

**AN ORDINANCE ENACTING A “STORM WATER UTILITY” FOR THE  
PURPOSE OF: ESTABLISHING AND PROVIDING FOR THE  
REQUIREMENTS OF THE FEDERALLY MANDATED PHASE II STORM  
WATER MANAGEMENT PROGRAM.**

WHEREAS, Storm Water Phase II Final Rule (64 CFR 68722) requires particular political entities such as the City of Newton Falls, Ohio, to implement storm water management programs within the prescribed time frames; and

WHEREAS, Storm Water Phase II Final Rule (64 CFR 68722), The United States Environmental Protection Agency (EPA) shall monitor and enforce regulations set forth in the above mentioned Storm Water Phase II Final Rule requirements for storm water outfall permits; and

WHEREAS, The City of Newton Falls, is responsible for the ownership, maintenance and expansion of the existing storm waste system which has been developed over a number of years for the purpose of collecting and disposing of storm water; and

WHEREAS, The City of Newton Falls, desires to develop a City storm water management program, to be responsible for the operation, construction, and maintenance of storm water devices, storm water planning, review of development plans for compliance with storm water management codes and for lake and river quality management; and

WHEREAS, The cost of operating and maintaining all storm water management systems, and the financing of existing and future necessary repairs, replacements, improvements and extensions thereof, should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services receives therefrom; and

WHEREAS, The City of Newton Falls has determined that the adoption of this Ordinance and the creation of a storm water management program, under the terms, conditions, and criteria set forth hereunder, is necessary to protect the health, safety, and welfare of the citizens, residents and inhabitants of the City of Newton Falls; and

WHEREAS, The Storm Water Utility anticipates annual revenues to be used exclusively for storm water management, operation, maintenance, and capital improvements, and a limited portion thereof to be used for sanitary waste water capital improvements.

COUNCIL FOR THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY  
ORDIANS:

SECTION 1: There is hereby established a Storm Water Utility to be responsible for the operations, construction, maintenance and repair of storm water facilities, storm water system planning, and lake and river quality management as required.

SECTION 2: The City of Newton Falls shall adopt an operating budget for the Storm Water Utility on an annual basis.

SECTION 3: Fee Established: the Storm Water drainage fee shall be a monthly service charge and shall be determined by City Council.

A: The Storm Water Drainage Fee for each Residential Unit shall be, and is, 100% of the approved monthly rate approved by this Ordinance. In the event of a newly constructed Unit, the charge for the Storm Water Drainage Fee attributable to that Unit shall commence upon the issuance of the certificate of occupancy for that Unit, or if construction is at least fifty percent (50%) complete and is halted for a period of three (3) months, than that Unit shall be deemed complete and the Storm Water Drainage Fee shall commence.

B: The Storm Water Drainage Fee for each Commercial Unit shall be, and is, 100% of the approved monthly rate approved by this ordinance. The Commercial Fees shall also apply to multi-family residential properties with greater than 6 units in aggregate. In the event of a newly developed Commercial Unit, the charge for the Storm Water Drainage Fee attributable to that Commercial Unit shall commence upon the issuance of the certificate of occupancy for such additional development, or in the event that no certificate of occupancy will be issued for that development, or in the event development has halted.

C: The Storm Water Drainage Fee for each Vacant Improved Property shall be, and is 100% of the rate based on the intended use.

D: No fee shall be imposed on any exempt property until such time that it no longer exists as exempt property. At that time the property will then be assigned non-exempt status and will then be subject to monthly fees per this ordinance.

E: Appeal of Drainage Fees. Any person who disagrees with a Storm Water Drainage Fee as approved in this chapter may appeal to the Utility Appeals Committee. The Utility Appeals committee shall review the appeal and issue a written recommendation as soon as practicable. The decision shall be final. The decision of the committee shall be communicated to the Appellant, in writing , within ten (10) working days of recommendation.

F: In an effort to provide for future capital projects (Operation, Maintenance Repair and Extension of the Collection System) beyond the initial startup of the Storm

Water Utility, the following rate schedule shall, and does apply. Rates for Units for the Storm Water Utility, as stated on the following rate schedule, are stated on a monthly basis:

Monthly Charge by Property Classification

Residential Single Family: \$3.00

(Single Family residents located in other zoning districts will be calculated at the single family residential rate.)

Multi-Family:

(1 to 6) Units \$6.00

(7 to 15) Units \$10.00

More than 15 calculated at the commercial and industrial rate.

Commercial & Industrial and all other zoning classifications not listed \$3.00 per half acre lot size with a \$3.00 minimum.

(example 1/2 acres = \$3.00)(1 acre = \$6.00)

SECTION 4: Storm Water Drainage Fee Collection:

A: The Storm Water Drainage Fee shall be billed and collected monthly with the monthly City's Utility bill. For the properties utilizing multi-portions of the Utility bill (Water, Sewerage, Storm Water and Electric), billing shall be consolidated and paid by single payment. In the event that partial payment is received, the payment shall be applied according to the existing policy on partial utility payments. All bills for Storm Water Drainage Fees shall become due and payable in accordance with the rules and regulations of the City of Newton Falls pertaining to the collection of the Storm Water Drainage Fees and the existing utility terms of payment ordinance.

B: Any charge hereunder which shall not be paid when due may be recovered in any action at law by the City of Newton Falls. In addition to any other remedies or penalties provided by this ordinance or any other ordinance of the City of Newton Falls failure of any user of City Utilities to pay said charges for same promptly when due shall subject such user to discontinuance of Utility Services and the City Manager or his designee shall enforce this provision as to any and all delinquent users. Employees of the City of Newton Falls (upon reasonable advance notice) shall, at all reasonable times, have access to any premises served by the City for inspection, repair or the enforcement of the provisions of this ordinance.

C: All Storm Water Drainage Fees assessed pursuant to this chapter shall become a lien upon the property to which such fee is associated from the date said fee becomes due until such fee is paid. The owner of ever building, premises, lot or house shall be obligated to pay the fees for all services provided for his premises, which obligation may be enforced by the City by action at law or suit to enforce the lien in the same manner as the foreclosure of mortgages. In the event of such action, the City

shall be entitled to recover all court costs and reasonable attorney fees for such collection. No changes of ownership or occupation shall affect the application of this chapter, and failure of any owner to learn that he purchased property against which a lien for Storm Water Drainage Fees exists shall in no way affect his responsibility for such payment.

SECTION 5: Capital Contributions for Regional Storm Water Management Facilities.

A: Present of future City ordinances may require construction of on-site storm water management facilities to control storm water quantity and quality in the event of development. Implementation of regional storm water management facilities may, in some cases, render construction of on-site facilities unnecessary. For use in these cases, the City shall adopt procedures and standards to require developers of land to provide a one-time capital contribution toward construction of regional storm water management facilities in lieu of construction of on-site storm water facilities. Such one-time contribution shall not affect the obligation for payment of any Storm Water Drainage Fee assessed pursuant to this Chapter.

B: The one-time capital contribution may be available to a development that meets the following conditions:

1. An adopted drainage basin study has identified an area within which the storm water management facilities normally required to be created on-site are unnecessary; and
2. The development is located within an area so identified; and
3. Implementation of regional storm water facilities required by the adopted drainage basin study is complete or under construction.

C: For developments, which meet the conditions specified previously in this section, the Director, upon review of the development plans, shall require a development agreement which shall be presented for final approval to City Council.

D: The amount of a one-time capital contribution shall be based upon that percentage of the regional storm water management facility capacity, which is to be allocated to the development.

SECTION 6: Storm Water Utility Enterprise Fund

A: All Storm Water Drainage Fees collected by the City shall be paid into an enterprise fund known as "Storm Water Utility Fund". Such fund shall be used for the purpose of paying the costs of operation, administration and maintenance of the storm water management facilities of the City and to carry out all other purposes of the utility.

B: The fees and charges paid shall not be used for general or other governmental or proprietary purposes of the City, except to pay for the equitable share of the cost of accounting, management and government thereof. Other than as described above, the fees and charges shall be used solely for the purposes stated previously in this section.

PASSED IN COUNCIL THIS 16<sup>th</sup> DAY OF JUNE 2014.

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Mayor, Lyle A. Waddell

ATTEST: \_\_\_\_\_  
Clerk of Council, Kathleen M. King