

**NOTICE OF PUBLIC HEARING ON THE PROPOSED STORM WATER USER FEE OF
THE TOWN OF CROTHERSVILLE, INDIANA**

Property owners, ratepayers and other interested parties within the corporate limits of the Town of Crothersville, Indiana (“Town”) are hereby notified that a public hearing will be held by the Town Council at Town Hall, 111 East Howard Street, Crothersville, Indiana 47229, commencing at 6:00 p.m. on Tuesday, October 4, 2016. The purpose of the hearing is to consider implementation of a storm water user fee for the Town.

At the hearing, interested persons may be heard concerning the storm water user fees to be established by Ordinance No. 2016 – 6 of the Town Council, introduced on September 6, 2016. Ordinance No. 2016 – 6 establishes a storm water user fee of \$3.00 per month. The complete text of Ordinance No. 2016 – 6 is available for examination and copying at the office of the Clerk-Treasurer at the Town Hall of the Town of Crothersville, 111 East Howard Street, Crothersville, Indiana 47229 during normal business hours and will be available at the public hearing. It is also published below.

ORDINANCE NO. 2016 – 6

“An Ordinance to Establish Storm Water User Fees for the Town of Crothersville, Indiana”

WHEREAS, the Federal Water Pollution Control Act, also known as the Clean Water Act, and its implementing regulations, regulates the discharge of storm water into surface waters from State and municipally owned Separate Storm Sewer Systems; and

WHEREAS, the Town of Crothersville, Indiana (“Town”) now deems it appropriate to regulate storm water for purposes of addressing the Town’s flooding and standing water issues; and

WHEREAS, the Indiana Department of Environmental Management has designated the Town as a municipal separate storm sewer system (MS4) entity, subject to the Phase II Storm Water Regulations and National Pollutant Discharge Elimination System (NPDES) permit requirements under 327 IAC 15-13; and

WHEREAS, the Phase II Storm Water Regulations and NPDES permit requirements impose certain standard conditions on the permittee, which include, but are not limited to, a duty to comply with all permit conditions; a duty to operate and maintain properly all facilities and conveyance systems used or installed by the permittee to comply with permit conditions; a duty to provide information and allow inspections of its records, facilities, equipment or operation; and a duty to meet certain reporting requirements described in the permit; and

WHEREAS, the Town administration has determined that it is necessary for the Town to own, operate and maintain a storm water collection and disposal system and to adopt and to enforce regulations relating to the system, and for the Town to impose fees and charges so as to defray the costs and expenses thereof and to comply with applicable state and federal regulations and laws; and

WHEREAS, all of the territory located within the corporate boundaries of the Town of Crothersville is subject to the jurisdiction of the water and sewer utility and constitutes a special taxing district for the purpose of providing for the collection and disposal of storm water of the Town in a manner that protects the public health and welfare; and

WHEREAS, the Town Council of the Town of Crothersville, Indiana finds and determines that the storm water user fees to be assessed and collected pursuant to this Ordinance are necessary for the operation and maintenance of the storm water system within the Town of Crothersville, Indiana.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CROTHERSVILLE, INDIANA, THAT:

Section 1. Storm Water User Fee.

A Storm Water User Fee shall be imposed on each and every tax parcel of real estate within the corporate boundaries of the Town of Crothersville, Indiana which directly or indirectly contributes to the storm water system of the Town of Crothersville, which charge shall be

assessed against the owner thereof, who shall be considered the User for purposes of this Ordinance.

This charge is hereby deemed to be reasonable and necessary to pay for the regulation, planning, operation, maintenance, repair, replacement, and improvement of the future Town of Crothersville storm water system.

Section 2. Definitions.

Unless otherwise defined in this Ordinance, the terms and phrases shall be defined as follows:

Department of Storm Water Management means the Town of Crothersville's Water and Sewer Utility.

Equivalent Residential Unit (ERU) means the number of units, equal to the assumed average amount of Impervious Area of a single family residential parcel of real estate within the Town of Crothersville, Indiana.

Equivalent Non-Residential Unit (ENRU) means the number of units, equal to the assumed average amount of Impervious Area of a single non-residential parcel of real estate within the Town of Crothersville, Indiana

Impervious Area means those areas which prevent or impede the infiltration of storm water into the soil as it enters natural conditions prior to development. Common impervious areas include, but are not limited to, roof tops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, gravel surfaces, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of storm water run-off which existed prior to development.

Parcel Number means a number assigned to a tract of land in Jackson County by the Jackson County Auditor that identifies the taxing district in which the tract is located, is a number that is not assigned to any other tract in Jackson County, and is listed in the transfer book or records maintained under Indiana Code §6-1.1-5.

MS4 means a municipal separate storm sewer system.

MS4 Operator means the person designated by The Town of Crothersville as the person responsible for the oversight of the MS4 program and permitting process.

Non-Residential Real Estate means all real estate tax parcels which are not described by the definition of Residential Real Estate shall be defined as Non-Residential. Non-Residential Real Estate will include:

- i. Agricultural real estate;
- ii. Commercial real estate;
- iii. Industrial real estate;
- iv. Institutional real estate;
- v. Church real estate;
- vi. School real estate;
- vii. Federal, state, and local government real estate;
- viii. Utility real estate; and
- ix. Any other real estate not mentioned in this list and which is not described by the definition of Residential Real Estate.

i. Residential Real Estate means a separate tax parcel of real estate which is primarily used for dwelling purposes on which a building is situated which building contains one (1) or more dwelling units which dwelling units are each used or are intended to be used primarily for living, sleeping, cooking, and eating. Residential Real Estate shall include all types of dwellings including single-family homes, duplexes, triplexes, row type homes, etc. Residential Real Estate shall also include condominium dwellings, apartment dwellings, and mobile home parks.

j. Town Council means the Town Council of the Town of Crothersville, Indiana.

k. User means an owner of a tax parcel of real estate within the corporate boundaries of the Town of Crothersville, Indiana which directly or indirectly contributes to the storm water system of the Town of Crothersville.

Section 3. Storm Water Rates.

Until later revised or amended, the Storm Water User Fees shall be at the rate of Three Dollars (\$3.00) per month per ERU or ENRU. This storm water rate is designed to cover the cost of rendering storm water service to the Users of the Town of Crothersville's storm water system and shall be the basis for the assessment of the Storm Water User Fee. This rate is established so as to maintain adequate fund reserves to provide for reasonably expected variations in the cost of providing services, variations in the requirements for providing such services, as well as future improvements and capital needs. This rate may be evaluated and adjusted, as necessary, with regard to its sufficiency to satisfy the needs of the Department of Storm Water Management; otherwise, this rate shall remain in effect.

Section 4. Rate Structure and Calculation.

There is hereby assessed a Storm Water User Fee to each owner of Residential Real Estate and Non-Residential Real Estate located within the corporate boundaries of the Town of Crothersville, Indiana which contain Impervious Area in an amount based upon the assigned ERU or ENRU as determined below. Such Storm Water User Fees shall be calculated and assessed on a tax parcel basis by Parcel Number.

All real estate having Impervious Area within the corporate boundaries of the Town of Crothersville, Indiana will be assigned an ERU or ENRU in accordance with the following provisions:

- i. Residential Real Estate. A tax parcel containing single-family dwelling shall be one (1) ERU.
- ii. Non-Residential Real Estate. Each tax parcel of Non-Residential Real Estate shall be assigned an ENRU.
- iii. The identification of real estate tax parcels and Parcel Numbers, the classification of primary use, the determination of whether a tax parcel contains a dwelling, the number of dwellings a tax parcel contains, the classification of the type of dwelling and type of real estate, and the calculation of the Impervious Area on a tax parcel shall be based upon the existing data in the Jackson County computer assisted appraisal system database for the respective determination date used for making the Storm Water User Fee assessments.
- iv. For each current year Storm Water User Fee assessment, the determination date shall be March 1st of the prior year.

There shall be no exceptions or exemptions from the assignment of ERUs or ENRUs and the assessment of Storm Water User Fees for a particular type or classification of real estate tax parcel within the corporate boundaries of the Town of Crothersville, Indiana.

Section 5. Collection of Storm Water User Fees.

The collection of the Storm Water User Fees authorized by this Ordinance shall be effectuated through a charge appearing on the monthly water and sewer billing statement for each ERU or ENRUs. The Storm Water User Fee shall be due and payable at the same time as the water and sewer utility bills.

If the Storm Water User Fee is not paid when due, a late payment penalty shall be charged and assessed by the Town of Crothersville Clerk-Treasurer in the same way and in the same manner that delinquent water and sewer utility bills are charged and assessed.

If Storm Water User Fees and penalties are not paid when due, they shall be collected by the Town of Crothersville Clerk-Treasurer in the same way and in the same manner that delinquent water and sewer utility bills.

Section 6. Appeals of ERUs or ENRUs Determination.

If, in the opinion of any User, the ERU or ENRU assigned to the User's real estate tax parcel is inaccurate in light of the number of dwellings or amount of Impervious Area on the property, the User shall have the right to contest the ERU or ENRU determination and thus the Storm Water User Fees assessed in accordance with the provisions contained in this section.

The User shall obtain and complete a Petition to Appeal Storm Water Assessment Form which shall be filed with the Town of Crothersville Clerk-Treasurer with verifiable documentation

supporting the User's claim. To be timely for any current year Storm Water User Fee assessment, a Petition to Appeal must be filed no later than the date on which the Storm Water User Fees shall be due and payable. The Town of Crothersville Clerk-Treasurer shall refer the Petition to Appeal to the Town Council.

The Water and Sewer Utility shall investigate the User's claim and, upon review thereof, shall render a written determination that either the original ERU or ENRU determination and assessment should be affirmed or that the User's rate should be adjusted and how much the adjustment should be.

The determination made by the Water and Sewer Utility shall be forwarded to the User by certified mail, return receipt requested. The User shall have fifteen (15) days from date of receipt to request reconsideration if dissatisfied with the decision from the Water and Sewer Utility. Any additional facts concerning the dispute shall be reduced to writing and submitted, along with a copy of the original petition and supporting documents, to the Town Council. The Water and Sewer Utility shall submit a written report of the determination in the case, along with any documents used, in denying the User's claim or in recommending an adjustment.

Thereafter, the Town Council shall review all documentation and conduct an informal hearing to determine and resolve the dispute based upon the documentation submitted and any oral testimony. The Town Council shall issue a determination which shall be binding upon the Water and Sewer Utility and the User. The hearing shall be recorded and the minutes of the hearing provided upon request at a cost per page as determined by the Clerk-Treasurer, which rate shall be amended from time to time.

f. Any User aggrieved by the final Town Council determination shall have the right to judicial review of such determination in accordance with Indiana law.

If a User's storm water assessment is reduced or eliminated by the Water and Sewer Utility, the Town Council, or court of law, the User shall be refunded accordingly for any overpayment made from the earlier of the date the Storm Water User Fee assessment was paid or was due and payable.

A dispute or appeal of an ERU or ENRU determination for storm water assessment shall not be a valid reason for non-payment of the originally assessed Storm Water User Fee.

Section 7. Storm Water Utility Fund.

All Storm Water User Fees and penalties collected and interest earned thereon shall be deposited in the Town of Crothersville, Indiana Storm Water Utility Fund.

Section 8. Severability.

The terms and provisions of this Ordinance are hereby determined to be severable; the invalidity or unenforceability of any section, sentence, clause, term, or provision of this Ordinance shall not affect the validity of any other section, sentence, clause, term, or provision of this Ordinance which can be given meaning without such invalid part or parts.

Section 9. Effective Date.

This Ordinance shall be in full force and effect from and after its passage by the Town Council and publication as required by law. All prior ordinances or parts thereof inconsistent with any provision of this ordinance are hereby repealed. The effective date of the implementation of the storm water user fee is The effective date of the implementation of the storm water user fee is Dec. 1, 2016 or Jan. 1, 2017 to be determined at the Oct. 4, 2016 Town Council meeting.

9/14, 9/21 hspaxlp