

REQUEST FOR BOARD ACTION

AGENDA ITEM: 3.11



Village Manager's Office

SUBJECT: Stormwater Utility Fee Ordinance

MEETING DATE: Introduction – November 12, 2019
Adoption – November 26, 2019

FROM: [Michael Braiman](#), Assistant Village Manager
[Melinda Molloy](#), Finance Director
[John Preizner](#), Assistant Director of Administrative Services

BUDGET IMPACT: None

Recommended Motion

Introduce and subsequently adopt Ordinance No. 2019-O-70 amending the Wilmette Village Code (Chapter 26 – Sewer and Water Facilities).

Background

On April 17, 2018, the Village Board voted to proceed with a stormwater improvement project to provide meaningful flood relief for residents who live west of Ridge Road. The project, known as the Neighborhood Storage Improvement Project (NSP), was optimized by the Village Board in February 2019 in order to provide flood protection to additional homes. The total cost of the optimized project is estimated to be \$68 million.

The Village intends to issue 30-year general obligation debt to fund the improvements, which could have an annual revenue requirement of approximately \$4 million. In May 2018, staff issued a Request for Proposals (RFP) for a study to identify stable and sustainable funding methods for the debt service associated with the NSP. On July, 24, 2018, the Village Board approved a contract with Raftelis to complete the stormwater utility feasibility study.

Subsequently, the Village Board received a presentation from Raftelis at a June 13, 2019 Committee of the Whole meeting. The consultant recommended the Village pursue implementation of a stormwater utility fee because of:

- Stability over time as compared to the volatility of the sewer fee which is dependent on water consumption
- The correlation between a property's impervious surface and its impact on the storm sewer system -- the utility fee is considered more equitable than the sewer fee

Based on Rafeltis' presentation, there was consensus amongst the Village Board to continue consideration of a stormwater utility fee. With the goal to have a funding source in place by January 1, 2020, the Board authorized staff to move forward with implementation efforts.

On July 23, 2019 the Village Board approved a subsequent agreement with Raftelis to complete the implementation phase of the stormwater utility. This work consisted of identifying a rate structure for single-family residential, multi-family residential, and institutional and commercial and commercial properties as well as an incentive and credits program.

Discussion

On September 23, 2019 Raftelis presented to the Village Board key policy considerations. At this meeting, the Village Board directed staff to prepare a stormwater utility with the following parameters:

- Tiered rate structure for single-family properties based on impervious surface with an incentive program for stormwater improvements
- Multi-family, commercial, and institutional (referred to as non-single family) rate structure based on impervious surface with a credit program for excess stormwater detention
- Exempt governmental owned property from utility

Both the single-family and non-single family rate structures will be based on an Equivalent Runoff Unit (ERU) of impervious surface, along with a fixed fee per account. Each ERU is 3,590 square feet of impervious surface which is the median of impervious surface on a single-family parcel. In 2020, the fixed fee per account will be \$40 and an ERU will be \$104. As additional debt is issued to complete the project and the debt service increases, these rates will be increased over time (it is expected that the final rate increase will occur in 2026).

Based on the previously mentioned parameters, the following rate structure will be in place for single-family parcels in 2020:

Tier	Impervious Surface Square Footage	ERU Billed	Fixed Fee	Total Cost
1	<3,000 sq. ft.	0.75	\$40	\$118
2	3,000 – 4,300 sq. ft.	1.00	\$40	\$144
3	>4,300 sq. ft.	1.40	\$40	\$186

As previously mentioned, non-single family parcels will also be based on impervious surface, however there is no tier structure. Properties will be billed based on the amount of ERUs of impervious surface on a property. Below is a sample calculation of how the stormwater utility free on a non-single family parcel will be calculated.

Impervious Surface Square Footage	ERU Calculation	ERU Billed	ERU Cost	Fixed Fee	Total Cost
14,260	14,260 / 3,590	4	4 * \$104 = \$416	\$40	\$456

As required in the attached Ordinance, a Credit and Incentives Manual is being developed which will outline what types of incentives are available to single-family properties and credits

for non-single family properties. Furthermore, it will outline the appeal process if a properties' impervious area is reduced. The manual will be presented to the Municipal Services Committee on November 19, 2019.

In addition to codifying the stormwater utility, the Ordinance also increases the parking rates in the Village Center Metra lots. As discussed during the stormwater fee implementation process on September 23, these lots will be charged a stormwater utility fee. In order to pay for this fee a rate increase is necessary. The main lot will see an increase from \$2.50 to \$2.60 while the Poplar lot will increase from \$2.00 to \$2.10. It is projected that this increase will cover any stormwater fee costs for the next three years.

Documents Attached

1. Ordinance No. 2019-O-70

ORDINANCE NO. 2019-O-70

**AN ORDINANCE ESTABLISHING A STORMWATER UTILITY AND
RELATED FEES**

WHEREAS, the Village of Wilmette, Cook County, Illinois, (hereinafter the “Village”) is a home rule municipal corporation as provided in Article VII, Section 6 of the 1970 Constitution of the State of Illinois and, pursuant to said constitutional authority, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, in addition to the Village’s Home Rule Authority, Section 11-139-2 of the Illinois Municipal Code (65 ILCS 11-139-2), the Village is authorized to own, build, maintain and operate a stormwater system to protect and preserve the health, safety and welfare of the public; and

WHEREAS, in addition to the Village’s Home Rule Authority, Section 11-139-8 of the Illinois Municipal Code (65 ILCS 11-139-8) authorizes the Village to operate a stormwater system and charge the Village residents a reasonable fee for the use and service of the stormwater system; and

WHEREAS, all real property in the Village contributes to runoff and either uses or benefits from the maintenance of the stormwater system; and

WHEREAS, in order to provide an effective and long term approach to stormwater management within the Village, it is necessary to provide an adequate and stable revenue stream for the construction, maintenance, operation and improvement of the Village’s stormwater system; and

WHEREAS, the Village has determined that it needs a dedicated source of funding to address stormwater and mitigate flooding in an efficient and effective manner; and

WHEREAS, the Village finds imposing a Village wide fee for collecting and managing stormwater runoff from impervious surfaces is the most equitable, practical basis for funding stormwater management; and

WHEREAS, it is in the best interests of the health, safety and general welfare of the Village, its residents and property owners, that the Village stormwater system be operated as a municipal utility that is funded through user fees.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES of the Village of Wilmette, Cook County, Illinois, in the exercise of its home rule power as follows:

SECTION 1: The foregoing findings and recitals, and each of them, are hereby adopted as Section 1 of this Ordinance and are incorporated by reference as if set forth verbatim herein.

SECTION 2: The Wilmette Village Code, as amended, is further amended by creating a new Article in Chapter 26, Sewer and Water Facilities, title Article XII, Stormwater Utility Fee, by inserting the new text shown below so that said new Article XII shall hereafter read as follows:

ARTICLE XII. – STORMWATER SYSTEM UTILITY

Sec. 26-336 – Purpose

The purpose of this Article is to establish a stormwater utility to protect the public health, safety and welfare of the residents of the Village of Wilmette from damage to property and local waterways from stormwater runoff and floods, through the construction and operation of flood reduction and control facilities, and through water quality management and floodplain management. It is also the purpose of this Article to provide an effective and long-term approach to stormwater management within the Village by identifying and providing an adequate and stable funding source for stormwater management.

Sec. 26-337 – Definitions

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Credit means a conditional reduction in the amount of a Stormwater System User fee to an individual property based on the provisions of the Village of Wilmette Stormwater Credit and Incentive Manual.

Developed Land means property that has been altered from its natural state by the addition of impervious area.

Duplex Parcel means any Parcel containing a single structure designed with two dwellings units for occupancy by one family in each unit.

Equivalent Runoff Unit (ERU) is a unit of measure of impervious surface (in square feet) that represents the impervious surface area on a typical Single Family Residential Parcel. Three thousand five hundred ninety (3,590) square feet of impervious area shall equal one ERU.

Impervious Area or Impervious Surface means those areas that do not readily allow for the penetration of rain into the ground at rates at or above the infiltration rate of naturally vegetated areas or significantly impedes the infiltration of stormwater into the soil. Common impervious area include, but are not limited to, rooftops, sidewalks, walkways, pavers, patio areas, swimming pools, driveways, parking lots, storage areas, compacted aggregate and awnings.

Non-Single Family Residential Parcel means any Parcel that is not a Single Family Residential Parcel.

Parcel means an area of land within the corporate limits of the Village that has been established by a plat or other legal means to be used, developed or built upon as a unit. A Parcel shall also mean any area of land within the corporate limits of the Village that has been assigned a Property Index Number (PIN) by Cook County, Illinois.

Single-Family Residential Parcel means Developed Land containing one dwelling structure which is not attached to another dwelling and which contains one or more bedrooms, with a bathroom and kitchen facilities, designed for occupancy by one family. Single-Family Residential Parcel units may include houses, manufactured homes and mobile homes located on one or more individual lots or Parcels of land.

Stormwater System means a conveyance or system of conveyances and include sewers, storm drains, curbs, gutters, ditches, retention ponds or basins, dams, stream impoundments, manmade channels or storm drains, pumping stations, and flood control facilities and appurtenances thereof which is designed or used for the collection, control, transportation, treatment or discharge of stormwater.

Stormwater Utility means the Village of Wilmette's stormwater utility established by this Article for the management, operation, maintenance, engineering, planning, and capital investments related to the Stormwater System.

User means the owner of a Parcel that uses, benefits from, or connects to the Village's Stormwater System.

Sec. 26-338 – Establishment of a Stormwater Utility

- (a) The Village hereby establishes a stormwater utility to provide for the management, regulation, construction, maintenance, and improvement of the handling of stormwater runoff in the Village, and for such purposes may include all or part of the necessary engineering, planning, operations, maintenance, repair, administration and enforcement, capital programs, debt service and education efforts related thereto.
- (b) All fees collected pursuant to this Article shall be used only for the purposes of the stormwater utility as deemed appropriate by the Village and all funds shall be deposited into the Village's established Sewer Fund and marked in an account as Stormwater Utility or a similar designation. The Village's Finance Director shall establish a proper system of accounts and shall keep proper books, records, and accounts in which complete and correct entries shall be made of all transactions relative to the Stormwater Utility account. The Sewer Fund shall be subject to the annual audit as provided for in Section 26-297 of the Village Code.

Sec. 26-339 – Charges for Stormwater Utility Service

The owner of any Parcel that uses, benefits from or connects to the Stormwater System, except otherwise exempted in this Article, shall be charged for such service in accordance with rates, fees and charges established in this Article.

Sec. 26-340 – Stormwater Utility Fee Structure

- (a) **Fee Imposed.** A stormwater utility fee is hereby imposed on the owners of the Parcels in, or partially in the Village. The stormwater utility fee for all Parcels in the Village shall be based on the measured number of ERUs of the Parcel. An additional fixed charge of \$40 shall also be assessed per each utility bill.
- (b) **ERU Fee Amount.** The ERU rate shall be \$104 per every ERU.
- (c) **Single Family Residential Parcels** shall be billed based on the following impervious area tiers:
 - (1) A Parcel with less than 3,000 square feet of impervious area shall be billed for 0.75 ERU.
 - (2) A Parcel with 3,000 square feet or more, and less than or equal to 4,300 square feet of impervious surface area will be billed for 1 ERU.
 - (3) A Parcel with greater than 4,300 square feet of impervious surface area will be billed for 1.4 ERU.
- (d) **Duplex Parcels** shall be billed in the same manner as Single Family Residential Parcels. If a Duplex Parcel has more than one water billing accounts associated with the Parcel, then the stormwater utility fee shall be divided equally between the accounts.

- (e) All Non-Single Family Residential Parcels in the Village shall be billed based on the measured number of ERUs on the Non-Single Family Residential Parcels.
- (f) Fees to qualifying Parcels may be adjusted if stormwater utility fee credits are approved by the Village for onsite stormwater management per the Village of Wilmette Stormwater Credit and Incentive Manual.

Sec. 26-341 – Impervious Area Database

The impervious area for all Parcels in the Village is established by the Village. The Village shall maintain an impervious area database for all Parcels within the Village which will serve as the basis for determination of the number of ERUs associated with each Parcel. The database will be based on available information, including geographic information systems analysis, aerial photographs, mapping information, site examination and other available information, and will be periodically updated based on available information.

Sec. 26-342 – Stormwater Bills

- (a) Issuance of bill. The Finance Department shall issue all bills for stormwater utility fees.
 - (1) Bills for stormwater utility fees shall be rendered by the Village in the same manner as other Village utility bills are rendered. The requirements, timing, obligations for payment of the stormwater utility fees, as well as any penalties or late fees shall be the same as the Village's requirements, timing, obligations for payment, penalties, or late fees for water rates and bills as provided in Article VII of this Chapter.
 - (2) All bills for the stormwater utility fee will be billed on a common statement, and collected along with the charges for water usage, sewer user usage, the Solid Waste Collection Fee and the Water Meter Fee.
 - (3) In the event the party responsible for the payment of the stormwater utility fee makes a payment insufficient to pay the total amount billed on the common statement, the partial payment shall first be applied to the stormwater utility fee, second to the sewer user charge, third to the Solid Waste Collection Fee, fourth to the Water Meter Fee, and last to the water charge. The Village may discontinue water service in accordance with the provisions and process provided for in this Chapter for any unpaid balance of the common utility bill.
 - (4) The owner of any Parcel, the occupant thereof, and the customer of the service of said system, shall be jointly and severally liable to pay for such stormwater utility fee for said Parcel.
 - (5) Notice must be given to the Village by the Parcel owner if it is desired that bills be forwarded to any other address than the Parcel address.
 - (6) In the event a bill for water usage for numerous Parcels with multiple owners is currently addressed to one party, the stormwater utility fee for each of those Parcels

will be added to that bill and be addressed to that same party who shall be responsible for payment.

Sec. 26-343 – Liens

The Village may lien and foreclose upon a lien for an unpaid bill for the stormwater utility fee in the same manner as provided for in Sections 26-184 and 26-185 of this Chapter or by another other lawful means available to the Village.

Sec. 26-344 – Other remedies

In addition to the recording of a lien, the Village may seek payment for delinquent stormwater utility fees, penalties and interest, including any additional lien charges due, by filing suit to collect the same.

Sec. 26-345 – Interference with stormwater system.

- (a) No person shall alter, interfere with or disturb the stormwater system or appurtenances thereto without the permission of the Village Manager or his/her designee.
- (b) No person shall willfully or negligently break, injure or deface such stormwater system and appurtenances, or commit any act which is intended to or which shall obstruct or impair the intended use thereof.

Sec. 26-346 – Change in Ownership

Irrespective of any change in ownership, the owner of each Parcel of real estate shall be liable for the payment of any unpaid stormwater utility fees.

Sec. 26-347 – Exemptions from Stormwater Utility Fee

The following Parcels shall be exempt from the stormwater utility fee:

- (a) Parcels owned by:
 - (1) the United States of America, or any agency or entity thereof, including but not limited to, the United States Postal Service, the Department of Homeland Security, or the United States Coast Guard; and
 - (2) the State of Illinois; and
 - (3) any unit of county or local government, or any other political subdivision of the State of Illinois; and
- (b) Parcels that are:
 - (1) dedicated public rights-of-way, such as roadways, sidewalks and alleys; and
 - (2) railway lines; and

- (3) Non-Single Family Residential Parcel with an impervious area of 400 square feet or less.

Sec. 26-348 – Stormwater Utility Fee Incentives and Credits

The Director of Engineering & Public Works is hereby authorized to develop, publish, and amend as necessary, a Stormwater Credit and Incentive Manual for purposes of establishing a program of incentives and credits that will reduce the stormwater utility fee that particular property owners will be required to pay, to promote efforts by said property owners to mitigate the effects of stormwater on the Stormwater System.

Sec. 26-349 – Adjustments to stormwater bills.

- (a) A Parcel's stormwater utility rate and/or computed number of ERUs may be adjusted by the Director of Engineering & Public Works to an amount which more properly represents the impervious surfaces on a Parcel. This may be done upon presentation by the property owner of factual evidence that in the Director's sole discretion, establishes that the impervious area used to determine the Parcel's stormwater utility tier or the computed number of ERUs was incorrect.

- (b) Responsibility for initiating adjustment process.

The owner of the Parcel is responsible for initiating any review of the impervious area computation for a Parcel or any other computations involved in determining the stormwater utility fee for that Parcel by filing an application for an adjustment of the fee, hereinafter referred to in this Article as an “application for an adjustment”, and presenting factual evidence in support of a change in the fee.

- (c) Application for adjustment.

The owner of the Parcel must file an application for an adjustment on forms provided by the Village, and file the application and factual evidence in support of the adjustment with the Director of Engineering & Public Works.

- (d) Decision on application.

The Director of Engineering & Public Works shall make a decision approving or denying the application for an adjustment within sixty (60) days of receipt of a completed application for an adjustment. The Director's decision shall be in writing and, if the decision is to deny the application, it shall state the reasons for said denial. The decision shall be mailed to the applicant at the address as shown on the application for an adjustment.

- (e) Effective date of adjustment.

If an application for an adjustment is approved by the Director of Engineering & Public Works, the stormwater fee shall be adjusted accordingly for the specified Parcel and will apply to the next regularly generated bill.

- (f) Appeal from denial of application for an adjustment.
- (1) General. An applicant for an adjustment may appeal a denial of said application to the Village Manager by filing a written appeal at the office of the Village Manager within ten (10) calendar days of the date of mailing of the decision denying said application.
 - (2) Form for appeal. An appeal to the Village Manager shall be made in writing and must be accompanied by any documentation or other evidence the appellant wishes the Village Manager to consider in deciding the appeal.
 - (3) Time/Form of Decision. The Village Manager shall review and make a decision whether to allow or deny the appeal within sixty (60) days of receipt of a completed appeal application. Said decision shall be in writing and, if it denies the appeal, it shall state the reasons for the denial.

SECTION 3: The Wilmette Village Code, as amended, is further amended in Chapter 14 Motor Vehicles, Article XIV Parking Meters, Section 14-428 as set forth below with deletions shown in strikethrough type and additions shown in underlined, bold type so that said Section 14-428 shall hereafter read as follows:

Sec. 14-428. - Parking charges; meter operation.

- (a) The meters in the Poplar Lots and the Green Bay Lots shall operate upon the insertion of ~~\$2.00~~ **\$2.10** for ten hours. The meters in the Main Commuter Lot shall operate upon the insertion of ~~\$2.50~~ **\$2.60** for ten hours.
- (b) Each meter shall be so designed and constructed that upon the expiration of the time interval registered by the insertion of currency or any electronic method of payment authorized by the Village Manager in the amount as above provided, it will indicate by appropriate sign or signal that the lawful parking meter period has expired and, during that interval of time and prior to the expiration thereof, will indicate the interval of time which remains of the period.

SECTION 4: Codifier's Authority. The Village's codifier is authorized and hereby directed, to adjust section and paragraph numbering as may be necessary to render this ordinance consistent with the numbering of the Village Code. This authorization includes creating new Sections 26-321 to 26-335 to be marked as "reserved" in Article XI of Chapter 26.

SECTION 5: This Ordinance shall be in full force and effect from and after January 1, 2020, subsequent to its passage, approval and publication as required by law.

PASSED by the President and Board of Trustees of the Village of Wilmette, Illinois, on the **26th** day of **November, 2019**, according to the following roll call vote:

AYES: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

Clerk of the Village of Wilmette, IL

APPROVED by the President of the Village of Wilmette, Illinois, this **26th** day of **November, 2019**,

President of the Village of Wilmette, IL

ATTEST:

Clerk of the Village of Wilmette, IL

Published in pamphlet form November 27, 2019.