

ORDINANCE 2013-25

AN ORDINANCE TO ESTABLISH A STORMWATER UTILITY IN ORDER TO ESTABLISH A STORMWATER RATE STRUCTURE, WHICH WILL PROVIDE FOR THE FUNDING OF THE OPERATION, MAINTENANCE, AND IMPROVEMENT OF THE STORMWATER SYSTEM WITHIN THE VILLAGE OF BUCKEYE LAKE.

WHEREAS, the Village of Buckeye Lake currently owns and operates a stormwater system for the collection and disposal of storm and other surface waters and for flood control; and

WHEREAS, the constitution of the State of Ohio, Article XVIII, Section 4, authorizes municipalities to operate a public utility; and

WHEREAS, the 1972 Federal Clean Water Act, amended by the Water Quality Act of 1987, U.S. EPA and Ohio EPA regulates the Village's operation of this system, and will be required to implement programs to improve the quality of storm water; and

WHEREAS, the Village of Buckeye Lake is conducting a storm water utility program strategic plan, level of service analysis, cost of service analysis, organizational analysis and rate study analysis, cash flow analysis, identifying and analyzing problems, needs, missions, goals, and financing and management options, which is hereby incorporated by reference; and

WHEREAS, the Village of Buckeye Lake is conducting a stormwater management program cost of service and rate study, identifying and analyzing problems, needs, goals, and financing and management options, which is hereby incorporated by reference; and

WHEREAS, Village Council finds that the repair, replacement, improvement and regulation of the stormwater system is necessary to prevent further deterioration of the existing system, prevent or reduce flooding and to prevent water pollution; and

WHEREAS, it is the intent of the Village of Buckeye Lake that the costs of the operation, maintenance, and improvements of the stormwater system be borne by the users of the system in relation to their individual contributions of stormwater to the system; and

WHEREAS, it is necessary and desirable and in the best interests of the Village, its citizens, and the users of the stormwater system to establish a mechanism for the financing of facilities, systems and services provided by the Village of Buckeye Lake and the stormwater management program charge, which shall be designated the stormwater service charge, and shall be imposed and collected as provided in this ordinance; and

WHEREAS, the stormwater service charge should be fair, equitable, revenue sufficient, and reflect the relative contribution of stormwater runoff from a property, benefits enjoyed, and services received by each property as a result of the collection of surface water, and should consider the impervious area of the various properties within the

Village, because the extent of storm and surface water runoff from a particular lot or parcel is largely a function of its impervious area; and

WHEREAS, the Village will adopt rules and regulations to properly manage and maintain the stormwater system; and

WHEREAS, the Village of Buckeye Lake will establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as necessary to protect the water quality; and

WHEREAS, the Village will review and approve plans and plats for stormwater management in proposed subdivision or commercial developments; and

WHEREAS, the Village may suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution or condition of the permit; and

WHEREAS, the Village is responsible for the protection and preservation of the public health, safety, and welfare of the community, and the environment and finds that it is in the best interest of the health, safety, and welfare of the citizens of the Village and the community at large and the environment to proceed with the development, implementation, and operation of a stormwater utility program; and

NOW THEREFORE BE IT ORDAINED by the Council of the Village of Buckeye Lake, Ohio the "Stormwater Utility" be set forth hereafter as follows:

Stormwater Utility

- Section 1: Purpose and objective.
- Section 2: Creation of a Stormwater Utility Program.
- Section 3: Definitions
- Section 4: Funding the Stormwater Utility Program
- Section 5: Stormwater Utility Program Fund
- Section 6: Stormwater Utility Operating Budget
- Section 7: Rate Structure and Charges and Fees
- Section 8: Stormwater Only Accounts.
- Section 9: Necessity for Charges
- Section 10: Powers of Director of Public Service
- Section 11: Right to appeal
- Section 12: Collection
- Section 13: Adjustments to Stormwater Service Charges
- Section 14: Payment of Charges

Section 1: Purpose and objective.

The Village Council finds, determines and declares that the stormwater system, which provides for the collection, treatment, storage, and disposal of stormwater, provides benefits and services to all property within the village limits. Such benefits include, but

are not limited to: the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction of hazards to property and life resulting from stormwater runoff; improvements in general health and welfare through reduction of undesirable stormwater conditions; and improvements to the water quality in the stormwater and surface water system and its receiving waters.

Section 2: Creation of a Stormwater Utility Program.

The function of the newly created Stormwater Utility Program Department is to provide for the safe and efficient capture of stormwater runoff, mitigate the damaging effects of stormwater runoff, correction of stormwater problems; to fund activities of stormwater coordination, construction, operations, maintenance, inspection and enforcement activities.

It is the express intent of this newly created stormwater utility program, to protect the public health, safety and welfare of people, property and the environment, in general, but not to create any special duty or relationship with any individual person, or to any special parcel within or outside the boundaries of the Village. The Village expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages or equitable remedies upon the Village, its elected officials, officers, employees and agents arising out of any alleged failure or breach of duty or relationship.

Section 3: Definitions

Whenever used in this section 3 the meaning of the following words and terms shall be defined in this section:

- 3.1 "Abatement" means any action taken to remedy, correct, or eliminate a condition within, associated with, or impacting a drainage system.
- 3.2 "Adjustment" means a modification in a non-residential customer's stormwater service fee for certain activities that impact stormwater runoff or impacts the Village's costs of providing stormwater management.
- 3.3 "Developed Agricultural Property" is defined as a lot or parcel of real estate which may contain 1 or greater dwelling units and/or other building structures but does not include undeveloped properties.
- 3.4 "Apartment Property" is defined as a lot or parcel of real estate on which is situated a building containing 3 or greater single-family dwelling units.
- 3.5 "Condominium Property" is defined as a lot or parcel of real estate on which is situated a building containing 3 or greater individually owned single-family dwelling units.
- 3.6 "Approved plans" shall mean plans approved according to a permits and plan review which will govern all improvements made within the Village that require stormwater facilities or changes or alterations to existing stormwater facilities.
- 3.7 "Code" means the Village of Buckeye Lake Municipal Code.
- 3.8 "Detention" is described as the temporary storage of stormwater runoff in a basin, pond, or other structure to control the peak discharge rate by holding the stormwater for a lengthened period of time.
- 3.9 "Detention facility" means an area designed to store excess stormwater.
- 3.10 "Director" means the Director of Public Works, Village of Buckeye Lake, Ohio.

- 3.11 "Equivalent Residential Unit (ERU)" is a value, equal to 2,700 square feet of measured impervious area and is equal to the average amount of impervious area of residential properties within the Village of Buckeye Lake.
- 3.12 "Facilities" means various stormwater and drainage works that may include inlets, pipes, pumping stations, conduits, manholes, energy dissipation structures, channels, outlets, retention/detention basins, and other structural components.
- 3.13 "Impervious area" means areas that have been paved and/or covered with building and materials, which include, but are not limited to, concrete, asphalt, rooftop, and blacktop.
- 3.14 "Infiltration" is defined as a complex process of allowing runoff to penetrate the ground surface and flow through the upper soil surface.
- 3.15 "Non-residential properties" are all properties not encompassed by the definition of Residential and shall be defined as Non-residential. Non-residential properties will include:
- Agricultural properties with CAUV designations;
 - Apartment properties;
 - Two Story or Greater Condominium properties;
 - Mobile Home Parks with Rented Spaces (parcel not owned);
 - Commercial property;
 - Industrial property;
 - Institutional property;
 - Government property;
 - Churches;
 - Schools;
 - Federal, State, and Local properties; and
 - Any other property not mentioned in this or the list of residential properties below.
- 3.16 "NPDES" means National Pollutant Discharge Elimination System.
- 3.17 "NPDES Permit" means a permit issued to the Village pursuant to the 1972 Clean Water Act.
- 3.18 "Peak Discharge" or the "Peak Flow" is the maximum rate of flow of water passing a given point during or after a rainfall event.
- 3.19 "Private stormwater facilities" are defined as various stormwater and drainage works not under the ownership of the Village, County, State, and/or Federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, catch basins, curb and gutter, ditches, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.
- 3.20 "Public stormwater facilities" are defined as various stormwater and drainage works under the ownership of the Village, County, State, and/or Federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, catch basins, curb and gutter, ditches, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.
- 3.21 "Public stormwater open channel" means all open channels, which convey, in part or in whole, stormwater, stormwater, and are owned by the Village, which have a permanent drainage/easement granted to the Village and does not include roadside ditches.

- 3.22 "Residential property" means all single-family, single story condominium dwelling units, mobile home units with separate parcels and separate billing accounts and two-family duplex properties within the Village of Buckeye Lake.
- 3.23 "Retention" is defined as the holding of stormwater runoff in a constructed basin or pond or in a natural body of water without release except by means of evaporation, infiltration, or emergency bypass.
- 3.24 "Retention facility" means a facility, which provides storage or stormwater runoff and is, designed to eliminate subsequent surface discharges.
- 3.25 "Square footage of impervious area" means, for the purpose of assigning an appropriate number or ERUs to a parcel of real property, the square footage of all impervious area using the outside boundary dimensions of the impervious area to include the total enclosed square footage, without regard for topographic features of the enclosed surface.
- 3.26 "Stormwater" means stormwater runoff, snowmelt runoff, and surface runoff and drainage.
- 3.27 "Storm sewer" means a sewer, piping or natural structure, which carries stormwater, surface runoff, street wash waters, and drainage, but which excludes sanitary sewage and industrial wastes, other than unpolluted cooling water.
- 3.28 "Stormwater service charge" is defined as a charge assessed to users and contributors of flow to the Village's stormwater collection, impounding and transportation system.
- 3.29 "Stormwater system" means all man-made facilities, structures, and natural watercourses owned by the Village of Buckeye Lake, used for collection and conducting stormwater to, through, and from drainage areas to the points of final outlet including, but not limited to, and all of the following: conduits and appurtenant features, canals, creeks, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, streets, curbs, gutters, dams, floodwalls, levees, and pumping stations.
- 3.30 "Excess Stormwater" means that portion of stormwater, which exceeds the transportation capacity of storm sewers or natural drainage channels serving a specific watershed.
- 3.31 "Dry bottom stormwater storage area," means a detention facility designed to be normally dry and contain water only when excess stormwater runoff occurs.
- 3.32 "Wet bottom stormwater storage area," means a detention facility designed to be maintained as a pond or free water surface, and which has the capacity to contain excess stormwater runoff.

Section 4: Funding the Stormwater Utility Program

Funding for the stormwater utility's activities may include, but are not limited to: Stormwater service charges; Stormwater permits and inspection fees; other funds or income obtained from federal, state, locals, and private grants, or loans.

Section 5: Stormwater Utility Program Fund

All service charges and all sources of revenue generated by or on behalf of the stormwater utility shall be deposited in a stormwater utility enterprise fund and used exclusively for the stormwater utility.

Section 6: Stormwater Utility Operating Budget

Village Council shall adopt an operating budget for the stormwater utility each fiscal year. The operating budget shall set for such fiscal year revenues and estimated expenditures for operations, maintenance, and extension and replacement and debt service.

Section 7: Rate Structure and Charges and Fees.

A stormwater service charge shall be assessed to each and every lot and parcel of land within corporate limits of the Village of Buckeye Lake that is tributary directly or indirectly to the stormwater system of the Village and the owner thereof that contains impervious area. This charge does not rely on occupancy of the premises to be in effect and is hereinbefore provided, and in the amount determinable as follows:

For any such property, lot, parcel of land, building or premises that is tributary directly or indirectly to the stormwater system of the Village, such charge shall be based upon the quantity of impervious area situated thereon.

(a) All properties having impervious area within the Village of Buckeye Lake will be assigned an Equivalent Residential Unit (ERU) or a multiple thereof, with all properties of having impervious area receiving at least one (1) ERU.

(1) Residential properties, All residential will be assigned one (1) ERU. A flat rate service charge will apply to all residential properties.

(2) Non-residential properties. Non-residential properties will be assigned an ERU multiple based upon the properties' individually measured impervious area (in square feet) divided by 2,700 square feet (1 ERU). This division will be calculated to the first decimal place and rounded according to mathematical convention.

(3) Base Rate. Village Council shall, by resolution, establish the base rate for the stormwater utility service charge. The base rate shall be calculated to insure adequate revenues to fund the expenditures of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system within the city limits.

Section 8: Stormwater Only Accounts.

Stormwater only accounts are properties that do not contain water but do contain impervious area or hard surface. New and additional stormwater only accounts will be determined by building and zoning departments and building permit system. The Village of Buckeye Lake Development Department will make available all zoning permits for new construction to the Director of Public Works or his/her designee.

Section 9: Necessity for Charges

It is hereby determined necessary for the protection of public health, safety, and welfare and to conform with Federal, State, and local laws and regulations that a system of charges for stormwater service be established which allocates the cost of providing stormwater services to each user in such a manner that the allocated costs are proportionate to the cost of providing stormwater service to that user, insofar as those costs can reasonably be determined.

Section 10: Powers of Direction of Public Works

Stormwater service charges levied pursuant to this ordinance may be collected by Department of Stormwater. Notwithstanding other provision of the Village of Buckeye Lake Code, the Direction of Public Works or his/her Designee shall make and enforce such rules and regulations as deemed necessary for the safe, economical, and efficient management and protection of the Village's stormwater system;' for the construction and use of storm sewers and connections to the stormwater system consistent with policies established by the Village of Buckeye Lake Council; and for the regulation collection, rebating and refunding of such stormwater charges.

Section 11: Right to appeal

A Non-residential property owner may challenge the ERU multiple assigned to his/her property by filing an appeal with the Mayor of the Village of Buckeye Lake or his/her Designee in writing the grounds for the appeal. The Mayor or his/her designee shall consider the appeal and determine whether an adjustment of the ERU multiple for any such lot or parcel is necessary, and adjust such ERU multiple if appropriate.

Section 12: Collection

Each stormwater service charge rendered under or pursuant to this ordinance is hereby made a lien upon the corresponding lot, parcel of land, building or premises that are tributary directly or indirectly to the stormwater system of the Village, and, if the same is not paid within ninety days after it shall be due and payable, it shall be certified to the Auditor of the County in which the property is located, who shall place the same on the tax duplicate of said County with the interest and penalties allowed by law and be collected as other taxes are collected.

Section 13: Adjustments to Stormwater Service Charges

Increase adjustments (debit) can be made to non-residential service charges by property owners adding additional impervious area such as rooftops, parking lots, driveways and walkways. Decrease (credit) adjustments can be made to non-residential service charges by property owners performing activities that reduce the impact of stormwater runoff to the stormwater system.

Section 14: Payment of Charges

Stormwater charges shall be assessed monthly. Payment shall be made within ten (10) days following the receipt of the statement of charges. Stormwater charges shall be billed on a joint statement with water charges and shall be payable at the Village of Buckeye Lake Water Office.

If a bill for stormwater service remains unpaid for a thirty (30) day period, the arrearage will be added to the next monthly billing. Notice shall be given with this bill that if all bills are left unpaid at the Water Office after the due date (two bills are past due constitute a double bill), current delinquent and additional charges shall be applied to the bill and water furnished by the Department shall be scheduled for shut off without further notice. If water service is scheduled for termination, additional service charges shall be applied.

If water service is terminated due to delinquent payment of charges, service shall not be restored until all stormwater and water delinquent and service charges are paid in full.

Each charge levied by or pursuant to this Chapter shall be made a lien upon the corresponding lot, land or premises serviced by a connection to the water system. If the charge is not paid, it shall be certified to the Auditor of The County in which the property is located, who shall place the same on the tax duplicate of said County with the interest and penalties allowed by law and be collected as other taxes are collected.

The funds received from the collection of the stormwater service charges as defined in Section 5 shall be deposited in the stormwater enterprise fund.

Section 15: Falsifying Information

No person shall knowingly make any false statement, representation, record, report, plan or other document and file such with the Department of Stormwater.

Section 16: Severability Clause.

If any of the provisions of this ordinance are for any reason illegal or void, then the lawful provisions of this ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

Section 17: That this Ordinance shall take effect and be enforced from and after the earliest period allowed by law.

ADOPTED this 9th day of December, 2013.

ATTEST: Valerie A. Hons Charlene C. Hayden
Clerk of Council President of Council

Date filed with Mayor: December 9, 2013.

Date approved by Mayor: December 9, 2013.

Richard E. Baker
Richard E. Baker, Mayor

Approved as to form: Richard S. Bindley
Richard S. Bindley, Solicitor