

ORDINANCE 17,523

AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF THE CITY OF PEORIA PERTAINING TO WATER, SEWERS, SEWAGE DISPOSAL AND DRAINS

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;

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

SECTION 1. Chapter 31 of the Code of the City of Peoria is hereby amended by adding the following underlined words:

ARTICLE IV. STORMWATER UTILITY

DIVISION 1. GENERALLY

Sec. 31-151. - Title.

This article shall be known and may be cited as the "Stormwater Utility Code of the City of Peoria."

Sec. 31-152. - Definitions.

Billing Unit is the basis for computing the stormwater service charge to a parcel. One thousand (1,000) square feet of impervious area shall be one billing unit. Fractional billing units shall be rounded to the nearest tenth (0.1) of a billing unit (100 square feet). The number of Billing Units per property shall be computed based on the total impervious area for each property.

City Manager means the City Manager of the City of Peoria or an authorized agent or representative.

City of Peoria means the City of Peoria, Illinois, a municipal corporation.

Credit means a conditional reduction to the stormwater utility fee charged to an individual property for partnering with the city to achieve a stormwater management objective. Credit policies are specified in the City of Peoria Stormwater Credit and Incentive Manual.

Director of Public Works means the Director of the Department of Public Works of the City of Peoria or an authorized agent or representative.

Green Infrastructure (GI) is an approach to stormwater management that protects, restores, or mimics the way nature handles stormwater runoff.

Impervious Area or Impervious Surface means those areas that prevent or impede the infiltration of stormwater into the soil. Impervious surface materials include roofs, pavement, concrete, asphalt, brick, rock or gravel, glass, and other like materials. Impervious areas include buildings, sidewalks, paths and trails, patio areas, driveways, parking areas and lots, storage areas and lots, and awnings.

Incentive means a onetime disbursement that fully or partially compensates a property owner for partnering with the city to achieve a stormwater management objective. Incentive policies are specified in the City of Peoria Stormwater Credit and Incentive Manual.

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

Pervious Areas or Pervious Surface means those areas that allow infiltration of stormwater into the soil. Pervious surface materials include undisturbed land, bare earth, vegetative lawn, gardens and fields, and vegetative agricultural lands.

Pervious Pavement is constructed of engineered pervious materials designed to capture runoff such that it infiltrates into subsurface drainage systems or subsurface soils which reduce or slow runoff to the public stormwater system. Pervious pavement systems require proper design and maintenance in order to be effective. Pervious pavements will be considered impervious area, but may be eligible for a credit through the City of Peoria Stormwater Credit and Incentive Manual.

Property means real property, or parcels that are partially or wholly inside the corporate limits of the City of Peoria.

Stormwater credit and Incentive Manual means the manual recommended by the public works department shall set forth the details of the credit system, including parameters of credit and application procedures.

Stormwater System shall mean natural and constructed systems used for the collection, control, transportation, treatment or discharge of stormwater runoff and snowmelt. These systems include streams, creeks, rivers, ponds, lakes, pipes, culverts, channels, inlets, junctions, structures, gutters, ditches, retention and detention basins, dams, pumping stations, infiltration devices and basins, erosion control treatments, water quality treatment practices, green infrastructure practices, and flood control facilities and appurtenances.

Stormwater user fee shall mean the service charge or user fee authorized by the City Council and imposed on the users of the City of Peoria's stormwater system.

Stormwater Utility means a stormwater and wet weather management programs that may include administration, planning, engineering, operations, maintenance, regulation, education, construction, inspection and enforcement, all for the protection of the public health, safety and welfare. It is also the function of the utility to provide funding for unfunded mandates from the Federal Government.

Wet Weather Programs means a set of measures, events, activities and programs that manage runoff from rainfall and snowmelt events.

Sec. 31-153. - Stormwater utility and stormwater enterprise fund established.

- (a) The City of Peoria hereby establishes a stormwater utility within the Public Works Department to provide for the management, education, planning, inspection, enforcement, protection, control, regulation, use, construction, maintenance, and enhancement of the stormwater and wet weather systems under the jurisdiction of the City of Peoria.

- (b) The City of Peoria hereby establishes a stormwater enterprise fund. All revenues of the stormwater utility shall be deposited into the stormwater enterprise fund and used only for purposes of the stormwater utility.

Sec. 31-154. - Accounts.

The City of Peoria shall establish a proper system of accounts and shall keep proper books, records and accounts in which complete and correct entries shall be made of all transactions relative to the stormwater enterprise fund.

In addition to the financial statements, the statistical section of the Comprehensive Annual Financial Report (CAFR) shall also reflect the revenues and operating expenses of the stormwater enterprise fund.

Sec. 31-155. - Access to records.

The City of Peoria shall allow authorized representatives of the state of Illinois access to applicable documents and records of the stormwater utility for the purpose of making audit, examination, excerpts and transcriptions thereof to ensure compliance with the terms of loan agreements and rules of any state loans.

Secs. 31-156 – 31-160. - Reserved.

DIVISION 2. DETERMINATION OF CHARGES

Sec. 31-161. - Stormwater utility fee created.

A stormwater utility fee is hereby created effective June 1, 2018 to generate revenue to fund the City of Peoria’s stormwater utility. The revenue generated by the fee will be obligated exclusively to the stormwater enterprise fund.

- (a) This fund shall be a continuing fund, with all balances remaining therein at the end of each calendar year. No such balances shall lapse into the city general funds or ever be diverted, directly or indirectly, in any manner to any uses other than for the purposes of the City of Peoria Stormwater Management.
- (b) The fund shall include stormwater user fees imposed under this article and any other authorized revenues as allowed by law.
- (c) Moneys from this special fund shall be appropriated in accordance with the procedures for the expenditure of public funds.

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 one thousand (1,000) square feet of impervious area. Fractional billing units shall be rounded to the nearest tenth (0.1) 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 (see Sec. 31-165).

Sec. 31-163. - Stormwater utility fee applicability.

- (a) The stormwater utility fee shall be charged to the owners of all (real) properties in the City of Peoria, including properties owned by public entities.
- (b) The stormwater utility fee shall not be charged to streets, roads, highways, and sidewalks that are inside the public right-of-way.
- (c) The stormwater utility fee shall not be charged to those portions of railroad property constructed on ballast.

Sec. 31-164. - Stormwater utility rate.

- (a) The stormwater utility fee shall change annually subject to the automatic rate adjustment procedures outlined herein.

<u>Stormwater Rate Adjustment Schedule 2018-2020</u>				
<u>Year</u>	<u>June 1, 2018</u>	<u>January 1, 2019</u>	<u>January 1, 2020</u>	<u>January 1, 2021</u>
<u>\$/1,000 square feet impervious area</u>	<u>\$3.00</u>	<u>\$3.00</u>	<u>\$4.00</u>	<u>\$5.00</u>

After January 1, 2021, to provide a sustainable stormwater program and to meet increasing costs, the stormwater utility fee adjustment shall occur automatically each year on January 1, and shall match the cost of inflation as determined by the United States Department of Labor Midwest Urban Area Consumer Price Index.

- (b) At any time deemed appropriate by the City Manager or the Director of Public Works, a financial study will be performed to determine the costs associated with the stormwater utility. Based on the financial study results, the Director of Public Works shall recommend to the City Council any necessary rate adjustments and effective upon action from City Council.

Sec. 31-165. - Stormwater utility fee credits.

- (a) Parcels shall be eligible to receive a stormwater utility fee credit based upon the requirements of the City of Peoria Stormwater Credit and Incentive Manual.

- (b) Any credit allowed against the stormwater utility charge shall be conditioned upon continuing compliance with the City of Peoria Stormwater Credit and Incentive Manual. Proof of compliance as defined in the credit manual shall be required.

Secs. 31-166 – 31-170. - Reserved.

Sec. 31-171. - Adjustments to stormwater bills.

A property's number of billing units may be adjusted by the Director of Public Works to an amount which more properly represents the impervious surfaces on a property. This may be done upon presentation by the property owner of factual evidence which, in the Public Works Department staff sole discretion, establishes that the impervious area measurement used to determine the property's number of billing units was incorrect.

Sec. 31-172. - Responsibility for initiating adjustment process.

The owner of the property is responsible for initiating any review of the impervious area computation for a property or any other computation involved in determining the stormwater utility fee for that parcel and presenting factual evidence in support of a change in the impervious area.

Sec. 31-173. – Application for adjustment.

The owner of the property must file an application for an adjustment on forms provided by the City and file the application and factual evidence in support of the adjustment with the Department of Public Works. The property must be in good standing and bills paid in full before the City will begin the review of the application for adjustment. The process to be followed for review of the application for adjustment will be as is described for resolution of appeals in Sec. 31-175.

Sec. 31-174. – Effective date of adjustment.

If an application for an adjustment is approved the adjustment will be effective for the month in which a complete adjustment application form was received by the Director of Public Works and the account is paid in full and in good standing.

Sec. 31-175. - Appeals.

The method for determination of stormwater utility fee in Section 31-162 shall be made available to a user within thirty (30) days of receipt of a written request by the property owner. Any discrepancy over the method used or in the computations thereof shall be remedied within thirty (30) days after notification of a formal written appeal outlining the discrepancies. The appeals process is structured as follows:

- (a) The property owner files an appeal requesting reconsideration of the fees charged to the owner's property. The appeal shall be provided in the form required by the City of Peoria and factual evidence in support of the adjustment must be provided.
- (b) The initial appeal of a fee determination will be reviewed by Public Works Department staff or their representatives. Upon completion of this review a recommendation will be made to grant, modify or

deny the request. The written response to the property owner will be mailed within thirty (30) days of receipt.

- (c) If a second appeal of the determination is requested, the request will be heard and a decision will be rendered by the Director of Public Works. The written response to the second appeal of the property owner will be mailed within sixty (60) days of its receipt by the Director.
- (d) If a third appeal of the determination is requested, the request will be heard and a decision will be rendered by the Construction Board. All Construction Board procedures shall be followed in order to have the appeal heard. The decision by the Construction Board will be considered final.

Secs. 31-176 – 31-180. - Reserved.

DIVISION 3. BILLING

Sec. 31-181. - Agreement for billing.

The City Manager is hereby authorized to establish a stormwater utility office and/or enter into an agreement or agreements to provide stormwater utility fee billing and lockbox services to property owners in the City of Peoria. Execution of billing agreements shall have been previously approved by the City Council.

Sec. 31-182. - Billing address.

The bill for a property shall be sent to the owner of the property as shown by the records of the Supervisor of Assessments of Peoria County within the last thirty (30) days before the statement date at the address shown in said records.

Sec. 31-183. - Payment periods and due dates.

The stormwater utility fee for each property shall be computed and billed as set forth on the billing document. Payment is due in full 30 days after the statement date of the bill.

Sec. 31-184. - Stormwater utility fee amounts.

- (a) The stormwater utility fee for all properties shall be based on the number of billing units as determined in Sec. 31-162 and the current stormwater utility fee rate. The fee may be adjusted by previously approved stormwater utility fee credits (Sec. 31-165).
- (b) The stormwater utility fee for any property will remain constant unless one of the following changes occur:
 - (1) A physical modification to the property that changes its level of imperviousness;
 - (2) A credit for on-site stormwater management is either awarded or revoked;
 - (3) The stormwater utility fee rate increases as stated in Sec. 31-164 or is changed by the City Council; or

- (4) Any other billing adjustment as described in Sec. 31-171 through Sec. 31-174 is applied to the account.
- (5) So as not to exceed a minimum of one half (0.5) of a billing unit.

Sec. 31-185. - Penalties for delinquent payments.

In the event the stormwater utility fee for a property remains unpaid in whole or in part after the due date, the charge shall then be delinquent and a late fee in the amount of ten (10) percent of the unpaid fees shall be added to the bill as a late penalty. The penalty shall be assessed for each month or part thereof that the payment is delinquent.

Delinquent payments will be turned over to collections as described in Section 31-191 through 31-195.

Sec. 31-186. - Responsibility of owner.

The failure of any owner of property to receive a bill or statement for the stormwater utility fee shall not be grounds for nonpayment or grounds to extend or defer the date upon which payment is due or avoid the inclusion of penalties. Owners of property which are subject to the stormwater utility fee and the recording of a claim of lien pursuant to the terms of this article shall be charged with notice of the existence of the charge and are responsible for ascertaining from the City of Peoria all amounts, if any, due as provided in this article.

Sec. 31-187. - Corrected bill.

If it is shown that the City of Peoria mailed the bill to an address other than the one required under this article, no late payment or penalty charges shall be assessed, if the stormwater utility fee is in fact paid within thirty (30) days after the City of Peoria mails a statement of the fee to the correct address or otherwise delivers such a statement to the owner.

Sec. 31-188. - Application of payments in the event of delinquency.

Payment received for a property shall be applied (1) to any outstanding penalties, (2) delinquent stormwater utility fee charged to the property, (3) current stormwater utility fee for the property. Any payments in excess of the amount outstanding shall be credited to the property's future liability when it becomes due or, if requested by the owner of the property in writing, refunded to the owner.

Secs. 31-189 – 31-190. - Reserved.

DIVISION 4. COLLECTIONS

Collection agency

In the event the city deems it necessary to refer past due stormwater service charges to the city attorney or a collection agency for collection, the city may additionally recover its actual expenses so incurred, including court costs, collection agency fees and reasonable attorney fees.

Sec. 31-191. - Lien for delinquent stormwater utility fee.

Whenever the stormwater utility fee for a property becomes delinquent as set forth in this article, the delinquent fee together with outstanding penalties, shall become and constitute a lien upon the property.

Sec. 31-192. - Notice of lien.

Statements rendered for such delinquent stormwater utility fee shall be deemed notice of the lien to the owner of the property if such statement is mailed to the owner of the real property as shown in the records of the Supervisor of Assessments of Peoria County by first class mail. No additional notice of lien is required to be sent to the owner nor is a copy of the claim of lien required to be sent to the owner.

Sec. 31-193. - Contents of lien claim.

The claim of lien for delinquent stormwater utility fee shall be made in the form of a sworn statement by the Director of Public Works setting forth the following information:

- (a) A description of the property, sufficient for identification;
- (b) The amount or amounts of money due including outstanding penalties and interest charges;
- (c) The date or dates when such amount or amounts became delinquent; and
- (d) The owner of record of the property as disclosed by the records of the Supervisor of Assessments of Peoria County within thirty (30) days before the last statement date.
- (e) Said claim shall be recorded in the Office of the Recorder of Deeds for Peoria County.

Sec. 31-194. - Additional lien charge.

In all cases where the stormwater utility fee has become delinquent and the City of Peoria elects to file a claim for lien as set forth in this article, there shall be added to the amount due prior to recording, in addition to other charges and penalties then due, such charges and expenses as are necessary and required to verify the legal description of the property and ownership information and to prepare and record the claim of lien and release the claim for lien. Such additional charge shall be included in the amount claimed due by the lien claim. The amount of the additional charge shall be established by rule or regulation by the Corporation Counsel and shall include court costs, lien fees, reasonable attorney fees and any other related city expenses.

Sec. 31-195. - Other remedies.

In addition to the recording of a lien, the City of Peoria may seek payment for delinquent stormwater utility fees and penalties, including any additional lien charges due, reasonable attorney fees and any other related city expenses by filing suit to collect the same.

Secs. 31-196 – 31-200. - Reserved.

SECTION 2. This ordinance shall be in effect 10 (ten) days after its passage and publication in pamphlet form.

PASSED BY THE CITY COUNCIL, OF THE CITY OF PEORIA, ILLINOIS this 5th day of December 2017.

APPROVED:



Mayor

ATTEST:



City Clerk

EXAMINED AND APPROVED:



Corporation Counsel