



## Legislation Text

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**File #:** 21-209, **Version:** 1

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### **ACTION REQUESTED:**

Communication from the City Manager, Public Works Director and Corporation Counsel with a Request to ADOPT an ORDINANCE Amending CHAPTER 31, ARTICLE VI of the CODE of the City of Peoria Relating to APPEALS OF THE STORMWATER UTILITY FEE.

**BACKGROUND:** The City adopted Ordinance No. 17,523 on December 5, 2017 establishing a stormwater utility for the City of Peoria and setting forth the procedures for billing, calculation and appeals of the billing determination, among other items. Section 31-175 outlines the method for appealing the determination of a stormwater utility fee. It currently reads as follows:

#### **Sec. 31-175. - Appeals.**

The method for determination of stormwater utility fee in section 31-162 shall be made available to a user within 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 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 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 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.

The majority of appeals are resolved at the first level. When an appeal cannot be resolved with the public works staff, it can be appealed to the public works director. If issues still remain, the matter can be appealed to the construction board. The majority of the current Construction board would have to recuse themselves from discussion and voting on any stormwater appeals brought before their board. The conflicts arise due to the members or members' employer doing work with or on behalf of the stormwater utility and having those services paid for by the stormwater utility. Unfortunately, conflict or potential conflicts with a majority of the members of this board do not result in enough remaining board members for the committee to effectively hear appeals.

The City already has an administrative adjudication system in place for various violations of the City Code. An administrative hearing officer is better suited to hear appeals of the stormwater utility and create the record necessary for an appeal to circuit court, if necessary.

**Staff recommends that the third level appeal be delegated to an administrative hearing officer rather**

than the Construction Board.

**FINANCIAL IMPACT:** N/A

**NEIGHBORHOOD CONCERNS:** Well-maintained infrastructure is of concern to all neighborhoods. The fees paid into the stormwater utility fund said infrastructure. Fees should be assessed consistent with the ordinance.

**IMPACT IF APPROVED:** Administrative hearing officer will hearing third-level stormwater utility fee appeals.

**IMPACT IF DENIED:** Construction board will continue to have jurisdiction over third level stormwater utility fee appeals. If appeals cannot be heard at the third level due to conflicts of interest, this will create a procedural hurdle to finalizing the bills for customers who challenge the calculation of the fee.

**ALTERNATIVES:** N/A

**EEO CERTIFICATION NUMBER:** N/A

**WHICH OF THE GOALS IDENTIFIED IN THE COUNCIL'S 2017 - 2032 STRATEGIC PLAN DOES THIS RECOMMENDATION ADVANCE?**

1. Financially Sound City

**WHICH CRITICAL SUCCESS FACTOR(S) FROM THE COMPREHENSIVE PLAN DOES THIS RECOMMENDATION IMPLEMENT?**

1. Have an efficient government.

**DEPARTMENT:** Public Works