

ORDINANCE NO. SWU-3333

AN ORDINANCE AMENDING THE STORM WATER UTILITY USER FEE ON RESIDENTIAL AND NON-RESIDENTIAL PROPERTY IN THE CITY; AMENDING AND REPEALING EXISTING SECTION 6 OF ORDINANCE NO. SWU-2315 AND OVERLAND PARK MUNICIPAL CODE SECTION 15.06.060; REPEALING ORDINANCE NO. SWU-3216; AND PROVIDING SUBSTITUTE PROVISIONS THEREFOR.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS:

Section 1. Existing Section 6 of Ordinance No. SWU-2315 and Overland Park Municipal Code Section 15.06.060 are hereby amended to read as follows:

15.06.060 Storm Water Utility User Fee.

- A. **User Fee Established.** Subject to the provisions of this ordinance, there is imposed on each Residential Property and Nonresidential Property, other than Exempt Property, property not served or benefited by the Storm Water Management Program or property consisting exclusively of Undeveloped Land, a Storm Water Utility User Fee. This fee is hereby imposed for the year 2001, and each subsequent year on all such property.
- B. **Equivalent Residential Unit.** The Equivalent Residential Unit (ERU) is hereby established for purposes of calculating the Storm Water Utility User Fee. The ERU is hereby established to be 2,485 square feet of Impervious Area.
- C. **Equivalent Residential Unit Rate.** The ERU rate to be used for calculating Storm Water Utility User Fees for each ERU is hereby established to be \$36.00 per year.
- D. **Storm Water Utility User Fee for Residential Property.** Subject to subparagraph G below, the Storm Water Utility User Fee for Residential Property shall be the ERU Rate multiplied by the number of individual Dwelling Units existing on the property.
- E. **Storm Water Utility User Fee for Nonresidential Property.** Subject to subparagraph G below, the Storm Water Utility User Fee for Nonresidential Property shall be the ERU Rate multiplied by a numerical factor calculated by dividing the total Impervious Area of the property by the number of square feet in one ERU. In performing this calculation, the numerical factor shall be rounded to the nearest whole number. For Nonresidential Property with joint users of common Impervious Areas, the Director shall calculate and allocate the pro rata Storm Water Utility User Fee among the users.
- F. **Dwelling Unit and Impervious Surface Calculation.** The Director shall make the initial calculations in accordance with the methods established in this section to determine the number of ERUs located on all Residential Property and Nonresidential Property and may from time to time change this calculation from the information and data deemed pertinent.

With respect to new construction, the Director may require that the applicant for development approval submit square footage Impervious Area calculations and/or Dwelling Unit calculations. Any increase or decrease in the ERU calculation for a Residential Property or Nonresidential Property associated with new construction shall commence upon the issuance of the temporary certificate of occupancy, certificate of occupancy or certificate of compliance, whichever is first issued. The Storm Water Utility User Fee shall be based on the status of the property on January 1, 2001, for the year 2001 and upon the status of the property on May 31, for all subsequent years.

- G. **Storm Water Utility User Fee Credits.** The Governing Body may, by ordinance, establish a system of credits, which may reduce the Storm Water Utility User Fee that is imposed in Section 15.06.060A., above.
- H. **Storm Water Utility User Fee Request for Recalculation.** If the owner of Residential Property or Nonresidential Property, for which a Storm Water Utility User Fee has been imposed disagrees with the calculation of the Storm Water Utility User Fee imposed upon such owner's property, the owner may request a recalculation of the fee.
- I. **Procedure.** Requests for credit or recalculation must be submitted, in writing, by the owner of Residential Property or Nonresidential Property, for which a Storm Water Utility User Fee has been imposed, to the Director on or before 5:00 p.m. on November 30 of the year for which the credit or recalculation is requested. The owner shall provide information substantiating the request, including detailed calculations of the amount of credit requested and the basis therefor or evidence of a mistake in initial fee calculation. The Director shall issue a determination in writing within 15 days of the receipt of the request.

Section 2. Existing Section 6 of Ordinance No. SWU-2315 and Overland Park Municipal Code Section 15.06.060 are hereby repealed.

Section 3. Ordinance No. SWU-3216 is hereby repealed.

Section 4. It is hereby declared to be the intention of the governing body that the sections, subsections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, subsection or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections and sections of this ordinance, since the same would have been enacted by the governing body without the incorporation into this ordinance of any unconstitutional or otherwise invalid phrase, clause, sentence, paragraph, subsection or section.

Section 5. This Ordinance shall take effect and be in force from and after its publication in an official City newspaper.

PASSED by the City Council this 20th day of September, 2021.

APPROVED by the Mayor this 20th day of September, 2021.

CITY OF OVERLAND PARK, KANSAS

(s) Carl Gerlach

Carl Gerlach, Mayor

ATTEST:

(s) Elizabeth Kelley

Elizabeth Kelley, City Clerk

APPROVED AS TO FORM:

(s) Trevor Stiles

Trevor L. Stiles
Senior Assistant City Attorney