

Village of Adelphi, Ross County, Ohio  
ORDINANCE NO. 8-11-2020-1

AN ORDINANCE ESTABLISHING A STORMWATER UTILITY AND  
ESTABLISHING JUST AND EQUITABLE CHARGES FOR  
STORMWATER UTILITY USERS

Be It Ordained by the Village Council of the Village of Adelphi, Ohio:

**WHEREAS**, the Village of Adelphi currently owns and operates a stormwater system for the collection and disposal of storm and other surface and subsurface 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**, 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 Adelphi 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 Adelphi and the Stormwater Utility 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 shall be fair, equitable, revenue sufficient, and reflect the relative contribution of stormwater runoff from a property or parcel of land, benefits enjoyed, and services received by each property or parcel as a result of the collection of surface and subsurface water, and shall consider the impervious area of the various properties or parcels located within the Village limits; and

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

**WHEREAS**, the Village of Adelphi has established 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 construction plans and plats for stormwater management in proposed subdivisions, commercial developments and any activity

requiring a construction site general permit from the Ohio Environmental Protection Agency;  
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 interests 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.

**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ADELPHI, ROSS COUNTY, STATE OF OHIO, that:**

Sections:

1. PURPOSE AND OBJECTIVE
2. DEFINITIONS.
3. CREATION OF A STORMWATER UTILITY PROGRAM.
4. FUNDING THE STORMWATER UTILITY PROGRAM.
5. STORMWATER UTILITY PROGRAM ENTERPRISE FUND.
6. STORMWATER UTILITY PROGRAM OPERATING BUDGET.
7. STORMWATER UTILITY PROGRAM RATE STRUCTURE AND FEES.
8. NECESSITY FOR SERVICE CHARGES.
9. POWERS OF THE VILLAGE ADMINISTRATOR.
10. RIGHT TO APPEAL.
11. PAYMENT OF SERVICE CHARGES AND COLLECTION.
12. ADJUSTMENTS TO STORMWATER SERVICE CHARGES.
13. FALSIFYING INFORMATION.
14. SEVERABILITY CLAUSE.
15. REPEALER.
16. EFFECTIVE DATE

**Section 1: PURPOSE AND OBJECTIVE**

Village Council hereby establishes a Stormwater Utility Program. The function of the Stormwater Utility Program is to provide for the safe and efficient capture of stormwater runoff, mitigate the damaging effects of stormwater runoff, correct stormwater problems; to fund activities of stormwater management, including design, planning, regulation, education, coordination, construction, operations, maintenance, inspection and enforcement activities.

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 or parcels 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, surface water and subsurface water system and its receiving waters.

It is the express intent of this 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 or agents arising out of any alleged failure or breach of duty or relationship.

## **Section 2: DEFINITIONS**

"Agricultural Property" means a lot or parcel located within the Village of Adelphi regardless of the size of the building lot or the square footage of the buildings classified as agricultural per County Auditor parcel classifications which for purposes of ERU determination will be classified as single-family residential.

"Apartment Property" means a non-single-family lot or parcel on which is situated three or more dwelling units.

"Approved plans" means plans approved according to permits and plan review which will govern all stormwater improvements, required or not, made within the Village or changes or alterations to existing stormwater facilities.

"Best Management Practices" (BMP) means those practices recognized by the Ohio Department of Natural Resources and Ohio Environmental Protection Agency which provide the best available and reasonable physical, structural, managerial, or behavioral activity or activities to reduce or eliminate pollutant loads and /or concentrations leaving the site.

"Brownfield" means a former industrial or commercial site that is considered to be contaminated to varying extents and certified as such by the Ohio Environmental Protection Agency.

"Buffer" means a designated area adjacent to or part of a stream or wetland that is an integral part of the stream or wetland ecosystem. The critical function of riparian buffers including shading, input of organic debris and coarse sediments, stabilization of banks, overflow during high water events and for maintenance of wildlife habitat.

"Condominium Property Multi Story" means a lot or parcel of real estate in which individuals own their units and share joint ownership in common elements with other unit owners on which is situated a building or buildings containing more than one story.

"Condominium Property" means a lot or parcel of real estate in which individuals own their own unit and share joint ownership in common elements with other unit owners on which is situated a building containing single story units on individual parcels according to the county auditor records.

"Debt service costs" means the average annual principal and interest payments on all outstanding bonds or other comparable long-term capital obligations.

"Duplex Property" means a lot or parcel of real estate on which is situated a building containing two (2) single-family dwelling units.

"Equivalent Residential Unit" (ERU) means a value, equivalent to 2,300 square feet of measured impervious area and is equal to the average amount of impervious area of single-family properties within the Village of Adelphi.

"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.

"Impervious area" means areas that have been paved and/or covered with buildings and/or other materials, which include, but are not limited to, concrete, asphalt, rooftop, blacktop or gravel that prevents stormwater from infiltrating into the ground.

"Non-residential property" means a property that contains any impervious area not encompassed by the definition of Single-Family Parcel, Duplex Parcel, Agricultural and or certain Condominium parcels.

"Operation and maintenance" means those functions that result in expenditures during the useful life of the collection, conveyance and/or treatment works for materials, labor, utilities and other items which are necessary for managing and operating the stormwater system in a manner for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

"Operation and maintenance costs" include all costs, direct and indirect, necessary to provide adequate stormwater management on a continuing basis and to produce discharges to receiving waters that conform with all related Federal, State and local requirements.

"Other service charges" means tap charges, connection charges, area charges or other identifiable charges, other than user charges, service charges, or debt service charges.

"Owner" means any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, partnership, co-partnership, joint stock company, trust, estate, association, society, institution, enterprise, governmental agency, State of Ohio, the United States of America or other legal entity, or their legal representatives, agents or assigns. The masculine gender includes the feminine, and the singular includes the plural

where indicated by context.

"Private stormwater facilities" mean various stormwater and drainage works not under the control and/or ownership of the Village, County, State and/or Federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, or other structural components and equipment designed to transport, move or regulate stormwater.

"Public stormwater facilities" mean various stormwater and drainage works under the control and/or ownership of the Village, County, State, or Federal government which may include natural streams, inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, or other structural or not structural components and equipment designed to transport, move or regulate stormwater

"Replacement costs" means the expenditures for obtaining and installing materials, equipment, accessories or appurtenances which are necessary during the service life of the system to maintain the capacity and performance for which such works were designed and constructed.

"Shall" is mandatory and "may" is permissive.

"Single-family Residential Parcel" means all single-family residential parcels located within the Village of Adelphi regardless of the size of the building lot or the square footage of the buildings.

"Square footage of impervious area" means, 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 the topographic features of the enclosed surface and for the purpose of assigning an appropriate number of ERUs to a parcel or real property.

"Stormwater" means stormwater runoff, snowmelt runoff, and surface runoff, subsurface water and drainage.

"Stormwater service charge" means a charge assessed to users of the Village's stormwater system.

"Stormwater system " means all man-made facilities, structures, and natural watercourses owned operated and/or maintained by the Village of Adelphi, used for collection 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, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, streets, curbs, gutters, dams, floodwalls, levees, and pumping stations.

### **Section 3: CREATION OF A STORMWATER UTILITY PROGRAM.**

The function of the Stormwater Utility Program is to provide for the safe and efficient capture of stormwater runoff, mitigate the damaging effects of stormwater runoff, correct stormwater problems, to improve the quality of the runoff; to fund activities of stormwater management, and include design, planning, regulation, education, coordination, construction, operations, maintenance, inspection and enforcement activities.

#### **Section 4: FUNDING THE STORMWATER UTILITY PROGRAM.**

Funding for the stormwater utility's activities may include but is not limited to: stormwater service charges; stormwater permit and inspection fees, the Village General Fund, the Capital Equipment Purchase Fund, and any other funds or income obtained from federal, state, local governments, and private grants, or loans.

#### **Section 5: STORMWATER UTILITY PROGRAM ENTERPRISE 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 purposes of the stormwater utility.

#### **Section 6: STORMWATER UTILITY PROGRAM OPERATING BUDGET.**

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

#### **Section 7: STORMWATER UTILITY PROGRAM RATE STRUCTURE AND FEES.**

For the services rendered as determined in the cost of service analysis and use of the stormwater system , rates and service charges shall be collected from the owner of each and every lot, parcel of real estate or building that is situated within the corporate limits of the Village of Adelphi, that is tributary, directly or indirectly to the stormwater system of the Village as defined in the cost of service analysis. Such rates and charges include user service charges, debt service costs and other service charges in which rates shall be payable as hereinafter provided and shall be in an amount determinable as follows:

- (1) The stormwater rates and charges shall be based upon the quantity of impervious area situated thereon.
- (2) All properties having impervious area within the Village of Adelphi will be assigned an Equivalent Residential Unit (ERU) or a whole multiple thereof, with all properties having impervious area receiving at least one (1) ERU.
- (3) Single-Family parcels. All single-family parcels will be assigned one (1) ERU. A flat rate will apply to all single-family properties.

(4) Duplex parcels. All duplex (two units) parcels shall be assigned one (1) ERU. A flat rate will apply to all duplex parcels.

(5) Condominium Single Story parcels. All condominium single-story parcels shall be assigned one (1) ERU. A flat rate will apply to all Condominium Single Story parcels.

(6) Agricultural parcels. All agricultural parcels shall be assigned one (1) ERU. A flat rate will apply to all agricultural parcels.

(7) Non-Residential Parcels. Non-Residential parcels will be assigned an ERU whole multiple based upon the individual properties measured impervious area (in square feet) divided by 2,300 square feet (1 ERU). This division will be calculated to the first decimal place and rounded to the nearest whole ERU according to mathematical convention.

(8) Base Rate. Village Council shall, by ordinance, establish the base rate for the municipal stormwater utility division 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 Village limits.

(9) In accordance with this Ordinance Section 7 paragraph (8) the Base Rate for the stormwater service charge shall hereby be set at:

a.) \$10.00/Equivalent Residential Unit/month

#### **Section 8: NECESSITY FOR SERVICE 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 service 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.

Provided however, in the interest of recognizing the benefits to the small community of encouraging the continued operation of business and the promotion of additional economic development within the Village of Adelphi the stormwater service charge may be discounted for Non-Residential Parcels, at Council's reasonable discretion and with Council's action.

#### **Section 9: POWERS OF THE VILLAGE ADMINISTRATOR.**

Stormwater service charges levied pursuant to this ordinance shall be collected by the Village Administrator 's Office. Notwithstanding other provisions of the Adelphi Village Code, the Village Administrator 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 Adelphi Village Council; and for the regulation, collection, rebating and refunding of such stormwater charges.

**Section 10: RIGHT TO APPEAL.**

A Non-Residential Parcel property owner may challenge the ERU multiple assigned to his/her property by filing an appeal with the Village Administrator for adjustment thereof, stating in writing the grounds for the appeal. The Village Administrator, or the Administrator's 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.

If the property owner disagrees with the decision of the Village Administrator, such person may appeal to and request a hearing with the Village Council for final resolution.

**Section 11: PAYMENT OF SERVICE CHARGES AND COLLECTION.**

Stormwater charges shall be assessed monthly. The Village of Adelphi will be responsible to provide billing for the stormwater charges.

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 on or before the due date as stated on the utility bill, a ten percent (10%) charge shall be added to the total stormwater amount due.

If the stormwater service charge remains unpaid for a period of thirty (30) or more days after the due date as stated on the utility bill, then in accordance with Ohio Revised Code § 729.49, it shall be certified to the Auditor of Ross County, Ohio, who shall place the same on the tax duplicate of Ross County, Ohio 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 shall be deposited into the stormwater enterprise fund.

**Section 12: ADJUSTMENTS TO STORMWATER SERVICE CHARGES.**

Increase adjustments can be made to Non-Residential Parcel service charges by the owners adding impervious area such as rooftops, parking lots, driveways or walk ways.

**Section 13: FALSIFYING INFORMATION.**

No person shall knowingly make any false statement, representation, record, report, plan, or other document and file such with the Village Administrator. A violation of this section is a misdemeanor of the 4th Degree.







*Art Wilson* Fiscal Officer

Art Wilson, Fiscal Officer