

RESOLUTION NO. 09-0835

RE: **FIXING CHARGES FOR THE USE OF THE
PORTAGE COUNTY STORM WATER DISTRICT;
FUND 6800 (STORM WATER MANAGEMENT),
PURSUANT TO CHAPTER 6117, OHIO REVISED
CODE.**

It was moved by Christopher Smeiles, and seconded by Maureen T. Frederick that the following resolution be adopted:

- WHEREAS,** the federal regulations promulgated by the Federal Water Pollution Control Act, as amended (40 Code of Federal Regulations Part 122 et seq), referred to as NPDES (National Pollutant Discharge Elimination System) Storm Water Phase II Permit Program (the "Phase II Program"), the Ohio Water Pollution Control Act (Ohio Revised Code Chapter 6111), and Ohio Administrative Code Chapter 3745-39, referred to as Phase II Storm Water Rules – Small Municipal Separate Storm Sewer Systems (MS4), require dischargers of storm water from Small MS4s, including the County of Portage and various independent jurisdictions that own and/or operate a MS4, to obtain a permit from the Ohio Environmental Protection Agency and to develop a Storm Water Management Program under this permit that addresses the quality of storm water runoff; and
- WHEREAS,** Portage County and various independent jurisdictions that own and/or operate a MS4 within Portage County are required to comply with the regulations of the NPDES Phase II Program; and
- WHEREAS,** this Board, has heretofore established by Resolution No. 09-0834, adopted on September 10, 2009, the Portage County Storm Water District hereinafter referred to as the "District" for the purposes of implementing the Storm Water Management Plan for NPDES Phase II Program compliance; and
- WHEREAS,** this Board is authorized by the pertinent provisions of Chapter 6117 of the Ohio Revised Code, to fix reasonable rates to be charged for the use of the municipal separate storm sewer system (MS4) and NPDES Phase II Program compliance services provided by the County and may change such rates as it deems advisable; and
- WHEREAS,** the municipal separate storm sewer system serving the District consists of storm sewers, tiles, ditches, channels, and other "drainage facilities" as referred to in such Chapter 6117; and
- WHEREAS,** all parcels within the District receive rainfall and contribute to storm water runoff, ultimately affecting surface water quality; and
- WHEREAS,** the Storm Water Steering Committee has recommended this Board adopt a user fee based on the Equivalent Residential Unit (ERU) concept for determining the service rates for users of the District; and

WHEREAS,

to distribute equitably the cost of providing services for implementing the Storm Water Management Plan and for Phase II Program compliance among the present and future users of the District, this Board has determined to establish rates to be charged which, in its judgment are reasonable and proper having due regard to all relevant circumstances and conditions, as hereinafter set forth; now therefore be it

RESOLVED,

by the Board of County Commissioners of Portage County, Ohio, that:

SECTION 1. USER FEE

User fee means the total charge which is assessed users of the District, and includes user charges subject to change at any time and from time to time by resolution of this Board. Each parcel owner shall be charged an annual user fee to be billed on the property tax duplicate as authorized by Chapter 6117.

SECTION 2. USER FEE METHODOLOGY

For the purpose of calculating the charges herein provided for and having given due consideration to the volumes, composition and other characteristics of the storm water runoff emanating from the parcels served by the District, it is hereby determined that the user fee shall be charged to all parcels within the District by the Equivalent Residential Unit methodology.

SECTION 3. EQUIVALENT RESIDENTIAL UNIT

The Equivalent Residential Unit (ERU) shall be defined as the average impervious area contained within single-family residential parcels located within the District. For this calculation, impervious area shall be considered to be any outside surface that prohibits or restricts the infiltration of storm water runoff into the subsoil, including but not limited to: rooftops, driveways, patios, sidewalks, decks, outbuildings, and compacted gravel surfaces.

Based on the above criteria, the ERU for the District was estimated to be 5,800 square feet.

SECTION 4. BASE USER FEE CHARGES

All parcels within the District shall be charged a base user fee of either a) 1 ERU per residential unit or b) an ERU total based on the actual measured impervious area associated with the parcel, all based on the following land use table.

<u>Land Use</u>	<u>User Fee Basis</u>
Single Family Residential	1 ERU
Multi Family Residential	1 ERU/Residential Unit
Apartments	1 ERU/Residential Unit

Mobile Home Parks	1 ERU/Residential Unit
Agricultural	1 ERU
Vacant	1 ERU
Commercial	Measured Impervious Area
Industrial	Measured Impervious Area
Public Property	Measured Impervious Area
Hospitals, Schools, and Churches	Measured Impervious Area

For the above uses, in no case shall the base user fee be less than 1 ERU for a parcel before the application of credits as outlined in Sections 8-11 of this resolution.

For parcels with user fees established by measured impervious area, the measured impervious area shall not exceed the total acreage for the parcel.

Parcel owners for apartment complexes and mobile home parks shall be billed and liable for the entire amount of residential units licensed on their parcels and all associated user fees. It is the responsibility of the parcel owners to "pass on" the fees to their tenants in their individual agreements, should they so desire.

In the case of any uses not described above or conflicts between multiple uses, the Storm Water Coordinator is authorized to establish the applicable equivalent residential units for such premises using generally accepted engineering principles and criteria until further legislative determination by this Board.

SECTION 5. USER FEE EXEMPTIONS

Linear transportation rights-of-way associated with public roads, streets, and railroads shall be exempt from user fee charges.

Parcels owned by the United States of America shall be exempt from user fee charges in accordance with the limitations provided in Chapter 6117.

SECTION 6. USER FEE ESTABLISHED

The Board hereby establishes an annual user fee for parcels within the District as follows:

\$12.00/ERU/year to be charged commencing with the January 2010 billing
\$18.00/ERU/year to be charged commencing with the January 2011 billing
\$24.00/ERU/year to be charged commencing with the January 2012 billing
\$30.00/ERU/year to be charged commencing with the January 2013 billing

This user fee may be modified from time to time by the Board as necessary to implement the Storm Water Management Plan and to maintain compliance with the NPDES Phase II Program requirements.

SECTION 7. USER FEE REVIEW

Any parcel owner may request a review of their user fee if they believe the ERU assigned to their parcel is in error. Upon review of pertinent records and data, the Storm Water Coordinator shall confirm or adjust the parcel's ERU as appropriate. All decisions of the Storm Water Coordinator are final in this regard. If an error is found in the parcel owner's favor, the Board may authorize a refund of the overpayment of fees from the prior billing period, if all prior payments were made in full.

SECTION 8. CREDIT PROGRAM - GENERAL

Non-residential parcels within the District shall be eligible for a credit reduction of the base user fee for implementing storm water quality control practices that exceed current federal, state, and local regulations on their properties. Upon review of the submittal, the Storm Water Coordinator shall award the appropriate credits to the parcels as outlined in Sections 9-11 of this resolution. Credits approved prior to June 30 of each year shall be applied to the user fee charges to be billed in the following January and shall be valid for the remaining duration of the current Ohio Environmental Protection Agency NPDES Phase II Permit.

No credits shall be applied to user fees billed in 2010 on the 2009 property tax duplicate.

Additional credits not included in Section 9-11 may be awarded at the discretion of the Storm Water Coordinator and upon approval of this Board for unique situations that merit such award.

SECTION 9. CREDIT PROGRAM - CHURCHES AND SCHOOLS

Churches and schools shall be eligible for a maximum user fee reduction of 75% for developing and implementing a storm water quality education program approved by the District. Credits awarded shall not reduce the total user fee per parcel to less than 1 ERU.

SECTION 10. CREDIT PROGRAM – AGRICULTURAL

Agricultural parcels shall be eligible for a maximum user fee reduction of 50% for the following cases upon approval by the District.

1. Property owners with multiple adjacent agricultural parcels with an average parcel area of less than 2 acres per parcel.
2. Property owners with four or more agricultural parcels that meet the following criteria:
 - a. Farming is operated by a large scale producer, and
 - b. A Comprehensive Nutrient Management Plan, Whole Farm Plan, or equivalent is implemented on the parcels.
 - c. Total ERU for this case shall not be reduced to less than 3 ERU's.

SECTION 11. CREDIT PROGRAM – OTHER NON-RESIDENTIAL

Non-residential parcels that do not contain church, school, or agricultural uses shall be eligible for a maximum user fee reduction of 50% for the following cases upon approval by the District.

1. Display of educational materials approved by the District: 5% credit
2. Implementation of green infrastructure onsite with water reuse plan approved by the District.
 - a. Green roof = 25% credit
 - b. Rain barrel and reuse program = 5% credit
 - c. Rain garden = 10% credit
 - d. Other methods = As approved by District.
3. No increase in storm water runoff volume for 2yr event above pre-development conditions = 20% credit.
4. Provide documentation of storm water facility maintenance = maximum 10% credit.
 - a. Applicable only to Ohio Environmental Protection Agency mandated post-construction best management practices implemented 2003 – current.
5. Multiple adjacent parcels that are undeveloped (contain no impervious area) and have 100% coverage by a permanent conservation easement requiring the parcel to remain in an undisturbed natural state for perpetuity: 50% credit.

Credits awarded for cases 1-4 shall not reduce the total user fee per parcel to less than 1 ERU.

SECTION 12. COLLECTION EXPENSES

In addition to the provisions of the above sections, the user fee shall be increased by such percent as required to compensate the County Auditor and County Treasurer for their fees and expenses as entitled under Ohio Revised Code for purposes of billing and collecting the assessments.

SECTION 13. BILLING

Each parcel owner shall be charged an annual user fee to be billed on the property tax duplicate as authorized by Chapter 6117. The Board shall certify and submit all user fees to the Auditor before the second Monday in September for inclusion in the following January property tax billing. ***Said fees to be identified on the parcel tax bill as Ohio EPA Mandated Stormwater Management Fee.***

SECTION 14. NOTIFICATION

The Clerk of this Board is hereby directed to certify a copy of this Resolution to the County Engineer, the County Board of Health, the County Soil and Water Conservation District, the Township Trustees, the County Auditor, the County Treasurer, the County Recorder, Mr. Anthony Robinson (Ohio Environmental Protection Agency Central Office), and Mr. Kelvin Rogers (Ohio Environmental Protection Agency Northeast District Office).

SECTION 15. SEVERABILITY

This Resolution is severable and the invalidity of any section, phrase or provision thereof shall not affect the validity of any other section, phrase or provision.

SECTION 16. OPEN MEETING

It is hereby found and determined that all formal actions of this Board concerning and relating to the adoption of this resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Voice vote as follows:

Charles W. Keiper II, Yea;

Maureen T. Frederick, Yea;

Christopher Smeiles, Yea;

*

*

*

*

*

I, Clerk of the Board of County Commissioners do hereby certify that the foregoing is a true and correct copy of a resolution of the Board of County Commissioners of Portage County duly adopted September 10, 2009 and appearing upon the official records of said Board, Volume 70, Page ____.



Clerk, Portage County Board of Commissioners