

AMENDED ORDINANCE NO. 2015-6-2

AN ORDINANCE ESTABLISHING A STORMWATER UTILITY AND USER FEES TO BE COLLECTED BY THE TOWN OF SHERIDAN FROM OWNERS OF PROPERTY LOCATED WITHIN THE TOWN.

THE TOWN OF SHERIDAN, INDIANA

WHEREAS, the Town of Sheridan ("Town") is governed by its duly elected Town Council ("Council"); and,

WHEREAS, the Town has constructed and has in operation a system for the collection of stormwater runoff; and,

WHEREAS, the Council has the duty and responsibility to maintain and expand the system of the collection of stormwater runoff for the protection of public health, safety, and welfare of the citizens of the Town; and,

WHEREAS, the Council finds that a stormwater user fee must be enacted to pay for the costs of operating and maintaining the stormwater collection system;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SHERIDAN that:

Section 1 – Stormwater Board

1. The provisions of Indiana Code § 8-1.5-5 are adopted and incorporated in their entirety and the following entities established:
 - a. A Department of Stormwater Management, which shall operate as a separate department.
 - b. A Stormwater Board which shall consist of members as set forth in Indiana Code § 8-1.5-5-4.
 - c. A Stormwater Management District, extending to the corporate boundaries of the Town is established for the purpose of providing for the collection and management of stormwater in a manner which protects the public health and welfare, and for the purpose of assessing fees to pay for the cost of stormwater facilities and services. As the corporate boundaries of the Town change, whether through annexation of otherwise, so shall the boundaries of the District. The boundaries of the District may also be expanded through the implementation of an inter-local agreement upon approval by the Town Council.
2. Powers of the Stormwater Board: The Board shall have exclusive jurisdiction over the collection and management of the stormwater within the District and shall possess all the power and duties set forth in Indiana Code § 8-1.5-3-4 and § 8-1.5-5-6.

Section 2 – Abbreviations and Definitions

For the purpose of this Article, the following abbreviations and definitions shall apply unless context clearly indicates a different meaning.

1. Abbreviations:

- a. ERU – Equivalent Residential Unit
- b. ISA – Impervious Surface Area

2. Definitions:

- a. **Authorized Enforcement Agencies:** The Department of Stormwater Management, Town Council, Town of Sheridan Police, Street and Fire Departments or their subcontractors shall be the agencies authorized to enforce the provisions of this Article.
- b. **Board:** The Stormwater Board that oversees the Department of Stormwater Management.
- c. **Town:** The municipal corporation of Sheridan, Indiana
- d. **Contiguous:** Abutting or adjoining as in having a common boundary or edge.
- e. **Conveyance:** Any structural method for transferring stormwater between at least two (2) points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains and roadways.
- f. **Department:** The Department of Stormwater Management of the Town of Sheridan, Indiana.
- g. **Discharge:** The flow of any substance into or from the stormwater system.
- h. **District:** The Stormwater Management District of Sheridan, Indiana.
- i. **Equivalent Residential Unit:** Established as the average impervious surface area of a residential property or parcel of land in the district and is equal to 3,400 square feet.
- j. **Impervious Surface Area (ISA):** Hard surface areas that collect and concentrates runoff from a property or parcel of land. Impervious surface area includes:
 - i. Asphalt and concrete roadways, driveways and parking and storage areas.
 - ii. Compacted gravel roadways, driveways, and parking and storage areas.
 - iii. Rooftops, sidewalks, patio areas and pool decks.
 - iv. Other areas as deemed necessary and approved by the Board.
 - v. Undisturbed land, tilled agricultural land, ponds, lawns and fields are not considered impervious surface area.

- k. **Property or Parcel:** Real property having a legal description that is formally set forth in a document recorded in the Office of the Hamilton County Recorder or some other similar official.
- l. **Multi-Family Property:** A Property or Parcel that contains between two (2) to four (4) units shall be considered a Residential property and bills shall be sent to the property owner on record. A Property or Parcel that contains five (5) or more units shall be classified as a Non-Residential property. User fees shall be changed according to the total ISA located on the property, and bills shall be sent to the property owner on record.
- m. **Non-Residential Property:** All Properties or Parcels located within the Town that are no Residential Property included, but not limited to:
- i. Agricultural property;
 - ii. Apartment property;
 - iii. Condominium property common area;
 - iv. Home Owner Association common area;
 - v. Mobile home parks;
 - vi. Commercial property;
 - vii. Industrial property;
 - viii. Institutional property;
 - ix. Governmental property;
 - x. Churches;
 - xi. Schools;
 - xii. Federal, state and local governmental property; and
 - xiii. Any other property not mentioned in this or the list of residential properties below.
- n. **Property Owner:** The individual, partnership, or corporation holding the deed or record title to the property. A contract purchaser whose contract has been recorded shall be considered the property owner.
- o. **Residential Property:** For the purpose of this Article, this definition refers to a lot or parcel of real estate on which a building or mobile home is situated which building contains a group of rooms forming a single inhabitable dwelling unit with facilities which are used or are intended to be used primarily for living, sleeping, cooking and eating. See definitions for **Multi-Family Property** and **Non-Residential Property** for further information.
- p. **Run-Off:** That portion of precipitation that flows from a drainage area on the land surface, in open channels, or in stormwater conveyance systems.
- q. **Sediment:** Solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity or ice and has come to rest on the earth's surface.

- r. **Storm Sewer:** A sewer designed or intended to convey only stormwater, surface run-off, street wash waters, and drainage, and not intended for sanitary sewage and industrial wastes other than unpolluted cooling water.
- s. **Stormwater:** Water resulting from rain, melting or melted snow, hail or sleet.
- t. **Stormwater User:** The owner of a Property or Parcel within the Town's corporate limits.
- u. **Stormwater User Fee:** A user fee imposed on users of the Town's stormwater collection systems.

Section 3 – Stormwater User Fee

1. Severability

- a. The invalidity of any section, sentence, clause, division, part or provision of this Article shall not affect the validity of any other section, sentence clause, division, part or provision of this Article, which can be given meaning without such invalid part or parts.
- b. All ordinances or parts of ordinances of the Town in conflict herewith are repealed.

2. Stormwater User Fee

- a. A stormwater user fee shall be imposed on each and every lot and parcel of land within the District which directly or indirectly contributes to the stormwater system of the District, which charge shall be assessed against the owner, who shall be considered the user for the purposes of this Article. This charge is deemed reasonable and is the minimum necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future Town stormwater system.

3. Stormwater User Fee Establishment Procedures

- a. Each property or parcel assigned a separate tax identification number shall be individually subject to a stormwater user fee.
- b. For each parcel that directly or indirectly contributes to the stormwater system of the District, the stormwater user fee charge shall be based on the presence of and/or measure of impervious surface area on the parcel or property.
- c. Each parcel of property shall be classified as either Residential or Non-Residential. The Board is authorized to establish the classification of an individual parcel or property based upon its primary use, and as defined in Section 2.
- d. This stormwater user fee is designed to recover the cost of rendering stormwater service to the users of the stormwater system and shall be the basis for assessment of the District's stormwater service charge. This rate is further designed to maintain adequate reserves to provide for reasonably expected variations in the cost of providing services, as well as variations in the demand for services.

- e. This rate shall be evaluated annually by qualified professionals as to its sufficiency to satisfy the needs of the District and an evaluation report shall be provided to the Board no later than December 31st of each year.

4. Stormwater User Fee Structure and Calculations

- a. For the purposes stated in the previous sections, there is hereby assessed a stormwater user fee to each user located within the District who contributes directly or indirectly to the stormwater system, in the amount defined below.
- b. The District hereby establishes that an ERU shall be based upon 3,400 square feet of ISA.
- c. All properties having impervious surface area within the District shall be assigned an ERU, or multiple thereof, with all properties having impervious area assigned of at least one (1) ERU.
- d. *Residential Properties*: Residential properties shall be assessed a monthly user fee of one (1) ERU at a rate of \$5.00.
- e. *Non-Residential Properties*: The total impervious surface area of each non-residential property shall be individually calculated. Non-Residential properties shall be assessed a monthly rate for stormwater service based upon the total number of ERUs that encompass the measured impervious surface area on the individual property. The calculation to determine the total number of ERUs for a Non-Residential property shall be completed by dividing the total square footage of measured impervious surface area for a property by 3,400 square feet. The division shall be calculated to the first decimal place. Total ERUs shall not be less than one (1) for any Non-Residential property containing measurable surface area.
 - (1) Only whole ERUs shall be used in determining the assignment of gross ERUs to a property. All rounding necessary to reach the appropriate whole ERU shall be done according to mathematical convention (0 – 0.4 rounded down to the nearest whole ERU; 0.5 to 0.9 rounded up to the nearest whole ERU).
 - (2) Non-Residential Properties shall be billed based upon the following rates:
 - a) The first twenty (20) ERUs shall be billed at a monthly rate of \$5/ERU.
 - b) Any ERUs above twenty (20) shall be billed at a monthly rate of \$3/ERU.

5. Billings and Terms of Payment

- a. *Billings*: Stormwater User Fee levied pursuant to this chapter shall be in effect from August 1, 2015, and shall be due and payable on or before the dates shown on the billing statement.

- b. *Terms of Payment:* The Stormwater User Fee shall be due on the payment date set out on the bill. It shall be a violation of this Article to fail to pay a stormwater service bill when due. All bills for stormwater services not paid on or before the due date, which due date shall be approximately 15 days after the bill is rendered, shall be subject to a collection or deferred payment charge of 10% on outstanding balance. Payments returned for non-sufficient funds (“NSF”) shall be subject to a NSF fee of \$20.00.
- c. *Payment Priority:* Partial payments shall be applied in this order: 1) any NSF fee on the account; 2) any late fees on the account; 3) past due balances; 4) current balances.
- d. *Collection:* Delinquent stormwater service charges and applied penalties, recording fees, and service charges may be made a lien upon property and may be collected in accordance with the provisions of Ind. Code § 8-1.5-5-29, Ind. Code § 8-1.5-5-30, and Ind. Code § 8-1.5-5-31. Delinquent stormwater service charges may also be collected in a civil action along with reasonable attorneys’ fees and court costs.

6. Appeals of Stormwater User Fee

If, in the opinion of any user, the ERU multiple assigned to his or her property is inaccurate in light of the amount of impervious surface area found on the property, the user shall have the right to contest the ERU determination and thus the rate assessed in the following manner:

- a. The user shall obtain and complete a petition to appeal stormwater rate and return it to the Stormwater Department with verifiable documentation supporting the user’s claim.
- b. The Stormwater Department shall investigate the user’s claim and, upon review thereof, shall render a written determination within sixty (60) days. The user and the Stormwater Department shall have the opportunity to submit additional written documentation in support of each position prior to the meeting. The Board shall conduct a hearing on the dispute and issue a determination which shall be binding on the Stormwater Department. The hearing shall be electronically recorded and a transcript of the hearing provided upon request at a cost per page as determined by the Town Clerk.
- c. A party of person aggrieved by the final Board determination shall have the right to judicial review of the determination in accordance with state law.
- d. If the Stormwater Department recommends that the user’s rate be reduced, or reduction is ordered by the Board or court of law, the user shall be credited accordingly for any overpayment made from the date of the petition.
- e. Dispute or appeal of an ERU determination for the stormwater user fee shall not be a valid reason for non-payment of the originally assessed stormwater user fee by the user.

7. Stormwater User Fee Credit Program (Reserved for Future Use)

8. Stormwater Management Fund

All revenues earned and stormwater user fees collected for stormwater service, including but not limited to drainage service charges, permit and inspection fees, direct charges and interest earnings on any unused funds shall be deposited in an account entitled "Town of Sheridan Stormwater Revenue Fund" and shall be subject to the provisions of IC 36-9-23, as amended from time to time. Disbursements from the Stormwater Revenue Fund shall be authorized by the Board and, as required by law, by the Town Council. Such disbursements shall be used exclusively for the operation, maintenance and improvement of the Town of Sheridan's stormwater system. Funds from this account shall not revert to any other Town utilities or the general fund of the Town and may not be transferred for any other purpose. To the extent that there are outstanding revenue bonds of the Town issued pursuant to the provisions of IC 36-9-23, as amended from time to time, revenues deposited in the Stormwater Revenue Fund shall be subject to the covenants contained in the ordinance or ordinances authorizing such outstanding bonds.

9. Exemptions

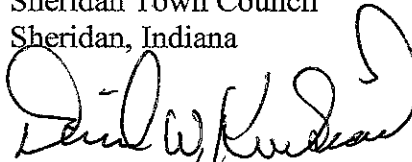
The following areas shall not be considered impervious surface area for the purpose of calculating stormwater service charges:

- a. Public roadways (including Federal, State, County and City);
- b. Public sidewalks and/or trails located within the right-of-way or sidewalk easement;
- c. Public airport runways and taxiways;
- d. Railway beds, ties and rails; and,
- e. Open water.

This ordinance shall be in full force and effect on August 1, 2015.

Passed by the Sheridan Town Council, Indiana on the 25th day of June, 2015.

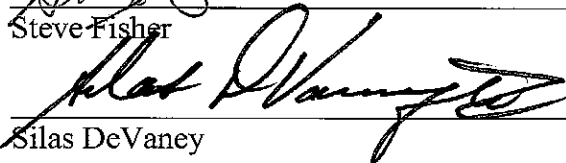
Sheridan Town Council
Sheridan, Indiana



David Kinkead

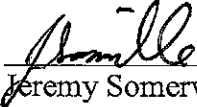



Steve Fisher



Silas DeVaney


Brenda Bush


Jeremy Somerville

Attest: 
~~Elizabeth A. Walden, Clerk-Treasurer~~
Town of Sheridan, Indiana

CONNIE I. STERN
DEPUTY CLERK