

**AN ORDINANCE FURTHER 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 existence and maintenance of, 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; or 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, among other services, 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 equitable; and

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;

{00126784.4}

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 31-180, titled “Stormwater Utility Fee Exclusion,” of Article IV, titled “Stormwater Utility,” of Chapter 31, titled “Water, Sewers, Sewage, Disposal and Drains,” of the City Code is hereby further amended and 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~~ **of the property’s impervious area drains directly out of the City and does not re-enter** ~~is detained and cleaned, in accordance with effective engineering practices and techniques, prior to discharge,~~ **either directly or indirectly,** into the City stormwater utility system; or
 - (2) An exclusion of 90 percent if: ~~(i) none of the stormwater emanating from the property discharges~~ **or enters** 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.~~

* * *

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

SECTION 3. This Ordinance will be in full force and effect after its passage, approval, and publication in the manner provided by law.

[SIGNATURE PAGE FOLLOWS]

PASSED BY THE CITY COUNCIL, OF THE CITY OF PEORIA, ILLINOIS this _____ day of
_____,2022.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel