

Local Law No. 5 for 2010

Authorizing the creation of a Stormwater Utility Fund and the establishment of a stormwater user fee.

Legislative Intent: The purpose of this law is to establish a fund in order to pay for the cost of managing stormwater run-off in the City of Cortland (the "City").

Stormwater runoff is one (1) of the largest contributors to water quality violations in urban and urbanizing areas of New York. According to the US EPA, polluted stormwater runoff is a leading cause of impairment to the nearly forty (40) percent of surveyed U.S. water bodies which do not meet water quality standards (U.S. EPA, 1995). When polluted stormwater runoff is discharged directly into surface water bodies, several adverse effects can occur: public health can be threatened from contaminated drinking water sources, food sources, and recreational waters; aquatic habitats can be damaged or destroyed; and aesthetic values of waterways can decline.

Management of stormwater is critical to ensuring the integrity of valuable surface water resources. An effective approach to managing stormwater and related impacts is creation of a utility that delivers stormwater management services to a community.

Therefore, the City hereby establishes a stormwater management utility for the following purposes:

- To determine the necessary level of municipal stormwater management services for the City;
- To maintain and improve the drainage facilities of the City, to ensure that they perform to design capacity while using best management practices to meet local, state, and federal water quality standards;
- To mitigate the damaging effects of uncontrolled and unmanaged stormwater runoff;
- To support and promote sound stormwater management practices that mitigate nonpoint source pollution, reduce flooding, and enhance area drainage within the City and;
- To support the goals and objectives of the City laws and ordinances addressing stormwater management in other sections of this Code of Ordinances and to comply with applicable law, including the New York Department of Environmental Conservation and United States Environmental Protection Agency.

Findings:

The Common Council of the City hereby finds that the water quality within the watershed within and surrounding the City is potentially threatened by pollution associated with existing land use and future development; and

The requirements of the U.S. Environmental Protection Agency (“E.P.A.”) and the New York State Department of Environmental Conservation (“D.E.C.”) demand a comprehensive approach to municipal stormwater management; and

The existing stormwater management system may be inadequate to meet existing and future needs, and flooding concerns may arise; and

Given the scope of the need to address the aforementioned circumstances, it is appropriate and necessary to authorize the establishment of a Stormwater Utility Fund and to institute a user fee to be assessed on properties covered by 43,560 square feet or more of impervious material with large areas of impervious coverage that therefore contribute to stormwater run-off.

Be it enacted by the Common Council of the City as follows:

Section 1: A Stormwater Utility Fund is hereby established.

- a.) The Director of Administration and Finance shall establish a dedicated Stormwater Fund in the City budget and an accounting system for the purpose of managing all funds collected for the purposes and responsibilities of the utility. All revenues and receipts of the utility shall be placed in the Stormwater fund, which shall be separate from all other funds, and only the expenses of Stormwater Management Programs, Services, Systems, and Facilities of the City shall be paid by the fund.
- b.) Stormwater Service Fees will be set at a rate that covers the costs necessary to carry out the Stormwater Management Programs, Services, Systems and Facilities approved by the City as necessary to carry out the functions of the utility. Expenditure of funds from the Stormwater Fund is limited to the following:
 - Operating expenses;
 - Non-operating expenses, such as equipment and supplies;
 - Payment on principal and interest on debt obligations;
 - Capital investments including stormwater best management practices (BMPs) and components (e.g., purchase of plants and other amenities to support stormwater management alternatives utilizing vegetation);
 - Reserve expenses; and
 - Other costs as deemed necessary by the City Council.

Section 2:

The use of assets of the Fund shall include the following purposes:

- To maintain and improve the drainage facilities of the City, to ensure that they perform to design capacity while using best management practices to meet local, state and federal water quality standards.

- To mitigate the damaging effect of uncontrolled and unmanaged stormwater run-off.
- To support and promote sound stormwater management practices to mitigate non-point source pollution, reduce floodings, and enhance area drainage within the City.
- To support the goals and objectives of the City laws and regulations addressing stormwater management, and to comply with applicable law, including the E.P.A. and the D.E.C.

Section 3: Authorization

The Director of Administration and Finance is authorized to assess and collect service fees from all persons or entities that own real property within the City whose real property meets certain thresholds of impervious lot coverage.

Section 4: Definitions

Credit: Credit shall mean a conditional reduction in the amount of a stormwater service fee to an individual property based on the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility or other service or activity that reduces the stormwater management utility's cost of providing services.

Customers of the stormwater utility: Customers of the stormwater utility shall include all persons, properties, and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension, and improvement of the public stormwater management systems and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto, and persons, properties, and entities which will ultimately be served or benefited as a result of the stormwater management program.

Developed land: Developed land shall mean property altered from its natural state by removal of vegetation, construction, or installation of improvements such as buildings, structures, or other impervious surfaces, or by other alteration of the property that results in a meaningful change in the hydrology of the property during and following rainfall events (agricultural and forestry operations that do not create impervious surface area excepted).

Ephemeral stream: A channel that flows only during wet weather following a precipitation event and typically flows no more than a few days after the storm.

Equivalent residential unit (ERU): A measure used to standardize the utility service fees for residential properties, or classes of residential properties, and based on the average amount of impervious area of a base residential parcel. The ERU shall also be used as the basis for standardizing and determining the equivalent size of non-residential properties and other developed lands. The staff of the utility, together with consulting

engineers, shall undertake an analysis to identify the amount of square feet of impervious surface area of an ERU and this will be identified as part of the stormwater service fee schedule policy.

Exemption: Exemption shall mean not applying to, or removing the application of the stormwater management utility service fee from, a property. No permanent exemption shall be granted based on taxable or non-taxable status or economic status of the property owner.

Hydrologic response: The hydrologic response of a property is the manner whereby stormwater collects, remains, infiltrates, and is conveyed from a property.

Impervious surfaces: Impervious surfaces are those areas that prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel surfaces, awnings and other fabric or plastic coverings, and other surfaces that prevent or impede the natural infiltration of stormwater runoff which existed prior to development.

Intermittent stream: A stream or river that flows during both wet and dry weather only during the wettest part of the year and exhibits no flow during dry weather during at least a portion of the year, and is depicted as a thin solid line on United States Geological Survey (USGS) quadrangle maps.

Other developed lands: Other developed lands shall mean, but not be limited to, mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, colleges, research facilities and stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water and wastewater treatment plants, and lands in other uses which alter the hydrology of the property from that which would exist in a natural state.

Perennial stream: A stream or river that flows during both wet and dry weather throughout the year and over multiple years in duration, and that is depicted as a bold line on USGS quadrangle maps.

Pollution: The contamination or other alteration of the physical, chemical or biological properties of any natural waters of the City, or the discharge of any liquid, gaseous, solid or radioactive or other substance into any such waters as will or is likely to create a nuisance, or render such water harmful, detrimental, or injurious to the public health, safety and welfare or to other beneficial uses.

Residential dwelling unit: For the purposes of this law, residential dwelling unit shall mean developed land containing one or more structures and which contains one or more bedrooms, with a bathroom and kitchen facilities, designed for occupancy for dwelling

purposes. Dwelling units may include single-family houses, single duplex units under common ownership, manufactured homes, condominiums, townhouses, and mobile homes located on one or more individual lots or parcels of land. Developed land may be classified as a residential dwelling unit despite the presence of incidental structures associated with residential uses such as barns, garages, carports, or small storage buildings such as tool sheds or woodsheds.

Stormwater: Precipitation as it falls to the earth, surface runoff and drainage, and paths taken by such water.

Stormwater management programs, services, systems, and facilities: Stormwater management programs, services, systems, and facilities are those administrative, engineering, operational, regulatory, and capital improvement activities and functions performed by the City in connection with managing the stormwater management systems and facilities of the City, plus all other activities and functions necessary to support the provision of such programs and services

Stormwater management systems and facilities: Those natural and man-made channels, swales, ditches, swamps, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, head walls, storm sewers, lakes, City, county and state roads and other physical works, properties, and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff and its discharge to and impact upon receiving waters.

Stormwater service fees: Stormwater service fees shall mean the periodic service fee imposed pursuant to this article for the purpose of funding costs related to stormwater management programs, services, systems, and facilities.

Stormwater service fee schedule policy: The policy approved by the City Common Council identifying the specific fee structure and formulas upon which stormwater service fees and credits will be based.

Undeveloped land: Land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have no pavement, asphalt, or compacted dirt or gravel surfaces or structures which create an impervious surface that would prevent infiltration of stormwater or cause stormwater to collect, concentrate, or flow in a manner materially different than that which would occur naturally.

Cortland Stormwater Utility: The program within the City staffed by the waste water treatment department and public works department, responsible for providing the stormwater management programs, services, systems, and facilities pursuant to this article.

Section 5: Stormwater Utility Service Fees

- a.) The City may determine and modify from time to time the service fees of the Utility in order that the funds generated correspond to the cost of Stormwater Management Programs, Services, Systems, and Facilities of the City. In general, funding for the stormwater utility shall be equitably derived based on methods that establish a link between the fees and degree of impact imposed on the stormwater management system and facilities.
- b.) To the extent that other funding methods are employed by the City to manage stormwater both within and outside the service area, stormwater service fees shall support and be consistent with plan review and inspection fees, special fees for services, fees in lieu of regulatory requirements, impacts fees, special assessments, and other fees. Fees collected to fund stormwater management activities can also be supplemented by other revenues to the City, most notably state, federal, and private grants or loans.
- c.) Upon enactment of the law, the Director of Administration and Finance and with the assistance of those consultants deemed necessary by the Director of Administration and Finance and/or the Mayor shall undertake an analysis of the cost of Stormwater Management Programs, Services, Systems, and Facilities of the City for the purpose of setting an annual rate schedule for properties served by the utility. The recommendations shall be submitted for approval by the City Council. The fee schedule approved by the City Council shall be designated as the Stormwater Service Fee Schedule. No bills will be issued to customers prior to City Council approval of the Stormwater Service Fee Schedule.
- d.) Rate studies shall be conducted periodically by the utility to determine all changes and future updates to the Stormwater Utility Use Fee Schedule Policy. Any revisions to the Stormwater Service Fee Schedule Policy will be approved by the City Council prior to implementation.

Section 6: Fee Collection Schedule

Stormwater Service Fees shall be collected quarterly. To minimize administrative costs, notification and collection of stormwater utility fees shall be coordinated, to the extent possible with the collection of water and sewer service charges. A customer shall have 30 days from receipt of a service fee bill to make payment. Interest, at a rate determined by the City Council as part of the Stormwater Utility Use Fee Schedule shall be charged on delinquent accounts after 30 days.

Section 7: Right to Enforcement and Violations

- a.) The Director of Administration and Finance, or his authorized designee, is the enforcement authority who shall administer, implement and enforce the provisions of this article.

b.) Any fee delinquent in excess of 90 days may be collected by an assessment or levy placed again the real estate, to be collected as a property tax or by a judgment entered against the owner personally or against the real estate.

Section 8: Severability

Each section of this law is severable from all other sections. If any part of this law is deemed invalid by a court of competent jurisdiction, remaining portions of the law shall not be affected and shall continue in full force. Whenever this ordinance conflicts with any other ordinance of the City, State of New York, or federal government, the stricter standard shall apply except as limited by state or federal law.

Section 9:

This law shall become effective upon filing with the Secretary of State.