

ORDINANCE NO. 17,967

**AN ORDINANCE AMENDING CHAPTER 31, ARTICLE IV OF THE CODE OF THE CITY
OF PEORIA PERTAINING TO STORMWATER UTILITY FEES**

WHEREAS, the City of Peoria is a home rule unit of government pursuant to Article VII, Section 6 of the Constitution of the State of Illinois 1970, and may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City requires a stormwater system to protect properties and residents from flooding, maintain property values, and to allow for commerce and recreation; and

WHEREAS, all properties in the City substantially benefit from the maintenance, improvement to, and efficient operation of the City's stormwater system and, thus, are shareholders in the City's stormwater system; and

WHEREAS, stormwater runoff from properties in the City, whether by direct discharge into the City's stormwater system; discharge into bodies of water, creeks, streams, and tributaries that flow into or through the City; and indirect discharge through the saturation of soils utilizes and imposes burdens on the City's stormwater system; and

WHEREAS, the City is obligated to improve the manner in which it discharges and manages stormwater and sewage pursuant to a federal court consent decree; and

WHEREAS, funding the City's stormwater system through a stormwater utility fee that charges properties based on the usage of, and benefit derived from, the stormwater system is a more equitable and efficient way to fund the City's stormwater system than the use of funds derived through general taxation and other means; and

WHEREAS, even if a property with significant impervious surfaces discharges no or a *de minimis* amount of stormwater into the City's stormwater system, the City is still required to provide administrative services related to stormwater for that property, and the property still benefits from the City's stormwater system and the overall maintenance and improvement to that system; and

WHEREAS, after significant study and deliberation, on December 5, 2017, the City Council adopted Ordinance 17,523 to authorize and create a stormwater utility fee to, among other things, administer, operate, maintain, and improve the City's stormwater system; and

WHEREAS, the Illinois courts have routinely upheld municipal stormwater utility fees to allow municipalities to maintain and improve their stormwater utilities (*see e.g. Green v. Village of Winnetka*, 2019 IL App (1st) 182153 (2019); *Church of Peace v. City of Rock Island*, 357 Ill. App. 3d 471 (3rd Dist. 2005)); and

WHEREAS, the City Council consistently looks for ways to make the administration of the stormwater system more efficient; and

Additions are bold and double-underlined; deletions are struck through.

WHEREAS, the City Council has determined that it will serve and be in the best interests of the City and its residents to further amend Chapter 31, Article IV of the "Code of the City of Peoria," as amended ("*City Code*"), pursuant to this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS AS FOLLOWS:

SECTION 1. The foregoing recitals are incorporated into, and made a part of, this Ordinance as findings of the City Council.

SECTION 2. Section 31-162, titled "Stormwater Utility Fee Rate Structure," of Article IV, titled "Stormwater Utility," of Chapter 31, titled "Water, Sewers, Sewage, Disposal and Drains," of the City Code is hereby amended and shall read as follows:

"Sec. 31-162. - Stormwater utility fee rate structure.

The stormwater utility fee will be determined by distributing the stormwater utility costs as approved by the city council among real properties in the City of Peoria based on the demand for service that is determined for each property.

- (a) Demand for service will be indicated by the amount of impervious area on each property.
- (b) The stormwater utility fee billing unit shall be 1,000 square feet of impervious area. Fractional billing units shall be rounded to the nearest tenth of a billing unit (100 square feet).
- (c) The minimum stormwater utility fee to be charged for any property in the city shall be one-half of a billing unit.
- (d) ~~Fees to qualifying properties may be adjusted if stormwater utility fee credits are approved by the City of Peoria for on-site stormwater management."~~

SECTION 3. Article IV, titled "Stormwater Utility," of Chapter 31, titled "Water, Sewers, Sewage, Disposal and Drains," of the City Code is hereby amended to add a new Section 31-180, which shall be and read as follows:

Sec. 31-180. - Stormwater utility fee exclusion.

(a) Any property owner whose property does not use or benefit from the City's stormwater utility system may apply to be excluded from all or a portion of the stormwater utility fee as follows:

(1) An exclusion of up to 50 percent of the stormwater utility fee charged to a property if not less than one half of the stormwater emanating from the property for the 100-year design storm is

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detained and cleaned, in accordance with effective engineering practices and techniques, prior to discharge into the City stormwater utility system; or

- (2) An exclusion of 90 percent if: (i) none of the stormwater emanating from the property discharges into the City's stormwater utility system, either directly or indirectly; and (ii) the property does not benefit directly or indirectly from the City's stormwater utility system.

(b) Applications for an exclusion from the City's stormwater utility fee filed pursuant to this Section shall be filed in writing with the City's Public Works Director, along with documentation for the assessment of the application, which documentation shall include:

- (1) Detailed specifications of any on-site cleaning of stormwater performed prior to discharge into the City stormwater utility system, along with sufficient evidence that any on-site cleaning system is in good working order and is maintained on a regular basis;
- (2) An ALTA survey of the relevant property prepared no more than one year prior to the filing of the application for the exclusion;
- (3) A topographical survey of the property that includes runoff patterns and directions of all stormwater emanating from the relevant property prepared no more than one year prior to the filing of the application for the exclusion;
- (4) A report from a qualified and licensed engineer with detailed data demonstrating:
 - (i) The amount of stormwater that is retained on the relevant property;
 - (ii) The amount of stormwater that is discharged from the relevant property and the locations to which the stormwater flows, including, without limitation: (i) the locations of any soils that may absorb runoff from the property; (ii) any bodies of water, creeks, streams, and tributaries into which the stormwater flows; and (iii) where those bodies of water, creeks, streams, and tributaries flow; and
 - (iii) Whether any of the stormwater that may flow outside of the boundaries of the City may contribute to the saturation of the ground or flooding that may have direct or indirect

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impacts on the amount of stormwater that flows into the City's stormwater system; and

(5) Relevant photographic evidence in support of the application.

- (c) The Public Works Department shall review an application for an exclusion from the stormwater utility fee, gather and obtain evidence related the requested exclusion, and within 90 days after the date on which a complete application is received, issue a recommendation to the City Manager on whether to grant, to deny, or grant in part and deny in part the application for exclusion from the stormwater utility fee. Within 30 days of receipt of the Public Works Department's recommendation on the application, the City Manager shall grant, deny, grant in part and deny in part the application or, if necessary, request the applicant or Department of Public Works to provide additional information if additional information is necessary to render a decision. The City Manager's determination shall be final and appealable pursuant to the Administrative Review Law, 735 ILCS 5/3-101 et seq.
- (d) In the event that a property is granted a stormwater utility fee exclusion pursuant to this Section, the owner of the property shall be responsible for keeping any private stormwater management facilities on the property in good working order, and shall provide an annual report to the Department of Public Works no later than June 30 of each year detailing: (i) any maintenance, repair, or replacement activities to the private stormwater management facilities; and (ii) any changes to the topography of the property. The City shall have the right to enter on the property to inspect the private stormwater maintenance facilities and detention facilities to confirm that they remain in good working order and to determine if any topography of the property has been changed. Failure by the owner to maintain the private stormwater management facilities or a change to the topography of the property will result in the loss of stormwater utility fee exclusion.
- (f) Provided that the owner has continued to maintain the private stormwater maintenance facilities as required by subsection 31-180(d) and the topography of the property has not changed, a stormwater utility fee exclusion granted under this Section shall remain in effect for five years from the date of approval. The owner of the property may apply for renewal of the exclusion for successive five-year periods, subject to meeting all of the applicable application requirements for a stormwater utility fee exclusion then in effect. The approval of a stormwater fee

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exclusion shall not create a property right to renew or be granted an exclusion upon the expiration of the exclusion's five-year term.

- (g) A stormwater utility fee exclusion granted pursuant to this Section shall run the property for the remainder of the five-year term provided that any new owner of a property granted a stormwater utility fee exclusion registers with the Public Works Department.

SECTION 4. This Ordinance will be in full force and effect after its passage, approval, and publication in the manner provided by law.

PASSED BY THE CITY COUNCIL, OF THE CITY OF PEORIA, ILLINOIS this 26th day of

April 26th, 2022.

APPROVED

Rita Ali

Mayor

ATTEST

Sefanie Jarr
City Clerk

EXAMINED AND APPROVED

Chrissie L. Kapuseku

Corporation Counsel

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