charge. With respect to Residential Properties only, the quantity of impervious area is based upon the habitable square footage (HSF) as assigned per the residential classification as set forth in Table 1.

(c.) Classification of Property: All properties within the Sanitary District will be assessed a Stormwater Service Charge based on Equivalent Residential Unit (ERU), or a multiplier thereof, with all properties having impervious area assigned at least one ERU (except as otherwise provided in Subsection (c.)(1) and Section (e.) herein), as follows:

(1) A monthly charge for stormwater service rendered to Residential Properties shall be assessed to each Residential Property's parcel within the Sanitary District limits. ERU assignments and Stormwater Service Charges for Residential Properties are as shown on Table 1 and are based in part upon habitable square footage.

(2) **Other Properties:** A monthly flat-rate charge for stormwater service shall be rendered to properties with impervious area other than Residential Properties based on the total amount of impervious area on the property (measured in square feet) within classes as shown on Table 1.

(d.) **Land Alterations:** The issuance of any building permit or other action which results in a land alteration of a property other than Residential Properties or a property that currently only contains Residential Properties but will be no longer used for such purpose shall be cause for an adjustment of the stormwater service charge determined under this section. The property owner shall have the obligation of informing the Sanitary District of any such changes.

(e.) **Exceptions/Exemptions:** Agricultural properties with impervious area under State Land Use Codes 100-199, with the exception of those properties that qualify as Residential Property, shall be charged a monthly flat-rate for stormwater service of \$0.50 per acre per month as shown on Table 1. Except for public rights-of-way and railroad lines, there shall be no exceptions or exemptions from the assignment of gross stormwater ERUs for any property with impervious area except that properties located in the Honey Creek-Vigo Conservancy District (the "Conservancy District") that are assessed a stormwater fee by the Conservancy District shall be exempted from the assignment of an ERU so long as such stormwater fees are being assessed to such properties by the Conservancy District.

Sec. 9-84-3 Billings; Terms of Payment

(a.) **Billings:** All stormwater service bills shall be rendered on a regular basis as determined by the administrator unless additional billing is required to reflect customer changes, initial billings or is otherwise required to adjust billing cycles. Stormwater billing for a new property shall commence with the date the property is assessed for purposes of property taxes, or date of occupancy, whichever shall first occur. Additional stormwater charges for an established non-residential service address necessitated by a change in the amount of impervious area at the property shall commence on the date the new certificate of occupancy or compliance is issued. Any requested billing adjustments must comply with Sec. 9-84-4. Pursuant to this resolution property owners shall begin incurring storm water service charges August 1, 2016.

(b.) **Rights and Responsibilities of Property Owner:** Charges for stormwater service shall remain the ultimate responsibility of the property owner, including all penalties, recording fees, attorney's fees, interest and court costs. Other than the property owner, no other person shall be permitted to inspect, examine or otherwise obtain confidential information including the social security number of the property owner obtained by the Sanitary District for the sole purpose of billing for stormwater system service. Stormwater service charges attach to the property.

(c.) **Terms of Payment:** The stormwater service charges prescribed in Section 5 shall be due on the payment date set out on the bill. It shall be a violation of this resolution to fail to pay a stormwater service bill when due. All bills for stormwater services not paid on or before the due date shall be subject to a delinquent fee of 10% on the outstanding balance. Moving

from one location to another in no way absolves the customer from responsibility for any unpaid charges incurred at a previous location.

(d.) Bad Check Charge: Checks returned for non-sufficient funds will be subject to reimbursement of the fee the banking institution charges the Sanitary District and an administrative charge to be established by the Sanitary District not in excess of the amount provided in IC 35-43-5-5(e). A customer submitting a bad check may be prohibited from making future stormwater service charge payments by check.

(e.) Collection: Delinquent stormwater service charges may be collected in a civil action along with reasonable attorney fees and court costs.

TABLE 1: STORMWATER MANAGEMENT RATE SCHEDULE

<u>Classification</u>	<u>Description</u>	<u>ERU Multiplier</u>	<u>Rate Per Month</u>	<u>Rate Per Quarter</u>	<u>Annual Rate</u>
A	Agricultural Flat Rate	1	\$0.50 per acre	\$1.50 per acre	\$6.00 per acre
R*	Residential	<i>See Below</i>	<i>See Below</i>	<i>See Below</i>	<i>See Below</i>
1	Other ≤ 5,000 ISF**	1	\$6.00	\$18.00	\$72.00
2	Other 5,001-11,000 ISF	3	\$18.00	\$54.00	\$216.00
3	Other 11,001-22,000 ISF	6	\$36.00	\$108.00	\$432.00
4	Other 22,001-34,000 ISF	11	\$66.00	\$198.00	\$792.00
5	Other 34,001-56,000 ISF	17	\$102.00	\$306.00	\$1,224.00
6	Other 56,001-94,000 ISF	28	\$168.00	\$504.00	\$2,016.00
7	Other 94,001-147,000 ISF	47	\$282.00	\$846.00	\$3,384.00
8	Other 147,001-235,000 ISF	75	\$450.00	\$1,350.00	\$5,400.00
9	Other 235,001-500,000 ISF	133	\$798.00	\$2,394.00	\$9,576.00
10	Other >500,000 ISF	200	\$1,200.00	\$3,600.00	\$14,400.00

*Residential Properties shall be charged per habitable square footage in accordance with the following schedule

**Impervious Square Footage

<u>Classification</u>	<u>Description</u>	<u>ERU Multiplier</u>	<u>Rate Per Month</u>	<u>Rate Per Quarter</u>	<u>Annual Rate</u>
	Residential = 0				

Res-V	HSF***	0.5	\$3.00	\$9.00	\$36.00
Res-1	Residential 1-1,025 HSF	0.667	\$4.00	\$12.01	\$48.02
Res-2	Residential 1,026-1,375 HSF	1	\$6.00	\$18.00	\$72.00
Res-3	Residential 1,376-2,200 HSF	2	\$12.00	\$36.00	\$144.00
Res-4	Residential >2,200 HSF	3	\$18.00	\$54.00	\$216.00

***Habitable Square Footage

Sec. 9-84-4 Appeals of ERU determination.

(a.) If, in the opinion of any non-residential property owner, the ERU multiplier assigned to the property of such owner is inaccurate, such property owner may appeal such ERU determination by filing an "Appeal Form" prescribed by the Administrator. The "Appeal Form" must be filed within thirty (30) days after the date the bill is mailed or issued to the property owner. Grounds for appeal include:

- (1) Incorrect classification of the property;
- (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 property subject to the fee.

(b.) If a property owner alleges an error under subsection (a.)(2) of this section, the request for correction must include a certification by a professional engineer or land surveyor of the impervious surface area of the property. Failure to comply with the provisions of this subsection shall be grounds for denial of the request.

(c.) A property owner must comply with all rules and procedures adopted by the Board when submitting a request for an appeal and must provide all other relevant information requested by the Board. The Board shall make a determination within forty-five (45) days after receipt of the completed "Appeal Form" and all other relevant information requested by the Board. The Board's decision on the appeal shall be final. Billing adjustments required to correct impervious area measurements shall be applied retroactively to the date of submission of completed "Appeal Form."

Sec. 9-85 Revenue Fund.

All revenues earned and fees collected for stormwater service, including but not limited to, drainage service charges, permit and inspection fees, direct charges and interest earnings on

any unused funds shall be deposited in the Sanitary District's existing account entitled "Terre Haute Sanitary District" (the "Revenue Fund"), and shall be subject to the provisions of IC 36-9-25, as amended. Disbursements from this account shall be authorized by the Board. Such disbursements shall be used exclusively for the operation, maintenance and improvement of the Sanitary District's stormwater and sewage works system. To the extent that there are outstanding revenue bonds of the Sanitary District issued pursuant to the provisions of IC 36-9-25, as amended, revenues deposited in the Revenue Fund shall be subject to the covenants contained in the resolution or resolutions authorizing such outstanding bonds.

Sec. 9-86 Delinquent fees and penalties as liens; Duplicates; Collection.

Delinquent charges for stormwater services, and applied penalties, recording fees and service charges constitute a lien upon the property and may be collected in accordance with the provisions of IC 36-9-25-11.

Sec. 9-87 Violations and enforcement.

Failure to pay a stormwater service charge when due shall constitute a violation of this resolution, which shall be enforced by the Sanitary District Administrator and such deputies as the Sanitary District Administrator may appoint for such purposes.

...

Section 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

Section 4. This ordinance shall be in full force and effect from and after its passage by the Common Council of Terre Haute, Indiana and approval of the Mayor and publication as required by law.

Introduced by: _____, O. Earl Elliott, Councilman

Passed in open Council this _____ day of _____, 2016.

_____ Todd Nation, President

ATTEST: _____ Charles P. Hanley, City Clerk

Presented by me to the Mayor this _____ day of _____, 2016.

_____ Charles P. Hanley, City Clerk

Approved by me, the Mayor, this _____ day of _____, 2016.

_____ Duke A. Bennett, Mayor

ATTEST: _____ Charles P. Hanley, City Clerk