

ORDINANCE 2020-06

TOWN OF LONG BEACH, INDIANA

**AN ORDINANCE OF THE TOWN OF LONG BEACH,
LAPORTE COUNTY, INDIANA, ESTABLISHING
A STORM WATER MANAGEMENT DEPARTMENT, A STORM WATER
USER FEE AND STORM WATER OPERATION AND MAINTENANCE
FUND FOR THE TOWN OF LONG BEACH, INDIANA.**

WHEREAS, the Town Council of the Town of Long Beach, Indiana, (the "Town") has determined there are substantial problems relating to the storm water collection and transport, and surface water drainage and storage facilities, in the Town and it is in the best interest of the citizens of Long Beach and the Town that they be addressed; and

WHEREAS, the Town Council has determined it is necessary for regular funding to be provided to property budget and pay for the appropriate operation, repair and maintenance of the storm and surface water systems in the Town; and

WHEREAS, the Town Council has determined that every parcel of real property located within the Town contributes storm water to Long Beach's storm and surface water systems; and

WHEREAS, the Town, in order to protect the public health and welfare of the residents of the Town, desires to create a Storm Water Management Department to manage the collection and disposal of storm and surface water within the Town; and

WHEREAS, Indiana Code § 8-1.5-5, Department of Storm Water Management (the "Act"), provides for the creation of a storm water department (the "Department") which is to be controlled by a storm water board, and also provides for the creation of a special taxing district to collect revenues and pay for the expenses of the storm water collection and disposal.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LONG BEACH, INDIANA, AS FOLLOWS:

SECTION ONE: Establishment of the Storm Water Management Department

- A. The Act is adopted by the Town Council of the Town of Long Beach, Indiana herein so as to make the Act and all amendments thereto effective and operative in the Town.

- B. Pursuant to Indiana Code § 8-1.5-5-2 and -4, the Board of Directors (the "Board") shall consist of three Directors appointed by the Town Council, such appointees may be Town Council Members.
- C. Pursuant to Indiana Code § 8-1.5-5-4(d), the initial terms of the first appointed Directors, which shall begin on the first day of the month following adoption of this section, shall be staggered so that one Director shall have a one (1) year term, one Director shall have a two (2) year term, and one Director shall have a three (3) year term, thereafter, each Director's term shall be for a period of three (3) years.
- D. Pursuant to Indiana Code § 8-1.5-5-5, all territory within the corporate boundaries of the Town will be served by the Storm Water Management Department and, as such, constitutes the special taxing district for the purpose of levying special benefit taxes which are to be used for the sole purpose of storm water collection and disposal.
- E. Pursuant to Indiana Code § 8-1.5-5-6, the Board may:
1. Conduct investigations and studies;
 2. Make findings and determinations;
 3. Install, maintain and operate a stormwater collection and disposal system;
 4. Make all necessary or desirable improvements to the facilities, grounds and premises under its control;
 5. Recommend to the Council reasonable and just rates and charges for all services provided by the Stormwater Utility.
- F. The Board shall prepare a budget for the operation of the Department on an annual basis, in line with the timing of the Town's budget, and said budget shall be subject to approval by the Town Council and any issuance of bond or other methods for making capital improvements shall be approved by the Town Council as provided by law.

SECTION TWO: Definitions

Whenever used in this Ordinance, the meaning of the following words and terms shall be as defined in this Section, namely:

IMPERVIOUS AREA: Real property that has been paved and/or covered with buildings and impervious materials which include, but are not limited to, concrete, asphalt, rooftop, blacktop and compacted gravel, such that the natural infiltration of water into the soil is prevented.

LOT/PARCEL: A part or portion of land having a distinct legal description that is formally set forth in a conveyance instrument.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, swales or storm drains):

- (i) Owned or operated by a city, town, borough, county, parish, district, association or other public body (created by or pursuant to State law);
- (ii) Designed or used for collecting, conveying or otherwise managing or treating stormwater;
- (iii) Which is not a combined sewer; and
- (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at Code of Federal Regulations, 40 CFR 122.2.

STORM SEWER: A sewer designed or intended to convey only stormwater, surface runoff and drainage, and not intended for sanitary sewage and industrial wastes other than unpolluted cooling water. The portion of a sewer intended to carry stormwater only, which begins at the grating or opening where water enters said sewer, through the sewer and any other conduits to the outlet structure where water enters a stream, lake, watercourse, ditch or combined sewer.

STORMWATER AND STORMWATER RUNOFF: The water resulting from rains falling or snow or ice melting within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

STORM WATER SYSTEM: All constructed facilities, structures and watercourses under the ownership and/or control of the Town and/or the Storm Water Management Department, used for collecting, storing and conducting stormwater to, through and from drainage areas to the point of final outlet, including, but not limited to, any and all of the following: inlets, conduits and appurtenant features, creeks, channels, catch basins, ditches, streams, culverts, swales, retention and detention basins and pumping stations; and excluding therefrom, any part of the system of drains and watercourses under the jurisdiction of the LaPorte County Drainage Board or under ownership other than the Town.

STORM WATER USER FEE: A charge imposed on users of the Town's public Storm Water System.

STORM WATER CUSTOMER/USER: The owner of a lot or parcel of land located within the Town.

SECTION THREE: User Fees

A storm water user fee shall be imposed on each and every lot and parcel of real property with the Town, which charge shall be assessed against the owner thereof, who shall be considered the customer/user for the purposes of this Ordinance. This user fee shall be determined based on type of property, as seen below, and is reasonable as it is necessary to pay for the planning, operation, improvement, regulation and maintenance of any current and future storm and surface water systems of the Town. The user fee shall be established by separate ordinance, and in accordance with the Act.

SECTION FOUR: Charges and User Classes

- A. Every user shall be charged for the services provided. These charges are established for each user class, as defined, in order that the Storm Water Department shall recover, from each user and user class, revenue which is relational to the property's use.
- B. **User Classes**: The classes of users of the storm water collection system for purposes of this section shall be as follows:
 - 1. Improved and Non-Improved Parcels
- C. **Definitions**: For purposes of this chapter, the definitions of these user classes shall be:
 - 1. **Improved Parcels**: A lot or parcel improved with a structure used primarily as a residence.
 - 2. **Non-Improved Parcels**: All properties that do not contain a structure or impervious area.
- D. **Credits**: Streets, roads and highways shall be given 100% credit as they form an integral part of the storm and surface water systems. The surface water control system incorporated in the design of roadways are areas that should be engineered to convey all design-storm runoff without street flooding. Primary elements of the drainage and storage systems yield community-wide benefits and are installed to service the general public's interest.

SECTION FIVE: Billings and Terms of Payment

- A. **Billings**. All Storm Water User Fees shall be charged and collected by means of the Town's Water Bill and distributed to the Storm Water Management Department as such.

- B. **Terms of Payment.** The Storm Water User Fee shall be due on the same payment date as the due date stated on the Town's Water Bill. It shall be a violation of this Ordinance to fail to pay a Storm Water User Fee when due. All bills for storm water user fees not paid on or before the due date, shall be subject to a collection or delinquent payment charge as imposed by the Town's Clerk-Treasurer and shall be reflected on the Town's Water Bill.
- C. **Collection.** Failure to pay a Storm Water User Fee included in the Town's Water Bill will result in a delinquency and a penalty of 10% of the unpaid Storm Water User Fee shall be applied.

SECTION SIX: Storm Water Fund

The Storm Water Operation and Maintenance Fund shall be established for the Town, which shall be a non-reverting fund. All revenues and fees collected from the Storm Water User Fee, including but not limited to Storm Water User Fees and interest earnings on any unused funds, shall be deposited in the Storm Water Operation and Maintenance Fund. Disbursements from this Fund must be authorized by the Board, and as authorized by the Act. Such disbursements will be used for the operation, maintenance and improvement of the Town's storm and surface water systems in accordance with applicable Indiana law. Monies from this Fund shall not revert to any other fund and may not be transferred for any other purpose, except as directed by the Council as permitted by applicable Indiana law. The Fund shall exist in perpetuity or until such time as this Ordinance has been repealed, at which time any monies held in said Fund shall be transferred to the Town's General Fund after payment of any and all fees, expenses or charges that may be then owing for the operation, maintenance and improvement of the Town storm and surface water systems.

SECTION SEVEN: Severability. If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

SECTION EIGHT: Repeal Conflicting Ordinances. All existing Town Ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are hereby deemed null, void and of no legal effect and are specifically repealed.

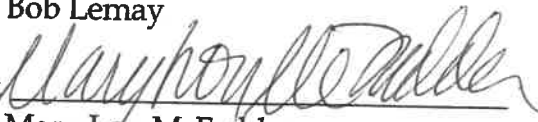
SECTION NINE: Passage

This Ordinance shall take effect, and be in full force and effect, from and after its passage by the Town Council of the Town of Long Beach, Indiana.

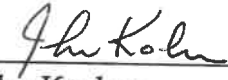
ADOPTED AND ORDAINED THIS 28TH DAY OF DECEMBER 2020.

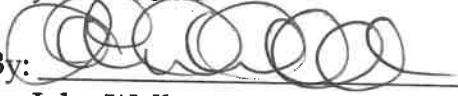
TOWN OF LONG BEACH
LAPORTE COUNTY, INDIANA

By: _____
Bob Lemay

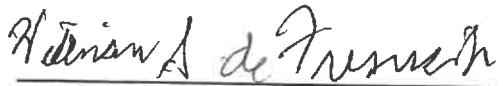
By: 
Mary Lou McFadden

By: _____
Nick Meyer

By: 
John Kocher

By: 
John Wall

Attest:


William DeFuniak, Clerk-Treasurer