

ORDINANCE 11-13

AN ORDINANCE ESTABLISHING A UTILITY FOR STORM WATER MANAGEMENT AND ESTABLISHING THE AMOUNT OF THE EQUIVALENT RESIDENTIAL UNIT (ERU) AS THE METHOD TO BE USED IN CALCULATING THE STORMWATER USER FEE FOR ALL PARCELS IN THE CITY, AND ESTABLISHING STORM WATER USER FEES FOR ALL SINGLE FAMILY RESIDENCES AND ALL NON-SINGLE FAMILY RESIDENTIAL PROPERTIES

Whereas, the Federal Clean Water Act, 33 U.S.C. 1251 et. seq., requires entities such as the City of Springfield (City) to implement storm water management programs within prescribed time frames, and the Environmental Protection Agency, pursuant to the Clean Water Act, 33 U.S.C. 1251 et. seq., has published rules for storm water outfall permits; and

Whereas, T.C.A. § 68-221-1101, provides that the purpose of the storm water management statute is to facilitate municipal compliance with the Water Quality Act of 1977, and applicable EPA regulations, particularly those arising from § 402(p) of the Clean Water Act of 1977, and to enable municipalities to regulate storm water discharges, establish a system of drainage facilities, and to “fix and require payment of fees for the privilege of discharging storm water”, and

Whereas, T.C.A. § 68-221-1105 provides that among the powers municipalities have with respect to storm water facilities, is the power by ordinance or resolution to:

- (A) Exercise general regulation over the planning, location, construction, and operation and maintenance of storm water facilities in the municipality;
- (B) Adopt any rules and regulations deemed necessary to accomplish the purposes of T.C.A. § 68-221-1105, including the adoption of a system of fees for services and permits;
- (C) Establish standards to regulate the quantity of storm water discharged and to regulate storm water contaminants as may be necessary to protect water quality;
- (D) Review and approve plans and plats for storm water management in proposed subdivisions or commercial developments;
- (E) Issue permits for storm water discharges, and for the construction, alteration, extension, or repair of storm water facilities;
- (F) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
- (G) Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated;

(H) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of storm water contamination, whether public or private; and

Whereas, T.C.A. § 68-221-1107 provides that all municipalities constructing, operating or maintaining storm water or flood control facilities are authorized to establish a graduated storm water users fee which may be collected from each user of the storm water facilities provided by the municipality provided such fees are reasonable in amount and used exclusively for the purposes set forth in T.C.A. § 68-221-1101, et. seq.; and

Whereas, City is a Phase II National Pollutant Discharge Elimination System (NPDES) permit holder and has engaged in a variety of activities to fulfill its six permit responsibilities; and

Whereas, City has engaged consultants to inventory its storm water system and advise it on storm water matters at considerable expense; and

Whereas, City may have to hire employees with expertise in storm water and has adopted ordinances to protect its waters and lands during construction and once developed; and

Whereas, these efforts and future efforts in storm water management, can best be organized, structured and funded as a storm water utility with a separate revenue stream dedicated to that purpose; and

Whereas, Neel-Schaffer, Inc. was retained by the City to provide a recommendation for the appropriate funding mechanism for its storm water management activities; and

Whereas, Neel-Schaffer, Inc. in its Storm Water Funding Report of October 2011, has recommended that the City establish a storm water utility as an equitable means of establishing financial charges for services provided and benefits, including environmental benefits, received; approved the use of an Equivalent Residential Unit (ERU) calculated from the average imperviousness of single residential parcels in the City; and

Whereas, the ERU was calculated based on over six thousand (6,000) parcels within the City using the City's 2010 GIS aerial mapping; and

Whereas, the methodology used to establish the proposed storm water user's fee is designed to call for each user to pay a proportionate share of the construction, administration, operation and maintenance cost of storm water facilities based on their proportionate share of storm water runoff in compliance with T.C.A. § 68-221-1107; and

Whereas, the City may from time to time set the base rate for the ERU for the storm water user fee; and

Whereas, Article IV, Section 13 of the Charter of the City of Springfield requires that the fixing of fees and charges be accomplished through legislative action which must be exercised by ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of Springfield, Tennessee as follows:

Section 1. The base rate for an ERU (equivalent residential unit) for the stormwater user fee shall be two dollars (\$2.00) per month.

Section 2. The amount of impervious surface of the ERU shall be three thousand four hundred sixty-five (3,465) square feet.

Section 3. The storm water fee for single family residential properties shall be two dollars (\$2.00) per month.

Section 4. The monthly storm water fee for each non-single family residential property shall be determined by taking the calculated amount of square footage of impervious surface on the property and dividing it by the square footage of one (1) equivalent residential unit (3,465 square feet) to determine the number of equivalent residential units (ERUs) on the property; and the resulting number of equivalent residential units shall be rounded down to the nearest whole number of equivalent residential units and multiplied by the base rate for an ERU (\$2.00).

Section 5. Non-single family residential properties will be eligible for storm water credits to the storm water user fee pursuant to a credit and appeals policy. A credit is an ongoing reduction in a property's storm water user fee that is available for certain qualifying activities that reduce the impact of increased storm water runoff resulting from development, or provide an ongoing city benefit related to storm water management.

Section 6. Any bill rendered for the payment of the storm water fee shall contain the following statement with respect to the charges assessed, which statement shall be printed in bold-faced type: "This tax has been mandated by Congress."

Section 7. This ordinance shall become effective immediately upon its passage.

Section 8. All ordinances, resolutions and policies in conflict herewith are hereby rescinded to the extent of the conflict only.

Passed on 1st reading October 18, 2011

Passed on 2nd reading November 15, 2011

Passed on 3rd reading December 20, 2011

Billy P. Carneal, Mayor

Attest:

Jane Shugart Murphy, City Recorder