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CINDY MURRAY

ORDINANCE NO. 2010 – 05

AN ORDINANCE AMENDING SECTIONS 8.08.800 AND 8.08.850 OF THE CITY OF LAFAYETTE MUNICIPAL CODE

WHEREAS, the Common Council of the City of Lafayette is the governing body of the City of Lafayette in Tippecanoe County, in the State of Indiana; and

WHEREAS, the Common Council has adopted Chapter 8.08 of the City of Lafayette Municipal Code to regulate stormwater discharges within the City (the "Stormwater Code"); and

WHEREAS, pursuant to Section 8.08.150 of the Stormwater Code, the Water Pollution Control Department (the "Department"), by and through its Division of Stormwater Management and acting under the Board of Works maintains and operates the City's stormwater system (the "System") and administers, implements, and enforces the Stormwater Code; and

WHEREAS, in accordance with and pursuant to Indiana Code 36-9-23, the Common Council, by adopting Sections 8.08.800-.890 of the Stormwater Code, established a distinct just and equitable schedule of stormwater service charges for the users of the System; and

WHEREAS, stormwater service charges are billed to all users of the System on a semiannual basis under Section 8.08.830 of the Stormwater Code; and

WHEREAS, the City's Board of Works and Common Council desire to establish billing cycles for stormwater service charges that are convenient and responsive to the needs of the users of the System; and

WHEREAS, the City's Board of Works and Common Council have determined that billing stormwater service charges for Residential Property, as defined in the Stormwater Code, on the monthly bill for water and sewer services, and billing stormwater service charges for Non-Residential Property, as defined in the Stormwater Code, on a semiannual basis, with a lump sum or equal installment payment option and in a bill separate from the monthly bill for water and sewer services, are in the best interest of the users of the System; and

WHEREAS, the City's Board of Works and Common Council desire to clarify that stormwater service charges may be billed to the tenant(s) or other non-owner occupant(s) of properties served, but such billing shall in no way relieve the owners of the properties from liability in the event payment is not made as required under the Stormwater Code; and

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF LAFAYETTE, INDIANA as follows:

Section 1. City of Lafayette Municipal Code shall be amended by striking the current language of Section 8.08.800 and replacing it with the following language:

A Stormwater Service Charge shall be imposed on each and every lot and parcel of land within the City that directly or indirectly contributes to the City's Stormwater Drainage System, and the Stormwater Service Charge shall be assessed against the property owner thereof, who shall be considered the user for purposes of this chapter. This Stormwater Service Charge is deemed reasonable and is necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future Stormwater Drainage System. Although Stormwater Service Charges may be billed to tenants and other non-owner occupants of properties served, Stormwater Service Charges shall be the ultimate responsibility of the property owner, including unpaid charges, penalties, recording fees, attorneys' fees, interest, court costs and other costs, as applicable. The Department shall develop and promulgate policies and procedures to make determinations whether commonly-owned, adjoining properties with separate plat or legal descriptions should be treated as a single parcel of land for purposes of calculating the Stormwater Service Charge for such properties.

Section 2. City of Lafayette Municipal Code shall be amended by striking the current language of Section 8.08.850 Subsection A and replacing it with the following language:

A) Terms of Payment: The following terms of payment shall be in effect from July 1, 2010. Stormwater Service Charges for Residential Property described in Section 8.08.820 shall be billed monthly. Stormwater Service Charges for Residential Property shall be included on the monthly utility bill for water and sewer services and shall be due on the payment date set out on the bill. Stormwater Service Charges for Non-Residential Property described in Section 8.08.830 shall be billed semiannually. Stormwater Service Charges for Non-Residential Property shall be paid in one lump sump on or before the date occurring thirty (30) days after the billing date or in six (6) equal installments on or before the payment date specified on each of the six (6) payment coupons attached to the bill. The bill for Stormwater Service Charges for Non-Residential Property shall be separate from the monthly utility bill for water and sewer services. It shall be a violation of this chapter to fail to pay a bill for stormwater service when due. All bills for stormwater services not paid on or before the due date, shall be subject to a collection or deferred payment charge of 10% on the outstanding balance. Moving from one location to another in no way absolves the user from responsibility for any unpaid charges incurred at a previous location.

Section 3. Section 6 of Amended Second Amended Ordinance 2009-20 ("Ordinance 2009-20") shall be modified to provide that the effective date of Ordinance 2009-20 is July 1, 2010.

Section 4. The actions of the City's, the Board of Works', the Department's and the Division's staff working under the provisions of this Ordinance are to be deemed in accordance with the City's policy.

Section 5. Any current City, Board of Works, Department or Division policy in effect contrary to the provisions of this Ordinance shall be deemed void. Any portion of this Ordinance that may later be deemed invalid shall not affect the remaining provisions.

Section 6. This Ordinance shall become effective on July 1, 2010 and after proper publication in accordance with Indiana law. All ordinances or parts thereof in conflict herewith are hereby ordered repealed. The invalidity of any section, clause, sentence or provision of this resolution shall not affect the validity of any other part of this resolution which can be given effect without such invalid part(s).

PASSED AND ADOPTED by the Common Council of the City of Lafayette, Indiana this 3 day of May, 2010.

COMMON COUNCIL OF THE
CITY OF LAFAYETTE, INDIANA

Melissa Weast-Williamson

Melissa Weast- Williamson, President

ATTEST:

Cindy L. Murray

Cindy L. Murray, City Clerk

Presented by me, the undersigned City Clerk of the City of Lafayette, Indiana, to the Mayor of said City for his approval on the 3 day of May, 2010, at 7:00 o'clock p.m.

Cindy L. Murray

Cindy L. Murray, City Clerk

Having examined the foregoing Ordinance, I do now, as Mayor of the City of Lafayette, approve said Ordinance and return the same to the City Clerk of the City of Lafayette, Indiana this 3 day of May, 2010.

Tony Roswarski

Tony M. Roswarski, Mayor

Sponsored by Edward Chosnek, City Attorney

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