

ORDINANCE NO. 16 – 1133

AN ORDINANCE ESTABLISHING A STORMWATER RATE STRUCTURE TO PROVIDE FOR THE OPERATION, MAINTENANCE, AND IMPROVEMENT OF THE STORM WATER SYSTEM AND DECLARING AN EMERGENCY, IN THE VILLAGE OF RUSSELLS POINT, LOGAN COUNTY, OHIO

WHEREAS, this Council is committed to promoting safety within the Village and among its residents; and

WHEREAS, flooding in the Village is one of the major concerns for Village residents during heavy rains; and

WHEREAS, the Village has conducted an assessment of the storm water infrastructure in the Village; and

WHEREAS, the study has demonstrated a severely inadequate and aging infrastructure in the Village that needs updating as soon as possible; and

WHEREAS, the legislative authority of the Village of Russells Point, hereby declares that good cause exists and it is in the best interest of this Village to establish a storm water utility fee; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Russells Point, Logan County, Ohio, that:

SECTION I: That Chapter 9 of the Village of Russells Point Codified Ordinances now shall be written as follows:

919.01 FINDINGS.

The Council of the Village of Russells Point finds that, under the powers and authority provided by the Ohio Constitution and the laws of the State of Ohio:

- A. The Village may establish and operate public utilities, including a utility for the management of stormwater.
- B. The Village may plan, design, acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of a storm water management program of any type, to furnish service to the Village and its residents.
- C. Such a stormwater management utility established by the Village should be established, operated and accounted for as a separate enterprise and managed by the Board of Public Affairs.

919.02 PURPOSE.

For the purpose of comprehensively addressing the stormwater management needs of the Village through facilities and programs designed to protect property and water resources by controlling the level of pollutants in stormwater runoff and the quality and rate of stormwater received and conveyed by structural and natural stormwater management systems of all types, the Council of the Village of Russells Point finds, determines and declares that it is necessary, appropriate and in the public interest to create, a stormwater management utility to own, operate, maintain, repair, improve or extend the existing stormwater drainage facilities and stormwater management programs serving the Village and

its residents, and improvements to and extensions of those Stormwater Drainage Facilities, pursuant to the powers and authority provided under the Ohio Constitution and laws of the State of Ohio and ordinances of the Village of Russells Point.

- A. The Village shall operate its stormwater management system (the "Utility") as a public utility and in such a manner as to provide and maintain open drainageways, underground storm sewers and drains and other stormwater drainage facilities, equipment and appurtenances necessary, useful or convenient to provide a complete and adequate system of stormwater management for the Village and its inhabitants.
- B. This Council further finds, determines and declares that:
- C. As provided in the Village's Codified Ordinances, the improvement of both public and private stormwater drainage facilities through or immediately adjacent to new developments shall remain the responsibility of the developers.
- D. The Village shall maintain all public stormwater drainage facilities located on Village-owned land and in public rights-of-way and easements. Public facilities include but are not limited to:
 - 1. Open drainage ways owned by the Village or located in public rights-of-way or drainage easements in the Village;
 - 2. A piped drainage system and its related appurtenances which has been designed and constructed expressly for use by the general public;
 - 3. Bridges on public streets;
 - 4. Roadside drainage ditches within the public right-of-way along streets; and
 - 5. Flood control facilities (levees, dikes, overflow channels, detention basins, groundwater recharging basins, etc.) that have been designed and constructed expressly for use by the general public.
- E. Facilities not qualifying as public facilities include but are not limited to:
 - 1. Private parking lot storm drains;
 - 2. Roof, footing, and area drains;
 - 3. Drains not designed and constructed for use by the general public;
 - 4. Open drainage swales or ditches on private property for which no public easement of record has been granted;
 - 5. Access drive culverts; and
 - 6. Flood control facilities (levees, dikes, overflow channels, dams, detention basins, groundwater recharging basins, etc.) that have been designed and constructed expressly for the benefit of and use by private property or private development or where the obligation for construction, improvement, and maintenance of such facilities is the obligation of an entity other than the Village.

919.03 DEFINITIONS.

For purposes of this Chapter, the following words, terms, and phrases shall have the meanings given to them in this Section, except where the context clearly indicates a different meaning:

- A. "Commercial Property" means any parcel of real estate in this Village other than real estate containing one to four residential units. "Commercial Property" does not include single-family residential units such as condominiums, townhouses, manufactured housing, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even though these units may be a part of a larger building or parcel of real estate containing more than four

residential units. "Commercial Property" also does not include real estate owned by a public authority as defined in section 1311.25 of the Revised Code.

- B. "Manufactured home" means a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards.
- C. "Mobile home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five body feet in length or, when erected on site, is three hundred twenty or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code or as an industrialized unit as defined in division (C)(3) of section 3781.06 of the Revised Code.
- D. "Residential building" means a one-family, two-family, or three-family dwelling house, and any accessory structure incidental to that dwelling house. "Residential building" includes a one-family, two-family, or three-family dwelling house that is used as a model to promote the sale of a similar dwelling house. "Residential building" does not include an industrialized unit as defined in 3781.06 of the Ohio Revised Code, a manufactured home as defined by this chapter or a mobile home as defined by this chapter.
- E. "Residential Property" means a manufactured home, mobile home or residential building as defined in this section.
- F. "Service Area" shall mean all real property within the corporate limits of the Village, including all real property legally annexed thereto.
- G. "Stormwater management service charge" shall mean a service charge applicable to a residential property or a commercial property that generally reflects the impact on or demand for stormwater management services provided by the Village to properly control and manage the quantity and/or quality of Stormwater runoff associated with the residential or commercial property.
- H. "Stormwater" means flows from rainfall or otherwise produced by, or resulting from, the elements, storm water discharges and releases or migrations of waters from properties, accumulations, flows, and overflows of water, including accelerated flows and runoffs, flooding and threats of flooding of properties and structures, and other surface and subsurface drainage.
- I. "Stormwater Drainage Facilities" means storm sewers, force mains, pumping stations and facilities for the treatment, disposal, impoundment, retention, control, or storage of waters; improvements of or for any natural or structural channel, swale, ditch, drain, floodway, or watercourse, including location, construction, reconstruction, reconditioning, widening, deepening, cleaning, removal of obstructions, straightening, boxing, culverting, tiling, filling, walling, arching, or change in course, location, or terminus; improvements of or for a river, stream, creek, or run, including reinforcement of banks, enclosing, deepening, widening, straightening, removal of obstructions, or change in course, location, or terminus; facilities for the protection of lands from the overflow of water, including a levee, wall, embankment, jetty, dike,

dam, sluice, revetment, lake, pond, reservoir, swamp, wetland, retention or holding basin, control gate, or breakwater; facilities for controlled drainage, regulation of stream flow, and protection of an outlet; the vacation of a ditch or drain; equipment and furnishings; and all required appurtenances and necessary real estate and interests in real estate.

- J. "Stormwater Drainage System" means all Stormwater Drainage Facilities and natural watercourses owned by the Village, or over which the Village has jurisdiction by law to operate or maintain, used for collection and conducting Stormwater to, through, and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: conduits and appurtenant features, canals, channels, creeks, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, streets, curbs, gutters, dams, floodwalls, levees, retention or detention facilities, rivers, swales, swamps, wetlands, and pumping stations.
- K. "Stormwater Management Program" means an identified set of measures and activities designed to protect, restore and/or manage Stormwater quality by controlling and/or reducing pollutants, and/or to reduce and/or manage Stormwater quantity by controlling velocity, volume and rate.
- L. "Utility" shall mean the stormwater management utility established pursuant to this Chapter.

919.04 JURISDICTION.

The Service Area of the Utility shall extend to the corporate limits of the Village, including all real property legally annexed thereto.

919.05 SCHEDULE OF FEES AND CHARGES.

- A. It is hereby determined necessary for the protection of public health, safety, and welfare that a system of charges for Utility service be established which justly and equitably allocates the cost of providing the services of the Utility to each residential and commercial property. The Storm Water Management Service Charges provided for in this Chapter are deemed reasonable and necessary to pay the costs of the Utility's Stormwater Management Programs for the operation, maintenance, repair and replacement of the capital facilities of the Village's Stormwater Drainage System, for the planning, design, acquisition, construction, reconstruction, improvement, and extension of capital facilities of that System, to provide for the payment of debt service on obligations incurred and anticipated to be incurred for capital facilities of that System and to maintain adequate fund reserves to provide for reasonable expected variations in the collection of Service Charges, in the cost of providing services, and in the demand for services.
- B. There is hereby levied and imposed upon all residential and commercial properties within the Village of Russells Point a just and equitable Storm Water Management Service Charge for storm drainage service, or subsequent service, construction, reconstruction, maintenance, operation, and extension and a Storm Water Management Enterprise Fund is established for the foregoing purposes.
- C. Fees and charges shall be collected with the monthly water bill of water users or billed alone as a storm water drainage charge for those users not charged for Village water. In the event the owner and non- owner users of a particular property are not the same, the liability for each the owner and non- owner user for the Storm Water Management Service Charge attributable to that Commercial or Residential Property shall be joint and several.

- D. Payments for the storm water management service charge shall be made to the Village with one payment method for both the water service charge and the storm water management service charge, provided that payments made with a monthly water bill shall be credited to the storm water management service charge first, while the remainder of the payment shall be applied to the balance due for water service.
- E. Said charges shall be paid monthly by those liable therefore, and placed in a storm water management fund to be used only for the purposes provided in this chapter.
- F. It is hereby determined that a property in the Village is furnished service approximately in proportion to the amount of the property's impervious surface; and therefore, the Village Council hereby establishes the following property use classifications and rates for charges for this service:
 - 1. Residential property \$1.00 per month;
 - 2. Commercial property \$2.00 per month.
- G. Rates set after June 1, 2016 shall be set by Resolution passed by the Board of Public Affairs.

919.06 BILLING AND COLLECTION.

- A. Method of Billing. The monthly storm water service charges established in this Chapter shall be billed monthly in arrears through the Board of Public Affairs. A penalty of ten percent (10%) shall be charged on all accounts delinquent in excess of ten (10) days after the expiration of the billing period.
- B. Delinquencies. The previous balance of delinquent accounts shall be shown on each monthly invoice. If any delinquent account is not paid, the Clerk of the Board of Public Affairs shall make a written return to the County Auditor. Such amounts, when allowed, shall be entered upon the tax duplicate and shall be a lien upon the land from the date of entry and shall be collected as other taxes and returned to the Village.
- C. Billing Disputes and Adjustments. The Board of Public Affairs shall have the authority to make final determinations regarding billing disputes and to make legitimate billing adjustments.
- D. Financial Report. A financial statement of profit and loss shall be filed with the Board of Public Affairs by the Village Fiscal Officer for each calendar year, within ninety (90) days after the close of each year.

919.07 ESTABLISHMENT OF A STORMWATER MANAGEMENT ENTERPRISE FUND; DISPOSITION OF REVENUES OF THE UTILITY.

- A. Pursuant to and in accordance with Section 5705.09(G) of the Revised Code, there is hereby established a special, segregated and distinct utility fund, to be known as the "Stormwater Management Enterprise Fund". All moneys collected as Service Charges and interest and penalties thereon, and any other revenues or receipts of the Utility, shall be deposited in the Stormwater Management Enterprise Fund. The moneys in the Stormwater Management Enterprise Fund shall be used only to pay: (i) costs of providing the Utility's Stormwater Management Programs; (ii) costs of operating, maintaining, repairing and replacement of the capital facilities of the Stormwater Drainage System; (iii) costs of planning, design, acquisition, construction, reconstruction, improvement, and extension of capital facilities of that System; and (iv) debt service on obligations incurred and to be incurred for capital facilities of that System and

to maintain adequate fund reserves to provide for reasonable expected variations in the collection of Services Charges, the cost of providing services, and in the demand for services.

- B. The moneys in the Stormwater Management Enterprise Fund shall not be used for general or other governmental or proprietary purposes of the Village, except to pay for costs incurred by the Village in rendering services associated with the Utility. For that purpose, the Village Council may adopt a cost allocation plan that identifies, accumulates, and distributes allowable direct and indirect costs that may be paid from the Stormwater Management Enterprise Fund, and that prescribes a method for allocating those costs. The plan shall authorize payment of only those costs incurred by the Utility, or a federal or state grant program, and those costs incurred by the general and other funds of the Village for a common or joint purpose, that are necessary and reasonable for the proper and efficient administration of the Utility and properly attributable to the Stormwater Management Enterprise Fund. The plan shall not authorize payment from the Stormwater Management Enterprise Fund of any general government expense required to carry out the overall governmental responsibilities of the Village.

919.08 APPEAL

- A. The Board of Public Affairs is authorized to hear appeals regarding disputes and complaints brought by property owners concerning the calculation of fees and charges, including the authority to make adjustments as appropriate.
- B. Any appeal must be filed in writing, must describe the specific error alleged and contain reasoning from the appealing party that justifies the appealed issue. The Board of Public Affairs may request additional information from the appealing party and the decision of the Board of Public Affairs shall be final.
- C. The Board of Public Affairs shall promulgate written Rules and Regulations that establish the procedures and standard of review for appeals authorized by this Section.

919.09 EXEMPTIONS.

- A. No public or private property shall be exempt from Service Charges, with the following exceptions:
- B. Public road rights-of-way that have been conveyed to and accepted for maintenance by the Ohio Department of Transportation, and that are available for use by the general public for transportation purposes.
- C. Public road rights-of-way that have been conveyed to and accepted for maintenance by the Village, and that are available for use by the general public for transportation purposes.
- D. Railroad rights-of-way used for trackage and related appurtenances.
- E. Real property owned by the Village.

SECTION II: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this council and that all deliberations of this Council, and any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of the Ohio Revised Code.

SECTION III: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety in the Village of Russells Point in order to improve the current storm water infrastructure at the earliest possible time for the benefit of the health and safety of the Village. This Resolution shall go into immediate effect provided that it receives a two thirds vote of all members of Village Council.

John Huffman, President Pro Tem

Robin Reames, Mayor

Attested: _____
Jeff Weidner, Fiscal Officer

Approved as to form:
Rob Eshenbaugh, Village Solicitor