ORDINANCE 4712

Approving the Amendment of the Storm Water User Fees
for the City of Goshen, Indiana

WHEREAS Indiana Code § 36-1-3-1 et seq. permits any unit in the State of Indiana to exercise any power or to perform any function necessary to the public interest in the context of its governmental or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS the City of Goshen Department of Storm Water Management is a utility pursuant to the provisions of Indiana Code § 8-1.5-5 et seq. and authorized to establish storm water user fees pursuant to said statutes;

WHEREAS the Advisory Board for the Interlocal Agreement between the County of Elkhart, City of Elkhart, City of Goshen, and Town of Bristol has recommended that the method used to calculate impervious area be amended for the Elkhart County MS4 Partnership in accordance with the terms and provisions of Resolution 2012-N adopted by the Board of the City of Goshen Department of Storm Water Management;

WHEREAS the Board of the City of Goshen Department of Storm Water Management has advertised a public hearing in accordance with the provisions of Indiana Code § 5-3-1 with publication in *The Goshen News* and has conducted a public hearing on October 22, 2012 with respect to a proposal to amend the method used to calculate impervious area pursuant to the terms and provisions of the Board's Resolution 2012-N;

WHEREAS the Board of the City of Goshen Department of Storm Water Management has found and determined that the amendment of the method used to calculate impervious area pursuant to the terms and provisions of the Board's Resolution 2012-N will generate the minimum amount necessary for the operation and maintenance of the storm water system within the City of Goshen, Indiana, and therefore has adopted Resolution 2012-N on October 22, 2012; and

WHEREAS pursuant to Indiana Code § 8-1.5-5-7(b), the Goshen Common Council is required to approve the storm water user fees to be assessed and collected pursuant to the Board's Resolution.

NOW, THEREFORE, BE IT ORDERED, ESTABLISHED, AND ORDAINED that the Goshen Common Council approves the storm water user fees to be assessed and collected as amended by the Board of the City of Goshen Department of Storm Water Management's Resolution 2012-N reprinted as follows:

SECTION 1.   Amendment of Fee Structure and Calculation

Section 3(b)(iii) of the December 6, 2010 *Resolution Establishing Storm Water User Fees for the City of Goshen, Indiana* shall be repealed and replaced with the following:

iii.   The identification of real estate tax parcels and key numbers, the classification of primary use, the determination of whether a tax parcel contains a dwelling unit, the number of dwelling units a tax parcel contains, and the classification of the type of dwelling unit and type of real estate shall be based upon the existing data in the Elkhart County computer assisted mass appraisal (CAMA) system database for the respective determination date used for making the storm water user fee assessments. The calculation of the individually measured impervious area on a tax parcel shall be computed using a scale of 1:600 based upon the existing data in the Elkhart County geographic information system (GIS) database for the respective determination date used for making the storm water user fee assessments.   If for any reason the calculation of the individually measured impervious area on a tax parcel cannot be accurately computed using a scale of 1:600 based upon the existing data in the Elkhart County GIS database for the respective determination date, the calculation of the individually measured impervious area on a tax parcel shall be computed in the following order of priority:

1)   using a scale of 1:600, based upon the existing data in the most recent Elkhart County GIS database prior to the respective determination date used for making the storm water user fee assessments; or

2)   based upon the existing data in the Elkhart County CAMA system database for the respective determination date used for making the storm water user fee assessments.

The individually measured impervious area on a tax parcel computed in accordance with the provisions above may be adjusted based upon the data from any permitted construction, additions, demolitions, and other changes on a tax parcel which occur after the date of the aerial photography utilized in the Elkhart County GIS database or based upon the actual verified conditions on the tax parcel, or both.

SECTION 2.   Effective Date.

Except as amended herein, all of the terms and provisions of the December 6, 2010 *Resolution Establishing Storm Water User Fees for the City of Goshen, Indiana* shall remain in full force and effect. This Resolution shall be effective from and after its date of adoption, and after the corresponding approval of the Goshen Common Council, for the assessment of storm water user fees due and payable in calendar year 2013 and thereafter.

PASSED by the Goshen Common Council on October 23, 2012.

Allan Kauffman

Allan Kauffman, Presiding Officer

Attest:

Tina M. Bontrager

Tina M. Bontrager, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on October 24, 2012 at 11:00 a.m./p.m.

Tina M. Bontrager

Tina M. Bontrager, Clerk-Treasurer

APPROVED and ADOPTED on October 24, 2012.

Allan Kauffman

Allan Kauffman, Mayor