

ORDINANCE 2017 – 556
AN ORDINANCE ESTABLISHING REGULATIONS
FOR STORMWATER MANAGEMENT
AND CREATING A STORMWATER UTILITY

BE IT ORDAINED by the Common Council of the Town of Battle Ground, Indiana that the following sections are hereby added to the Code of Ordinances of the Town of Battle Ground, Indiana, to wit:

STORMWATER UTILITY

Section 1.1 Purpose and Intent

The purpose and intent of this article is to promote the health, safety and general welfare of the inhabitants of the Town of Battle Ground, Indiana by establishing a stormwater utility sufficient to plan, control, operate and maintain the Town's stormwater management system.

Section 1.2 Definitions

For the purpose of this article, the following definitions shall apply (words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meanings given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

APPROVED PLANS: Plans approved by the authorized official according to a permit and plan review which will govern all improvements made within the Town that require a stormwater system or changes or alterations to the existing stormwater system.

AUTHORIZED OFFICIAL: Any employee or agent of the Town authorized in writing by the Board to administer or enforce the provisions of this article.

BOARD: The Town Council acting as the Board of Public Works and Safety pursuant to I.C. 36-1-2-24.

CLASSIFICATION PROCEDURE: The method that the Town uses to determine classification of non-residential parcels may take the following forms or any combination thereof.

- a. Computation of the parcel size, pavement area, roof area, or other area using on-site measurements of the apparent outside boundaries of the parcel or impervious area in or on such developed parcel, respectively, made by the Town or on its behalf.
- b. Computation of the parcel size, pavement area, roof area, or other area using the dimensions of the parcel or impervious area in or on the parcels which are set forth and contained in the records of the office of the County Assessor or Township Assessor.
- c. Computation of the parcel size, pavement area, roof area, or other area using aerial photography or photogrammetry, or using the information data from on-site measurements of like or similar property or features or as contained in the records of the Town or County.

- d. Computation of parcel size, pavement area, roof area, or other area using data provided by the owner, tenant or developer. The authorized official may require additional information as necessary to make the determination.

CODE: The Town of Battle Ground, Indiana Municipal Code.

DWELLING UNIT: One or more rooms with cooking, living, sanitary, and sleeping facilities, for the exclusive use of one family, or where permitted, the occupants of shared housing, either group living as a single housekeeping unit. The DWELLING UNIT shall be characterized by but not limited to:

- a. an exclusive house number or an exclusive house number plus apartment number, with an exclusive mailbox for the receipt of materials sent through the United States mail;
- b. a single kitchen adequate for the preparation of meals; and
- c. a tenancy based upon a legal relationship of a unitary nature, i.e., a single lease, mortgage or contractual sales agreement for the entire premises

NON-DEVELOPED PROPERTY: Non-Developed property shall be a lot or parcel of land which is vacant or is used for agricultural purposes. This does not include parking lots, athletic fields, front back or side lawns, or lots which are used as accessory lots to residential property or non-residential property.

NON-RESIDENTIAL PROPERTY: All properties not encompassed within the definition of Residential Property, including but not limited to: commercial, industrial, retail, multi-family residential (three or more dwelling units), governmental, institutional, schools, and houses of worship.

RESIDENTIAL PROPERTY: Any lot or parcel existing in the Town on which a single building or mobile home is situated, containing up to and including two dwelling units. Two dwelling units or duplexes will be charged per unit.

STORMWATER: The chemical compound of hydrogen and oxygen which is produced from atmospheric clouds as rain, snow, sleet and hail.

STORMWATER SYSTEM: All constructed facilities, including structures and natural watercourses under the ownership, and/or control of the Town, used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, streets, culverts, retention or detention basins and pumping stations; and excluding therefore, any part of the system of drains and watercourses under the jurisdiction of the Tippecanoe County Drainage Board or waters of the State of Indiana.

STORMWATER UTILITY: A division of the Sewage works as defined in I.C. 36-9-1-8(8) and (12).

STORM UTILITY USER: The owner of a lot or parcel within the Town.

SURFACE WATER: Water occurring on the surface of the land, from natural causes such as rainfall, whether falling on the land in question or flowing onto the land in question.

TOWN: The incorporated Town of Battle Ground, Tippecanoe County, Indiana.

Section 1.3 Creation of Stormwater Utility

A stormwater utility is hereby created as part of the Battle Ground Wastewater Utility. Said utility shall be responsible for all storm sewers and the collection and disposal of storm drainage. Said utility shall also be responsible for the implementation of all federal and state mandates regarding stormwater drainage and erosion control.

Section 1.4 Governing Board

The utility shall be governed by the Town Council acting as the Board of Public Works and Safety. This utility shall have the same governing board as that which governs the Battle Ground Wastewater Utility established in the Battle Ground Town code.

Area Served by Stormwater Utility:

The corporate limits of the Town of Battle Ground, Indiana.

Powers and Duties of Utility:

The Town Council acting as the Board of Public works and Safety shall have all those powers and duties provided to such boards by Title 36 of the Indiana Code and more specifically but not limited to the following:

- A. The power to enter into contracts
- B. The power to employ professionals
- C. The power to construct, maintain, and improve the stormwater utility structures
- D. The power to make plans and ordinances regarding the collection and disposal of stormwater within the Town
- E. The power to pass ordinances as provided for by Title 36 which impose just, reasonable and equitable fees or service charges for those who utilize the stormwater system and penalties to those who violate provisions of ordinances established for stormwater control and drainage.

Section 1.5 Creation of Non-reverting Stormwater Utility Cumulative Fund:

A non-reverting stormwater utility cumulative fund is hereby created. All proceeds received as a result of user fees and charges or penalties assessed by this Ordinance or subsequent amendments hereto shall be deposited in a non-reverting cumulative stormwater utility fund. Proceeds from this non-reverting fund, shall be for the exclusive use of the Town's stormwater utility which includes, but is not limited to, the following:

- a. Stormwater management services, such as studies, design, permit review, plan preparation and development review.
- b. Operation, maintenance, repair and replacement of the stormwater collection, storage, conveyance, and/or treatment infrastructure.
- c. Project costs related to constructing major or minor structural improvements to the Town's stormwater-related infrastructure.

- d. Administrative costs associated with the management of the stormwater utility user fee.
- e. Debt service financing of the Town's stormwater-related capital improvements.
- f. Funding of studies such as water quantity and quality monitoring, aerial photography, and geotechnical work associated with the planning of the stormwater-related infrastructure.

This would include but not be limited to the implementation of long range stormwater plans developed and approved by the Indiana Department of Environmental Management for elimination of combined sewer overflows and the construction of stormwater drains and sewers and maintain same within the Town limits and the area served by the sewage works. All such expenditures for both capital and operating expenses must be first approved by the Town Council.

Section 1.6 Stormwater Utility User Fee

A stormwater utility user fee shall be imposed on each and every lot or parcel of the real property within the Town of Battle Ground, Indiana including those classified as non-profit or tax exempt, for services and facilities provided by the Stormwater Utility. This user fee is deemed reasonable and necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future stormwater system of the Town of Battle Ground, Indiana.

Section 1.7 Stormwater Utility User Fee Structure

For the purposes stated herein, there is hereby assessed a stormwater utility user fee to each stormwater utility user within the corporate limits of the Town of Battle Ground, Tippecanoe County, Indiana, in an amount as determined below. For purposes of imposing the stormwater utility user fee, all lots and parcels within the town are classified as either:

- i. Residential, or
- ii. Non-residential, or
- iii. Non-developed property

Section 1.8 Stormwater Rate and Fee Establishment Procedures

Each parcel of property within the Town of Battle Ground shall be individually subject to a Stormwater Service Charge.

For each parcel that directly or indirectly contributes to the stormwater system of the Town of Battle Ground, the Stormwater Service Charge shall be based on the presence of and/or measure of impervious surface area on the parcel or property.

Each parcel of property shall be classified as Residential, Non-residential or Non-developed. The Board is authorized to establish the classification of an individual parcel or property based upon its primary use.

This stormwater rate is designed to recover the cost of rendering stormwater service to the users of the stormwater system and shall be the basis for assessment of the Town of Battle Ground's Stormwater Service Charge. This rate is further designed to maintain adequate reserves

to provide for reasonably expected variations in the cost of providing services, as well as variations in the demand for services.

Section 1.9 Rate Structure and Calculations

For the purposes stated in Section 1.1, there is hereby assessed a Stormwater Service Charge to each user in the Town of Battle Ground who contributes directly or indirectly to the stormwater system of the Town of Battle Ground, in an amount defined below.

It is hereby established that an Equivalent Residential Unit (“ERU”) shall be based upon 3,200 square feet of impervious surface area.

All properties having impervious surface area within the Town of Battle Ground shall be assigned an ERU, or multiple thereof, with all properties having impervious area assigned at least one (1) ERU.

The Stormwater Service Charge for one (1) ERU is hereby established at the rate in the table below.

Effective Date	Monthly Rate per ERU
January 1, 2018	\$ 6.00
January 1, 2019	\$ 7.00
January 1, 2020	\$ 8.00
January 1, 2021	\$ 9.00
January 1, 2022	\$ 10.00
January 1, 2023 and after	\$ 11.00

The total service charge for a particular property shall be determined by taking the number of ERUs assigned to a particular property and multiplying it by the established rate.

Residential Properties. Residential properties shall be assessed a monthly service charge for stormwater service of one (1) ERU. This flat fee shall apply to all residential properties as defined herein.

- (1) Contiguous residential properties having common ownership and sharing a single structure containing two (2) or fewer dwelling units shall be assigned one (1) ERU.
- (2) However, there shall be a fifty percent (50%) reduction in the monthly service charge for owners of residential property who verify they:
 - (A) are head of household; and
 - (B) are either over the age of 65 years or permanently and totally disabled as determined by the Social Security Administration; and
 - (C) have a total annual household income which is at or below 150% of the poverty level as determined by the United States Health and Human Services Guidelines.

Non-Residential Properties: The total impervious surface area of each Non-Residential property shall be individually calculated. Non-Residential properties shall be assessed a monthly service charge for stormwater service based upon the total number of ERUs that encompasses the measured impervious surface area on the individual property. The calculation to determine the total number of ERUs for a Non-Residential property shall be completed by dividing the total square footage of measured impervious surface area for a property by 3,200 square feet. The division shall be calculated to the first decimal place. Total ERUs shall not be less than one (1) for any Non-Residential property containing measurable surface area.

Only whole ERUs shall be used in determining the assignment of gross ERUs to a property. All rounding necessary to reach the appropriate whole ERU shall be done according to mathematical convention (0 – 0.4 rounded down to the nearest whole ERU; 0.5 -0.9 rounded up to the nearest whole ERU).

Non-developed property: Non-developed residential lots within the Town of Battle Ground shall be charged a rate not less than 0.50 ERU's. Non-developed property outside of residential areas but within the Town of Battle Ground shall be charged a rate not less than 0.50 ERU's per acre of non-developed land contributing to watersheds under the jurisdiction of the Town of Battle Ground.

Section 1.10 Billing and Payment; penalties.

- 1) Bills or statements for the stormwater utility user fee shall be rendered monthly, in accordance with the regular sewage utility billing cycle, by the utility billing division of the Town for all properties subject to the fee. Bills shall be payable at the same time and in the same manner and subject to the same penalties as set forth for the sewer utility. Any partial payment of a combined utility bill shall be applied first to the stormwater utility user fee. Any unpaid stormwater utility user fees shall constitute a lien on such property except the liens of state, county and municipal taxes and shall be on a parity with the lien of such state, county and municipal taxes. Such lien, when delinquent for more than thirty (30) days, may be foreclosed by the Town in the manner provided by the laws of Indiana for the foreclosure of mortgages on real property.
- 2) For properties normally receiving monthly utility bills for other Town services, the stormwater utility user fee shall be included in the monthly sewage utility bill rendered to the established customer.
- 3) For properties not receiving monthly utility bills for other town services, the bill or statement for the stormwater utility user fee shall be sent to the Stormwater Utility User as determined from the tax rolls. The Board may render annual, semiannual, or monthly billings, to be billed in arrears, to coincide with the property tax schedule, on such properties if determined to be the best interest of the Town.
- 4) The owner of a property is ultimately responsible for all fees imposed under this chapter.

REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SEVERABILITY. Any provision herein contained which is found by a court of competent jurisdiction to be unlawful or which by operations shall be inapplicable, shall be deemed omitted but the rest and remainder of this ordinance, to the extent feasible shall remain in full force and effect.

EFFECTIVE DATE. This ordinance shall become effective immediately upon passage and publication.

INTRODUCED ON FIRST READING ON THE 8TH DAY OF MAY, 2017.

ATTEST:

Georgia Jones
Georgia Jones, Clerk-Treasurer

BATTLE GROUND COUNCIL PERSONS

Steve Egly
Steve Egly, Council President

Mike Bird

Greg Jones

James Miller
James Miller

Greg Schroeder,

INTRODUCED FOR SECOND READING ON THE 11 DAY OF SEPTEMBER, 2017.

ATTEST:

Georgia Jones
Georgia Jones, Clerk-Treasurer

BATTLE GROUND COUCIL PERSONS

Steve Egly
Steve Egly, Council President

Mike Bird
Mike Bird

Greg Jones
Greg Jones

James Miller
James Miller

Greg Schroeder
Zach Rabertof