

Sponsors:

Commissioner Barnes
Commissioner Stewart

Second Reading Date: MAR 23, 2015

Publication Date: MAR 26, 2015

ORDINANCE NO. 2015-004

**ORDINANCE ESTABLISHING
A STORMWATER MANAGEMENT FEE SCHEDULE
FOR THE CITY OF FRANKLIN, KENTUCKY**

Be it ordained by the Board of Commissioners of the City of Franklin, Kentucky as follows:

SECTION ONE:

The Code of Ordinances for the City of Franklin, Kentucky is amended by adding a new chapter, Stormwater Management Fee System, as follows:

Article I. Findings

- (a) The City maintains a system of storm and surface water management facilities, including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, and other components, as well as natural waterways.
- (b) The stormwater system in the City requires regular maintenance and improvements.
- (c) Stormwater quality is continuously degraded due to erosion and the discharge of nutrients, metals, oil, grease, toxic materials, and other substances into and through the stormwater system.
- (d) The public health, safety, and welfare are adversely affected by poor ambient water quality and flooding.
- (e) All real property in the City of Franklin either uses or benefits from the maintenance of the stormwater system.
- (f) The extent of use of the stormwater system by each property is dependent on factors that influence runoff, including land use and the amount of impervious surface on the property.
- (g) The cost of improving, maintaining, operating, and monitoring the stormwater system should be allocated, to the extent practicable, to all property owners and/or occupants of or on the land based on the impact of runoff from the impervious areas of their property on the stormwater management system.
- (h) Management of the stormwater system to protect the public health, safety, and welfare requires adequate revenues, and it is in the interest of the public to finance stormwater management adequately with a user fee system that is reasonable and equitable so that each user of the system pays to the extent to which they contribute to the need for it.

- (i) The City will develop a stormwater quality program through the NPDES Phase II storm water program as required by state and federal law.

Article II. Authority

Authority for the adoption of this system of user fees to fund the implementation of storm water management programs is derived from KRS 91A.510

Article III. Definitions

For purposes of this Ordinance, the following words and phrases shall have the meanings indicated:

- (a) Assessment Roll means the official listing of assessments of real property as maintained in the Simpson County Property Valuation Office.
- (b) Base Rate means the Storm Water Management Fee charged on a base unit (equivalent residential unit). The monthly Stormwater Management fee for a Single or Multi Family Residential property (*SMFR*) in the City of Franklin equals the base rate. See Article IX hereinbelow.
- (c) Developed Property means real property which has been altered from its natural state by the addition of any improvements such as buildings, structures, or other impervious areas.
- (d) Equivalent Residential Unit or ERU means the average impervious surface area associated with a single family residential property in the City of Franklin as calculated using statistical methods.
- (e) Fee or Storm Water Management Fee means the charge to the property owner and/or occupant established under this Chapter and levied on the owners and/or occupants of parcels or pieces of real property to fund the costs of storm water management and of operating, maintaining, and improving the storm water system in the City of Franklin.
- (f) Fiscal Year means July 1 of the calendar year to June 30 of the next calendar year, both inclusive.
- (g) Impervious Surface means developed areas of land which either prevent, retard, or significantly impede the infiltration of surface and storm water into the soil mantle and/or cause water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Typically impervious surface areas include, but are not limited to roofs, sidewalks, walkways, patios, swimming pools, private driveways parking lots, access extensions, alleys and other paved, engineered, compacted or gravel surfaces that prevent or significantly impede the natural infiltration of surface and storm water into the soil.
- (h) Multi-Family Dwelling means a building with two or more residential dwelling units.
- (i) NPDES Phase II Permit means National Pollutant Discharge Elimination System Phase II Storm Water Permit as mandated by United States Environmental Protection Agency.

- (j) Non-Developed Property means any real property not altered from its natural state.
- (k) Non-Single or Multi Family Residential or Non-SMFR means developed property other than Single or Multi Family Residential property (SMFR). Such property shall include, but not be limited to commercial properties, industrial properties, parking lots, recreational and cultural facilities, hotels and offices. There is specifically exempted from this ordinance all property that is classified as tax exempt from property tax by the Kentucky Revised Statutes and owned by non-profit organizations including, but not limited to governmental entities, schools and churches, except to the extent said tax exempt property is leased to or for a for-profit business, manufacturing or commercial enterprise or is leased as a single or multi-family residential (SMFR) property as defined in Article III(m) hereinbelow. To the extent that the tax exempt property is subject to the stormwater management fee under this definition, the tenant shall be liable for the payment of the fee subject to Article XI(b) of this ordinance.
- (l) Property Owner/Developer/Applicant/Occupant means the person, firm, partnership, or corporation who is the owner of record as listed in the assessment rolls in the office of the Simpson County Property Valuation Administrator and/or the lessee, tenant, or occupant of or on the property which is subject to the fee(s) implemented pursuant to this Ordinance.
- (m) Single or Multi Family Residential or SMFR Property means a developed property which serves the primary purpose of providing a permanent dwelling unit and which is classified as residential in the office of Planning And Zoning and/or the assessment rolls in the office of the Simpson County Property Valuation Administrator. For purposes of this definition, each individual residential unit in a multi-family dwelling will be considered as a separate family unit or SMFR and charged the base rate. See definition of Base Rate above and Article IX hereinbelow.
- (n) Stormwater Management Fund or Fund means the Fund created by this Ordinance to operate, maintain, and improve the City of Franklin stormwater system.
- (o) Stormwater Management means the planning, design, engineering, construction, regulation, improvement, repair, maintenance and operation of facilities and programs relating to storm water, flood plains, flood control, grading, erosion, pollutant capture, and/or transformation and sediment control.
- (p) Stormwater System means the primary system or network of storm and surface water management facilities including, but not limited to inlets, conduits, manholes, natural streams and sinkholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, and other components, as well as all natural waterways. Public roads and public sidewalks are considered part of the storm water collection system.
- (q) Water means any storm water, surface water, snow melt or groundwater.

Article IV. Establishment of Stormwater Management Fund

- (a) The stormwater management program is established and the stormwater system is provided to protect the waterways and land in the City of Franklin by managing flooding and to benefit the natural environment. The cost of designing, developing, improving, operating, maintaining, and monitoring the stormwater system required in the City of Franklin should therefore be allocated to the extent practicable to all property owners and/or occupants of land based on their impact on the stormwater system. In order to provide revenue to fund those costs and to fairly allocate those costs, a Stormwater Management Fund (“the Fund”) is established.
- (b) All revenues collected for the purpose of stormwater management from user fees, grants, permit fees, and other charges collected under this Ordinance, shall be deposited into the Fund. All disbursements from the Fund shall be for the purposes of the Fund as set forth in this Ordinance.

Article V. Purposes of the Fund

The Fund shall be used for the following purposes:

- (a) The acquisition by gift, purchase, or condemnation of real property, and interests therein, necessary to construct, operate, and maintain stormwater management facilities.
- (b) All costs of administration and implementation of the stormwater management program, including the establishment of reasonable operation and capital reserves to meet budgeted, unanticipated or emergency stormwater management requirements.
- (c) Engineering and design, debt service and related financing expenses, construction costs for new facilities, and enlargement or improvement of existing facilities.
- (d) Operation and maintenance of the stormwater system.
- (e) Monitoring, surveillance, and inspection of stormwater control devices.
- (f) Water quality monitoring and water quality programs.
- (g) Retrofitting developed areas for pollution control.
- (h) Inspection and enforcement activities.
- (i) Costs of public education related to stormwater and related issues.
- (j) Billing and administrative costs.
- (k) Other activities which are reasonably required.

Article VI. Stormwater Management Fee

Except as provided for below in Article VII (c), a monthly service fee is imposed upon all real property in the City of Franklin beginning no earlier than July 1, 2015 to fund stormwater management programs. This service fee shall be known as the Stormwater Management Fee ("Fee"). The Fee is based upon:

- (1) The extent to which runoff from each property creates the need for the stormwater management program;
- (2) The amount of impervious area on each property; and
- (3) The costs of implementing a stormwater management program.

Article VII. Classification of Property for Purposes of Determination of the Stormwater Management Fee

For purposes of determining the Stormwater Management Fee, all properties in the City of Franklin are classified into one of the following classes:

- (a) *Single or Multi Family Residential (SMFR) Property*: The City of Franklin Board of Commissioners finds that the contribution to runoff of most parcels of real property in the City of Franklin classified as SMFR is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as building, structures and other impervious areas) on each parcel. Therefore, each SMFR property in the City shall be charged a flat Stormwater Management Fee, per single family property or residential dwelling unit in multi-family residential properties (as the case may be), equal to the base rate, as provided in Article VIII Base Rate.
- (b) *Non-Single or Non-Multi Family Residential (Non-SMFR)*: The Fee for Non-SMFR property in the City of Franklin shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by the Equivalent Residential Unit (ERU). The impervious surface area for Non-SMFR property is the square footage for the buildings and other improvements on the property. At the sole discretion of the Board of Commissioners, the impervious surface area of Non-SMFR property may be approximated through site examination, mapping information, aerial photographs, and other available information. The minimum Stormwater Management Fee for Non-SMFR property shall equal to the base rate for SMFR property. See Article VIII and IX hereinbelow.
- (c) *Non-Developed Property*: There is no fee for non-developed property.

Article VIII. Base Rate and Equivalent Residential Unit (ERU)

A monthly base rate for the Stormwater Management Fee is established for all single family residential property, with each single residential unit being one ERU. The Base Rate shall also be charged for each residential dwelling unit in a multi-family residential property. The ERU for the City of

Franklin base rate shall be Three Thousand Eight Hundred Thirteen (3,813) square feet for Single Family Residential and for each residential dwelling unit in a multi-family residential property (SMFR). The base rate that shall be charged for each Single Family Residential Unit and for each residential dwelling unit in a multi-family residential property shall be Two Dollars (\$2.00) per month.

Article IX. Schedule of Monthly Rates for Stormwater Management Fee

The following schedule of rates shall apply to each property owner. This schedule includes the rate for the Stormwater Fees.

<i>Rate Category</i>	<i>Rate per Month</i>
Single or Multi Family Residential (SMFR)	\$2.00 Base Rate
Non-Single Family Residential (Non-SMFR)	\$2.00 Multiplied by the numerical factor obtained by dividing the total impervious area (in square feet) of the property by one Equivalent Residential Unit (3,813 sq. ft.)

Article X. Assessment Notices.

- (a) The Franklin Board of Commissioners may, but is not required to, send assessment notices for the Fee to property owners and/or occupants prior to the billing for the Fee.
- (b) If assessment notices are sent, the notice shall include the following information:
 - 1. The classification of the property for purposes of determining the Fee.
 - 2. For property classified as Non-SMFR, the following will also be included:
 - (a) The impervious surface area of the property (in square feet); and,
 - (b) The method by which the impervious surface area of the property was determined: that is whether the computation of the impervious surface area of the property is based on information in the Simpson County Property Valuation Office, site examination, mapping information, aerial photographs, or other methods.
 - 3. The amount of the base rate (i.e. the Single or Multi Family Residential (SMFR) Fee), and for Non-Single or Non-Multi Family Residential (Non-SMFR), the number of base units on the property.

Article XI. When Stormwater Management Fee Payable; Penalties; Lien on Rental Property; Abatement of Small Amounts Due

- (a) The fee shall be billed on the Franklin Municipal Utility bill on the same cycle and frequency as the utility bill for the property. The City of Franklin Board of Commissioners shall determine the most effective method of billing. Billings for any particular billing cycle shall be made by the due date shown on the bill. Any payment not received by the delinquency date as shown on the utility bill shall be considered delinquent, and the City may disconnect and terminate utility service(s) to the premises and pursue collection remedies in accordance with all applicable sections of the City of Franklin's Code of Ordinances relating to the collection of delinquent accounts. Said sections are incorporated herein by reference.
- (b) If a bill is rendered to a party who is not the property owner and the bill becomes unpaid and/or delinquent, then the property owner shall bear the responsibility of payment.
- (c) A delinquent fee that is not paid by the delinquency date shown on the bill will incur a penalty of ten percent (10%) of the bill.
- (d) The fee, including the penalty of ten percent (10%) of the total bill, when overdue, shall constitute a lien on the real property and may be collected by a suit against the property owner and/or occupant or by and through an *in rem* action against the property.
- (e) The City of Franklin Board of Commissioners may abate the fee, including penalties, if the cost of collection is reasonably estimated to exceed the amount of the fee, including penalties, due and payable.

Article XII. Request for Correction of the Stormwater Management Fee

- (a) A property owner or occupant, other than a property owner or occupant of an SMFR property which was charged the Base Rate per single family or per residential dwelling unit (in the case of Multi Family Residential Units), may request correction of the fee by submitting the request, in writing, to the City of Franklin, attention City Manager's Office, within thirty (30) days after the date the assessment notice or the utility bill is mailed or issued to the property owner. Grounds for correction of the fee include:
 - 1. Incorrect classification of the property for purposes of determining the fee;
 - 2. Errors in the square footage of the impervious surface area of the property;
 - 3. Mathematical errors in calculating the fee to be applied to the property; and,
 - 4. Errors in the identification of the property owner and/or occupant of a property subject to the fee.
- (b) The Public Works Office shall make a determination within sixty (60) days after receipt of the property owner's or occupant's completed written request for correction of the fee. The City Manager's decision on a request for correction of the fee shall be final.
- (c) A property owner or occupant must comply with all rules, regulations and/or procedures adopted

by the Board of Commissioners when submitting a request for correction of the fee, and must provide all information necessary for the Public Works Office to make a determination on a request for correction of the fee. Failure to comply with the provisions of this subsection shall be grounds for denial of the request.

SECTION TWO:

The provisions of this Ordinance are severable. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any particular case, is for any reason found to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses, phrases, sections or parts of this Ordinance.

SECTION THREE:

This Ordinance shall be effective upon its final passage and publication according to law, and the City Clerk is hereby directed to publish this Ordinance in the *Franklin Favorite* newspaper of Franklin, Kentucky.

MAR 9, 2015 FIRST READING


MAR 23, 2015 SECOND READING

At a meeting of the Board of Commissioners of the City of Franklin, Kentucky, held on March 23, 2015, on motion made by Commissioner Larry Dixon and seconded by Commissioner Jamie Powell, the foregoing ordinance was adopted, after full discussion, by the following vote:

YES JAMIE POWELL
YES WENDELL STEWART
YES RONNIE CLARK, MAYOR

YES LARRY DIXON
YES MASON BARNES

APPROVED BY:



RONNIE CLARK, MAYOR
CITY OF FRANKLIN, KENTUCKY

ATTEST:



KATHY STRADTNER, CITY CLERK
CITY OF FRANKLIN