

VILLAGE OF YELLOW SPRINGS, OHIO
ORDINANCE 2022-31

ESTABLISHING A PUBLIC UTILITY FOR STORMWATER
BY ENACTING NEW CHAPTER 1049
OF THE VILLAGE OF YELLOW SPRINGS CODIFIED ORDINANCES

WHEREAS, Increasing volume and intensity of rainfall events continue to place increased strain on the Village's stormwater infrastructure, as has the increase in impervious surface throughout the Village; and

WHEREAS, Village staff have recommended creation of a stormwater utility to provide efficient and effective management and financing of the existing stormwater system and any improvements or additions thereto; and

WHEREAS, Village Council, based upon the recommendation of the Public Works Director, shall leverage a higher stormwater utility charge on non-residential properties because those properties generally contribute a higher burden to the stormwater system than residential properties; and

WHEREAS, Village Council has determined that it would be in the best interest of the Village to adopt a new Chapter 1049 entitled "Stormwater Utility Charges" of the Codified Ordinances of the Village of Yellow Springs, Ohio to create this necessary utility,

**NOW, THEREFORE, COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO
HEREBY ORDAINS THAT:**

Section 1. All formal actions related to this Ordinance were conducted in public meetings in compliance with Section 121.22 of the Ohio Revised Code and Chapter 607 of the Village Codified Ordinances, including by making the Policy publicly available prior to the public hearing on this Ordinance.

Section 2. A new Chapter 1049 "Stormwater Utility Charges" of the Codified Ordinances of the Village of Yellow Springs, Ohio be enacted to read as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Brian Housh, President of Council

Passed: 9-19-2022

Attest: _____
Judy Kintner, Clerk of Council

ROLL CALL:

Brian Housh __Y__ Marianne MacQueen _Y__ Kevin Stokes _Y_
Carmen Brown __Y__ Gavin Devore-Leonard _Y_

CHAPTER 1049

Stormwater Utility Charges

1049.01 ESTABLISHMENT OF STORMWATER UTILITY, PURPOSES.

1049.02 STORMWATER SYSTEM AND LIABILITY.

1049.03 STORMWATER UTILITY SERVICE CHARGE.

1049.04 PAYMENT OF STORMWATER UTILITY SERVICE CHARGE.

1049.05 STORMWATER UTILITY SERVICE CHARGE CREDITS.

1049.06 ROLE OF DEPARTMENT OF PUBLIC WORKS; STORMWATER UTILITY COORDINATOR; APPEALS.

1049.07 ESTABLISHMENT AND USE OF STORMWATER UTILITY FUND.

1049.01 ESTABLISHMENT OF STORMWATER UTILITY, PURPOSES.

(a) There is established in the Village a stormwater utility to provide efficient and effective management and financing of a stormwater system within the Village; to provide a system for mitigating the damaging effects of uncontrolled and unplanned stormwater runoff; to mitigate and reduce the amount of stormwater mixed with sanitary sewage and sent to the Village's wastewater treatment facilities; to protect the public health, safety and welfare by providing for the safe and efficient capture and conveyance of stormwater runoff, for the correction of stormwater conditions detrimental to the public health, safety and welfare; to authorize the establishment and implementation of plans and mechanisms for dealing with stormwater drainage, including design, coordination construction, management, operation, maintenance and replacement of stormwater management facilities, inspection and enforcement activities and administration of the Village's stormwater utility; to establish reasonable stormwater utility service charges based on each property's contribution of stormwater runoff to the system and use and benefit of services and facilities to fund the Village's stormwater system; and to encourage and facilitate urban water resources management techniques, including detention of stormwater runoff, enhancing the amount of and use of permeable surfaces, minimization of the need to construct storm sewers, and the protection of the environment, including the protection of the Little Miami watershed.

(b) It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and necessary in order to accomplish the aforementioned purposes that a stormwater utility service charge shall be made on each lot or parcel in the Village from which stormwater drains and which contributes to stormwater runoff.

1049.02 STORMWATER SYSTEM AND LIABILITY.

For purposes of this Chapter, "System" includes all manmade facilities, structures and natural watercourses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: conduits and

appurtenant features, canals, creeks, channels, catch basins, detention ponds, ditches, streams, gulches, gullies, flumes, culverts, siphons, streets, curbs, gutters, dams, floodwalls, levees and pumping stations. All elements of the System which provide for the collection and disposal of stormwater and regulation of groundwater benefit and provide services to all property within the incorporated Village limits, including property not presently served by the stormwater elements of the System. The beneficiaries of the System include the owners and occupants of all real properties within the Village which benefit by the provision, operation and improvement of the System. Such benefits may include, but are not limited to, the provision of adequate systems of collection, conveyance, detention, and release of stormwater, the reduction of hazard to property and life resulting from stormwater runoff, improvement in general health and welfare through reduction of undesirable stormwater conditions, and improvement to the water quality in the storm and surface water system and its receiving waters. Floods from stormwater runoff may occasionally occur which exceed the capacity of the System. This chapter does not imply that property subject to the stormwater utility service charge will always be free from stormwater flooding or flood damage, or that the System shall ever be capable of handling all storm events; nor does this Chapter create a liability on the part of, or cause of action against, the Village or its personnel for any flood damage; nor does it reduce the need or the necessity for obtaining flood insurance.

1049.03 STORMWATER UTILITY SERVICE CHARGE.

(a) The charges created by this Chapter shall be known as stormwater utility service charges. Stormwater utility service charges shall be used to operate, maintain and improve the System.

(b) Each parcel's land use code assigned by Greene County will determine the applicable charge. Parcels assigned a "residential" code by Greene County will be charged \$5.00 per month and parcels assigned any other land use code other than residential will be charged \$10.00 per month, except as set forth herein. Each unit in a multi-family residential structure will be assessed the charge.

1049.04 PAYMENT OF STORMWATER UTILITY SERVICE CHARGE.

(a) The Finance department, through Utility Billing, shall issue combined monthly invoices with other Village utilities with itemization. Payment of such invoices shall be subject to the terms of any billing policies that may be adopted by the Village and the terms of any customer agreements. The Finance Director shall collect and account for all revenues in accordance with Ohio auditing standards and internal control methods, and shall deposit such revenues in the Stormwater Utility Fund.

(b) Notwithstanding all other provisions of the Chapter, public right-of-way [i.e. government-owned roads (whether or not dedicated), utility easements, sidewalks, bridges, bike trails, and the like] and railroad track right-of-way is exempt from the assessment of stormwater utility service charges and no stormwater utility service charge is required to be paid for such property.

(c) No stormwater utility service charge shall be imposed upon premises owned or operated by the Village of Yellow Springs.

(d) It is the intent of this Chapter that the stormwater utility service charge be imposed only on property that is likely to contribute stormwater to the Stormwater System. There is a presumption that all properties in the Village are likely to contribute stormwater to the Stormwater System; however, a property owner may rebut this presumption by providing evidence to the Village's Stormwater Utility Coordinator proving that a property is unlikely under any circumstances to contribute stormwater to the Stormwater System. In the event a property owner is able to prove that the property owner's property is unlikely under any circumstances to contribute stormwater

to the Stormwater System, then no stormwater utility service charge will be applicable to that property.

1049.05 STORMWATER UTILITY SERVICE CHARGE CREDITS.

(a) Credits shall be allowed as provided for in stormwater utility charge credit policies adopted by the Village Council.

1049.06 ROLE OF DEPARTMENT OF PUBLIC WORKS; STORMWATER UTILITY COORDINATOR; APPEALS.

(a) The Department of Public Works, in implementing the utility and administering the System, shall:

1. Adopt procedures as required to implement these regulations as well as take action to protect and maintain water quality within the System in compliance with standards established by state, regional and/or federal agencies as now in effect, or hereafter amended, including preparation and revision of infrastructure plans;
2. Administer the acquisition, alteration, design, construction, maintenance and operation of the System, including capital improvements, and inspection of private property to determine the compliance of private drainage or mitigation systems with this chapter and any other stormwater regulations enforceable by the Village;
3. Prepare and revise a Village-wide drainage plan;
4. Review plans, approve or deny, inspect and accept extensions to the System
5. Report operations and recommendations to Village Council annually.

(b) Stormwater Utility Coordinator. The Village Manager shall designate a Village employee as Stormwater Utility Coordinator who shall report to the Public Works Director or designee and who shall administer the Village's stormwater utility, including;

- (1) Receiving reviewing and granting or denying applications for credits,
- (2) Determining the appropriate classification for properties based on land use information collected and maintained by the County Auditor,

(c) Any person obligated under this Chapter to pay a stormwater utility service charge to the Village may make application to the Stormwater Utility Coordinator, on application forms to be prescribed by the Stormwater Utility Coordinator, seeking a credit or seeking a determination of whether a property is unlikely under any circumstances to contribute stormwater to the Stormwater System or seeking reconsideration of a determination made by the Stormwater Utility Coordinator. The application shall be accompanied by a processing fee reasonably related to recovering the Village's costs expected to be experienced in processing such applications, as determined by the Finance Director. The applicant shall attach to the application any affidavits and/or other documentary evidence the applicant relies upon to justify the request in the application and shall fully explain in writing in the application the applicant's reasons and support for the relief sought. The Stormwater Utility Coordinator shall grant or deny the application and issue a written explanation of the Stormwater Utility Coordinator's decision.

(d) Appeals. An applicant aggrieved by a decision of the Stormwater Utility Coordinator made on an application filed with the Village, may file an appeal with the Public Works Director or designee along with a processing fee of \$100.00; provided that the filing of the appeal is made within fourteen days after the Stormwater Utility Coordinator issues his/her decision granting or denying the application. The appeal shall be made to the Utility Dispute Resolution Board. The Utility Dispute Resolution Board shall consider the provisions of this Chapter, land use data establishing the actual conditions of the property, the application and its attachments, the decision of the Stormwater Utility Coordinator and the contents of the appeal document in reviewing the Stormwater Utility Coordinator's decision and shall affirm or reverse or reverse and remand the Stormwater Utility Coordinator's decision. The decision of the Utility Dispute Resolution Board shall be final. Further appeal shall be to the Court of Common Pleas.

1049.07 USE OF STORMWATER UTILITY FUND.

The funds received from the collection of the stormwater utility service charges authorized by this Chapter shall be deposited into the Stormwater Utility Fund and when appropriated by the Village Commission, shall be used solely for the payment of the costs and expenses of design, coordination construction, management, operation, maintenance and replacement of stormwater management facilities, inspection and enforcement activities pertaining to the Village's stormwater system and administration of the Village's stormwater utility.