

ORDINANCE _____

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

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF
DANVILLE, KENTUCKY, as follows:

SECTION ONE:

The Code of Ordinances for the City of Danville, 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 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 is adversely affected by poor ambient water quality and flooding.

(e) All real property in the City of Danville 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 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 use fee system that is reasonable and equitable so that each use of the system pays to the extent to which they contribute to the need for it.

(i) The City is required to develop a stormwater quality program through the NPDES Phase II stormwater program that is required by state and federal law.

Article II. Authority

Authority for the adoption of this system of user fees to fund the implementation of stormwater management programs is derived from KRS 91A.510-530.

Article III. Definitions

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

(a) *Assessment Roll* means the official listing of assessments of real property maintained by the Boyle County Property Valuation Office.

(b) *Base Rate* means the Stormwater Management Fee charged on a base unit (equivalent residential unit). The monthly Stormwater Management Fee for a Single Family Residential (SFR) property in the City of Danville equals the base rate.

(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 (ERU)* means the average impervious surface area associated with a single family residential property in the City of Danville as calculated using statistical methods.

(e) *Fee or Stormwater Management Fee* means the charge to the property owner established under this Chapter and levied on owners of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the City of Danville.

(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 stormwater 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 stormwater into the soil.

(i) *Multi-Family Dwelling* means a building with three or more dwelling units.

(j) *NPDES Phase II Permit* means National Pollution Elimination System Phase II Storm Water Permit as mandated by United States Environmental Protection Agency.

(k) *Non-Developed Property* means any non-SFR property not altered from its natural state.

(l) *Non-Single Family Residential (Non-SFR)* means developed property other than single-family residential property. Such property shall include, but not be limited to, multi-family dwellings, commercial properties, industrial properties, parking lots, hospitals, schools, recreational and cultural facilities, hotels, offices and churches.

(m) *Property Owner/Developer/Applicant* means the person, firm, partnership, or corporation who is the owner of record as listed in the Boyle County Property Valuation Office assessment rolls.

(n) *Single Family Residential (SFR) Property* means a developed property which serves the primary purpose of providing a permanent dwelling unit and which is classified as residential in the Boyle County assessment rolls. For purposes of this definition, a duplex shall be considered as two SFRs.

(o) *Stormwater Management Fund or Funds* means the Fund created by this Chapter to operate, maintain, and improve the City of Danville's stormwater system.

(p) *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.

(q) *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 stormwater collection system.

(r) *Water* means any stormwater, 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 Danville 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 Danville should, therefore, be allocated, to the extent practicable, to all property owners 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 the Chapter, shall be deposited into the Fund. The City Commission may make additional appropriations to 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 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

A monthly service fee is imposed upon all real property in the City of Danville, beginning no earlier than January 1, 2008, to fund stormwater management programs. This service fee shall be known as the Stormwater Management Fee ("Fee"). Any real property developed or added through annexation into the City of Danville after January 1, 2008, shall be subject to a monthly service fee. The Fee is based on (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 cost 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 Danville are classified into one of the following classes:

(a) *Single Family Residential (SFR) Property*: The Commission finds that the contribution to runoff of most parcels of real property in the City of Danville classified as single family residential 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, all single family residential properties in the City shall be charged a flat Stormwater Management Fee, equal to the base rate, as provided in Article VIII Base Rate.

(b) *Non-Single Family Residential (non-SFR)*: The Fee for non-SFR property in the City of Danville shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by the ERU. The impervious surface area for non-SFR property is the square footage for the buildings and other improvements on the property. At the sole discretion of the City

Commission, the impervious surface area of non-SFR property may be approximated through site examination, mapping information, aerial photographs, and other available information. The minimum Stormwater Management Fee for non-SFR property shall equal the base rate for single family residential property.

(c) *Non-Developed Property*: The Fee for non-developed property in the City of Danville shall be a flat Stormwater Management Fee, equal to the base rate, as provided in Article VIII Base Rate.

Article VIII. Base Rate

A monthly base rate for the Stormwater Management Fee is established for all single family residential property per ERU.

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 Family Residential | \$1.50 |
| Non-Single Family Residential | \$1.50 Multiplied by the numerical Factor obtained by dividing the total impervious area (square feet) of the property by one Equivalent |

Article X. Fee for Tax-Exempt Properties; Exemptions

(a) The City Commission finds that all real property in the City of Danville contributes to runoff and either uses or benefits from the maintenance of the stormwater system. Therefore, all real property in the City, including property that is tax exempt from property tax by the Kentucky Revised Statutes, as amended, shall be subject to the Fee.

(b) Property which is owned by the City of Danville shall be subject to the Fee.

(c) All federal, state, county, and City roads are exempt from the Fee and are considered to be part of the City of Danville drainage systems.

Article XI. Assessment Notices.

(a) The City Commission may, but is not required to, send assessment notices for the Fee to property owners 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 Other Developed Property:

(a) The impervious surface area of the property; 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 Boyle County Property Valuation Office, site examination, mapping information, aerial photographs, or other methods.

(3) The amount of the base rate (i.e., the Single Family Residential Fee), and for Other Developed Property, the number of base units on the property.

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

(a) The fee shall be billed on the water bill on the same cycle and frequency as the water bill for the property. The City Commission 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 water bill shall be considered delinquent and the City may disconnect and terminate water service to the premises subject to Danville Code of Ordinance Chapter 18.

(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 of the bill.

(d) The fee, including the penalty of 10% of the total bill, when overdue shall constitute a lien on real property and may be collected by a suit against the property owner or in an *in rem* action against the property.

(e) The City Commission 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 XIII. Request for Correction of the Stormwater Management Fee

(a) A property owner may request correction of the fee by submitting the request in writing to the City Engineer's Office within thirty (30) days after the date the assessment notice or the 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 of a property subject to the fee.

(b) The City Engineer's Office shall make a determination within sixty (60) days after receipt of the property owner's completed written request for correction of the fee. The City Commission decision on a request for correction of the fee shall be final.

(c) A property owner must comply with all rules and procedures adopted by the City Commission when submitting a request for correction of the fee and must provide all information necessary for the City Engineer's Office to make a determination on a request for correction of the fee. If a property owner alleges an error under Article XII(a)(2), the request for correction must include a certification by a registered engineer or professional land surveyor of the impervious surface area of the property. Failure to comply with the provisions of this subsection shall be grounds for denial of the request.

Article XIV. Equivalent Residential Unit

The equivalent residential unit for the City of Danville shall be three thousand eight hundred and thirteen (3,813) square feet.

SECTION TWO:

The provisions of this Ordinance are severable. If any section, sentence, clause, or section 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 or sections or part of this Ordinance.

SECTION THREE:

This Ordinance shall be effective upon its final passage and publication and the City Clerk is hereby directed to publish this Ordinance in the Danville Advocate Messenger of Danville, Kentucky.

GIVEN FIRST READING AND PASSED _____.

GIVEN SECOND READING AND PASSED _____.

DATE OF PUBLICATION _____.

APPROVED:

HUGH COOMER, MAYOR
CITY OF DANVILLE, KENTUCKY

ATTEST:

DONNA PEEK, CITY CLERK
CITY OF DANVILLE, KENTUCKY