

**SPONSOR: 2<sup>nd</sup> District Councilman Jack Uylaki  
1<sup>st</sup> District Councilman Mark Kalwinski  
Councilwoman at Large Janet Venecz**

**ORDINANCE NO. 9262**

**An Ordinance Enacting Proposed Amendments to the System of User Fees for the  
Operation and Maintenance of the City Storm Water System**

WHEREAS, the Council has been informed of the determination by the Board of Commissioners (“HSW Board”) of the Hammond Storm Water Management District (“District”) that it is necessary to secure additional funds to extend, improve, reconstruct, replace, maintain and upgrade substantial portions of the City storm water system; and

WHEREAS, the Council has received the following record of recent actions taken by the HSW Board which:

a. has determined that it is necessary, being mindful of the City’s significant and varied water resources, and the need to protect and enhance the ability of the City to channel and dispose of its storm waters, to extend, improve, reconstruct, replace, maintain or upgrade substantial portions of the City storm water system in order to provide an environmentally responsible, healthful, efficient and effective means of controlling, directing and treating storm water flows within the City, all as required by the laws of the United States and the State of Indiana; and

b. commissioned an analysis through Cender & Company, LLC Certified Public Accountants of the costs, both in the recent past and for anticipated future years of providing the minimum amount of funds necessary for the operation and maintenance of the City storm water system as required by I.C. §8-1.5-5-7 (b); and

c. in order to implement said needs, has determined the minimum amount of funds necessary for the operation and maintenance of the City storm water system as required by I.C. §8-1.5-5-7 (b); and

d. proposed the adoption of a system of user fees and charges which equitably spreads the cost of funding said needs among residential, commercial and industrial property owners of the City, taking into account those factors authorized by I.C. §8-1.5-5-7 (d), and making classifications employing the variations authorized by I.C. §8-1.5-5-7 (e) by the adoption of Resolution No. SW 1-2014 on August 26, 2014; and

e. after giving notice in the manner required by law, conducted public hearing upon said proposed system on August 26, 2014 and, having heard and received no remonstrances from any person, either at said hearing or otherwise, at the conclusion of said hearing adopted Resolution No. SW 1-2014 confirming the proposed system of storm water rates and charges and their collection by a charge

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appearing on the semiannual property tax statements of affected property owners in the City, all as proposed in Resolution No. SW 1-2014, and

f. recommended to the Council the final adoption and enactment of the user fee system of rates and charges contained in HSW Board Resolution No. SW1-2014, and

WHEREAS, the Council has carefully evaluated the materials prepared by the HSD and HSW Board in connection with the proposed new rate system and has had the opportunity to receive further information and to pose questions concerning the proposed storm water rate system; and

WHEREAS, the Council has concluded that the adoption of the new system of Storm Water rates and charges proposed is in the best interest of all of the residents of the City, that the expense of proper maintenance, planning and development for the Storm Water system require adequate resources which are not otherwise obtainable, and that failure to address the storm water management needs of the City will expose it to worsening overflows, inundations, legal challenges by governmental authorities and even higher costs to its residents; and

WHEREAS, the Council desires to approve said newly adopted systems of rates and charges for Storm Water Management and the collection of the storm water fees and charges, only, through a charge appearing on the semiannual property tax statements of affected property owners in the City, and wishes to spread its action upon the public record through this ordinance.

THEREFORE, BE IT ORDAINED by the Common Council of the City of Hammond, Indiana as follows:

Definitions:

Approved Plans: Plans approved by the Hammond Department of Storm Water Management according to a permit and plan review which will govern all improvements made within the City of Hammond that require stormwater facilities or changes or alterations to existing stormwater facilities.

Best Management Practices ("BMP"): A BMP is a technique, process, activity, or structure used to reduce the quantity of stormwater runoff, control peak runoff rates and/or reduce the pollutant content of a stormwater discharge. BMPs include simple nonstructural methods, such as good housekeeping and preventive maintenance. BMPs may also include structural modifications, such as detention and retention facilities and infiltration and bioretention measures.

Board: The Hammond Department of Storm Water Management established under Sections 34.152 of the City of Hammond Code.

Code: City of Hammond Municipal Code.

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County Regulated Drain: Part of the stormwater conveyance system under the jurisdiction of the Lake County Drainage Board, including certain ditches, tiles, and sewers.

Design Storm: A rainfall event of specified size and return frequency that is used to calculate the runoff volume and peak discharge rate of a BMP.

Detention: The temporary storage of stormwater runoff in a basin, pond or other structures to control the peak discharge rates by holding the stormwater for a period of time and controlling the outflow.

Director: A person appointed by the District Board of Directors to undertake the tasks and responsibilities set forth by this article, who shall serve at the discretion of the District Board of Directors.

Drain: Any separated storm sewer, tile, ditch, stream or other stormwater conveyance channel or conduit.

Exempt Drain: Drains that are regulated by the Lake County Drainage Board.

HDSWM: Hammond Department of Storm Water Management.

Impervious Area: Real property that has been paved and/or covered with buildings and materials which include, but are not limited to, concrete, asphalt, rooftop, blacktop, and compacted gravel, such that the natural infiltration of water into the soil is prevented.

Infiltration: A process of which stormwater percolates into the ground.

Lot/Parcel: A part or portion of land having a legal description that is formally set forth in a conveyance instrument.

Municipal Separate Storm Sewer System (MS4): A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (i) Owned or operated by a state, city, town, borough, county, parish, district, association or other public body (created by or pursuant to State law);
- (ii) Designed or used for collecting or conveying stormwater;
- (iii) Which is not a combined sewer; and
- (iv) Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

NPDES: National Pollutant Discharge Elimination System.

NPDES Permit: Permit required pursuant to Section 402 of the Clean Water Act, as amended.

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**Peak Discharge:** The maximum rate of flow of water passing a given point during or after a rainfall event.

**Property Class Code:** A three digit land use code number generated from the Lake County Assessors office's used to differentiate properties use and primary purpose. For purposes of the Hammond Department of Storm Water Management User Fee, this property class code will determine each parcels monthly user fee.

**Public Stormwater Facilities:** The various stormwater and drainage works under the control and/or ownership of the city, county, state or federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move, hold or regulate stormwater.

**Retention:** 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.

**Storm Sewer:** A sewer designed or intended to convey only stormwater, surface runoff, and drainage, and not intended for sanitary sewage and industrial wastes other than unpolluted cooling water. The portion of a sewer intended to carry stormwater only, which begins at the grating or opening where water enters said sewer, through the sewer and any other conduits to the outlet structure where water enters a channel, natural watercourse or combined sewer.

**Stormwater and Stormwater Runoff:** The water derived from rains falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

**Stormwater System:** All constructed facilities, structures and natural watercourses under the ownership, and/or control of the city and/or the TMSWMD, used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins and pumping stations; and excluding therefrom, any part of the system of drains and watercourses under the jurisdiction of the Lake County Drainage Board or under other ownership.

**Stormwater Utility User Fee:** A charge imposed on users of the city's public stormwater facilities and stormwater system.

**Stormwater Utility Customer/User:** The owner of a lot or parcel of land located within the City of Hammond, except for state, county, municipal and public and private schools, Churches and Religious Institutions and all other tax exempt entities which are exempted.

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Subdivision Group: All of the parcels of land within a platted development except for State, County, Municipal and Public and Private School parcels.

Sec. 1. - Stormwater Utility Billing.

A stormwater utility user fee shall be imposed based on the Lake County Property Class Code for real property within the City of Hammond, Lake County, Indiana, according to the service address for each parcel or lot's tax payer ID number, which charge shall be assessed against the owner thereof, who shall be considered the stormwater utility customer/user for the purposes of this article except parcels of land owned by state, county, municipal and public and private schools, churches and religious institutions and other tax exempt organizations shall be exempted.

Sec. 2. - Stormwater Utility User Fee.

The stormwater utility user fee is deemed reasonable and is necessary to fund National Pollutant Discharge Elimination System (NPDES) phase 2 compliance and regulations; stormwater management program administration; repair, replacement, improvement, operation, regulation and maintenance of the existing and future City of Hammond stormwater system; Stormwater Management Department expenditures; future planning of the stormwater system; capital improvements within the City of Hammond stormwater system; implementation of MS4 regulations; administrative and salary costs for individuals who provide services to the stormwater management system and regulations of such system and/or for the Hammond Department of Storm Water Management. The City of Hammond will not fund stormwater system infrastructure improvements or enforcement of subdivision covenants that are the responsibility of the property owner(s), subdivider and or developer as identified in the City of Hammond municipal code, such as retention and detention basins. This rate shall be evaluated annually as to its sufficiency to satisfy the needs of the Hammond Department of Storm Water Management.

Sec. 3. - User Fee Structure.

For the purposes stated herein, there is hereby assessed a stormwater utility user fee to each stormwater utility customer/user within the corporate limits of the City of Hammond, Lake County, Indiana, in an amount as determined below. Properties within the City of Hammond, Lake County, Indiana, will be assigned the following monthly user fees:

Property Class Code	Monthly Fee
100 – 199 Agricultural	20 acres or less = \$2.50 per month. Greater than 20 acres = \$.125 per acre per month.
300 Industrial Vacant Land	20 acres or less = \$2.50 per month. Greater than 20 acres = \$.125 per acre per month.
320 – 399 Industrial	\$35.00 per month
400 Commercial Vacant Land	20 acres or less = \$2.50 per month. Greater than 20 acres = \$.125 per acre per month.
401 Commercial Apartment 4-19 Units	\$15.00 per month
402 – 499 All commercial including apartment buildings over 19 units	\$35.00 per month

500 – 509 Residential Vacant Land	.25 acres or less = \$.50 per month
	.251 acres to 20 acres = \$2.50 per month
	Greater than 20 acres = \$.125 per acre per month
510 – 545 Residential Single Family Duplex and Three Unit including excess acreage	\$5.00 per month
550 Residential Condo	\$5.00 per month
599 Other Residential Structure	\$5.00 per month
600, 610, 620, 621, 622, 630, 640, 645, 660, 661, 662, 665, 669	State, county, municipal and other exempt properties are not charged
670 Exempt private academy/college	Not charged
680, 685, 686 Charitable, religious and churches	Not charged
690 Cemetery	6.66 acres or less = \$2.50 per month. Greater than 6.66 acres = \$.375 per acre per month.
699 Other Exempt Properties	Not charged
805 Utility Vacant Land	.25 acres or less = \$.50 per month. .251 acres to 20 acres = \$2.50 per month. Greater than 20 acres = \$.125per acre per month.
820 Heat and Power Utilities	\$35.00 per month
821 State Assessed LHP	\$25.00 per month
830 – 841 Railroad and Pipeline	20 acres or less = \$2.50 per month. Greater than 20 acres = \$.125 per acre per month.
850 – 871 Sewage; Phone and Water Utilities	\$35.00 per month

The Hammond Department of Storm Water Management will reevaluate the fee schedule if there is new property class codes added to the Assessments in Hammond. If new property class codes are added, an appropriate user fee will be set and charged.

Sec. 4. – Billings and terms of payment.

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(a) Billings. All stormwater utility bills shall be rendered on the Lake County Treasurer’s Property Tax Bill and distributed as such.

(b) Terms of payment. The stormwater utility user fee shall be due on the same payment date as the Lake County Treasurer's Tax Bill. It shall be a violation of this article to fail to pay a stormwater utility user fee when due. All bills for stormwater user fees not paid on or before the due date, shall be subject to a collection or deferred payment charge as rendered by the Lake County Treasurer and shall be reflected on the Lake County Treasurer's Tax Bill.

(c) Collection. Failure to pay a stormwater utility user fee included in the Lake County Treasurer's Tax Bill may result in property and or land being made eligible for the Lake County Treasurers Tax Sale. Delinquent stormwater utility user fees may be collected in a civil action by the city or Lake County Treasurer, and the city or Lake County Treasurer shall be permitted to collect its reasonable attorney's fees and court costs.

#### Sec. 5. - Exempt properties.

Federal, state, city, and county roadways. Streets, roads and highways owned by federal, state, city and or county authorities shall be exempt from the stormwater utility user fee. They form an integral part of the stormwater system. These Primary elements of the drainage system yield community-wide benefits and are installed to service the general public's interests.

#### Sec. 6. - Appeals of fee determinations.

If a stormwater utility customer/user determines that the user fee assigned to said user's real property is incorrect due to an error in the properties classification code, said stormwater utility customer/user shall have the right to appeal.

(a) The stormwater utility customer/user shall complete a petition to appeal stormwater assessment form ("petition"), which shall be returned to the City of Hammond Department of Storm Water Management Director with documentation supporting the appeal.

(b) The director shall consider the grounds for the appeal and, upon review thereof, shall render a written determination to the board and the stormwater utility customer/user that either the original user fee determination should be affirmed or the stormwater utility user fee should be adjusted on the grounds in the petition. The director's determination shall be made within twenty (20) days of the filing of a petition to appeal.

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(c) Said determination shall be forwarded to the stormwater utility customer/user by certified mail, return receipt requested. The stormwater utility customer/user shall then have thirty (30) days from the date of mailing of said determination to request reconsideration by the board. Any additional facts

concerning the appeal shall be submitted in writing to the Hammond Department of Storm Water Management, along with a copy of the original petition and supporting documents, to the board. The director shall submit a written report of the determination in the case, along with any documents used in ruling on the appeal.

(d) Thereafter, the board shall review all documentation and, if requested in writing by the stormwater utility customer/user in its appeal petition, conduct a hearing to determine and resolve the appeal. Such hearing will be scheduled by the Hammond Department of Storm Water Management and the stormwater utility customer/user will be notified by certified mail of the date of such hearing, which notice shall be received by the stormwater utility customer/user at least seven (7) days prior to the date of such hearing. A written opinion shall be rendered within forty-five (45) days after the hearing or submission of documentation if no hearing is conducted. The written opinion of the stormwater management board shall constitute the final City of Hammond determination. The hearing shall be electronically recorded and if requested by the stormwater utility customer/user, a transcript of the hearing shall be provided to the stormwater utility customer/user. The stormwater utility customer/user will be charged at a cost per page as determined by the board, in accordance with applicable law as amended from time to time.

(e) A stormwater utility customer/user aggrieved by the final board determination shall have the right to judicial review of such determination in accordance with applicable Indiana law. Any judicial review must be filed within thirty (30) days of the board's determination.

(f) If the director recommends the stormwater utility user fee assessment be reduced, or reduction is ordered by the director, the board, or any court of competent jurisdiction, the stormwater utility customer/user shall be credited accordingly for any overpayment made from the date of the petition.

(g) Dispute or appeal of a user fee determination shall not be a valid reason for nonpayment of the originally assessed stormwater utility user fee by the stormwater utility customer/user. The board will refund to the user any overpayments made on user fee assessments that are reduced via the appeal process.

Sec. 7. - Effective Date.

This Ordinance shall be in full force and effective from January 1, 2015, including the effective date for the storm water user fees and charges but not prior to its passage, approval, recording and publication as provided by law.

### **An Ordinance Enacting Proposed Amendments to the System of User Fees for the Operation and Maintenance of the City Storm Water System**

The City Clerk is directed to give notice of the enactment of this Ordinance to the officials of Lake County administering the property tax billing and collection system, and to those officials of the State of Indiana required by law.



BE IT FURTHER ORDAINED by the Hammond Common Council that if any part, parts, section, sections, provision, clause or portions of this ordinance shall be adjudged invalid or unconstitutional, such invalidity or constitutionality shall not affect the validity or constitutionality of this ordinance as a whole or of any other part, parts, section, sections, provision, clause or portion of this ordinance.

ADOPTED AND APPROVED BY the Common Council of the City of Hammond, Indiana, this 22<sup>nd</sup> day of September, 2014.

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President Michael Opinker /s/  
Hammond Common Council

ATTEST:

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Robert J. Golec, City Clerk /s/  
City of Hammond, Indiana

PRESENTED BY ME, the undersigned City Clerk of the City of Hammond, Indiana, to the Mayor, for approval and signature, this 23<sup>rd</sup> day of September, 2014.

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Robert J. Golec, City Clerk /s/  
City of Hammond, Indiana

The foregoing Ordinance No. 9262 consisting of three (3) typewritten pages, including this page, was APPROVED AND SIGNED BY ME, the undersigned Mayor of the City of Hammond, Indiana, this 24<sup>th</sup> day of September, 2014.

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Thomas M. McDermott, Jr., Mayor /s/  
City of Hammond, Indiana

PASSED by the Common Council on the 22<sup>nd</sup> day of September, 2014 and approved by the Mayor on the 24<sup>th</sup> day of September, 2014.

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Robert J. Golec, City Clerk /s/  
City of Hammond, Indiana